



Appeal Decision

Hearing and site visit held on 26 March 2013

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 29 April 2013

Appeal Ref: APP/W1850/A/12/2185069

Land off Atwood Lane, Holmer, Hereford HR1 1LJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Crest Nicholson South West against the decision of Herefordshire Council.
- The application Ref S112612/F, dated 14 September 2011, was refused by notice dated 29 August 2012.
- The development proposed is described in the planning application as follows: *'Residential development comprising 31 dwellings with associated access, car parking, landscaping and open space'.*

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions as set out below in the Formal Decision.

Application for costs

1. At the Hearing an application for costs was made by Crest Nicholson South West against Herefordshire Council. This application is the subject of a separate decision.

Procedural Matters

2. The statement of common ground ('the SoCG') confirms that the proposed development was amended to the following description: 'residential development comprising 29 dwellings with associated access, car parking, landscaping and open space'. This is reflected in the Council's decision to refuse planning permission and was confirmed at the Hearing. I will deal with the planning merits of the appeal scheme on this basis.
3. The Council's decision notice to refuse planning permission for the development set out four reasons. The Council withdrew reason number 3, which related to the provision of an adequate drainage system. The fourth reason stated the absence of a completed planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 as amended. A draft unilateral undertaking ('the UU') was submitted with the appeal documents. A completed signed version was submitted at the Hearing. The Council accepted that the UU overcame reason no. 4.
4. The appellant unilaterally agrees to make financial contributions to the provision of education, highways and transportation infrastructure, play and open space, library, waste and recycling facilities. I was asked to consider

whether the required planning obligations meet with the CIL regulations¹. I will deal with these matters later under conditions and planning obligations.

5. On 23 January 2013, a direction was issued by the Secretary of State that the proposed development is not Environmental Impact Assessment development².

The appeal site and background information

6. The site comprises 1.8 hectares of agricultural land located 50 metres northeast of Atwood Lane, Holmer. The site is located within the open countryside, adjacent to the northern fringes of Hereford, as designated in the Herefordshire Unitary Development Plan (UDP) 2007³. The site adjoins a former builder's yard and is close to a residential home. It is mainly rectangular in shape. It is close to a large residential development currently being built by Crest Nicholson for 300 houses (I will refer to that development as 'the 300 house scheme' for consistency). The site also adjoins a public right of way (PROW) identified as H08A to the south and east.

Main Issues

7. These are the following:
 - Firstly, having regard to the location of the site outside the defined settlement boundary to Hereford as identified in the UDP, whether its current release for development is justified by housing land supply considerations having particular regard to the effect of the proposed development upon the visual and landscape character of the surrounding area, and
 - Secondly, the impact of the proposed development upon the efficient operation of the highway network, having particular regard to the cumulative traffic impacts of the development alongside other committed development in the locality.

Reasons

First main issue – housing supply

8. The nub of the Council's main argument, forcefully put at the Hearing, was that the site is within the countryside and so the proposed development would fundamentally conflict with UDP Policies, which I will turn to later. The argument was that there are other sites coming forward as identified in the Strategic Housing Land Availability Assessment ('the SHLAA').
9. The Council referred to the West Midlands Regional Spatial Strategy 2008. At the Hearing, the appeal parties ('the Parties') agreed that there are no relevant policies contained in the Regional Spatial Strategy. In any event, limited weight can be attached to the Regional Spatial Strategy given the Government's firm intention to revoke these outside London.
10. UDP Policy H1 sets out settlement boundaries and it says that development should be focused on built-up areas and villages. Policy H7 says that proposals for housing outside Hereford and settlements will not be permitted unless it relates to housing necessary for agriculture or forestry. Policy S3 says that

¹ In particular, see regulation 122 of the Community Infrastructure Levy Regulations 2010.

² Pursuant to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (SI 2011/1824).

³ Saved and deleted Policies were adopted March 2010.

provision will be made for additional dwellings to be built at an annual rate of 800 dwellings a year for the period 2001 – 2007, and 600 for the years after 2007. It says that, having regard to existing commitments and the likely supply of dwellings arising from windfall sites, a maximum of about 12,200 dwellings would thereby be built over the period 1996 – 2011. Previously-developed land (PDL) would be given priority. Most of the concentration will be in Hereford and the market towns.

11. The Council is in the process of finalising the Herefordshire Local Plan Core Strategy 2011 – 2031. Public consultation has taken place over the last three years on various elements, and a full draft plan for consultation has been produced and the pre-submission publication is in summer 2013. The examination in public is planned towards the end of the year and the adoption of the Core Strategy is anticipated around early 2014. The draft sets out housing figures for the County. However, limited weight can be attached to the Core Strategy, because it is at an early stage and is subject to public consultation; it may change in the future.
12. Paragraph 14 to the National Planning Policy Framework ('the Framework') says that at the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. A core principle of the Framework is that planning decisions should be plan led.
13. Paragraph 47 to the Framework says that to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition, authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five-years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 says that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites [my emphasis].
14. The undisputed evidence is that the Council cannot demonstrate a five-year supply of deliverable housing sites⁴. The annual monitoring report says that there is a shortfall of 216 units which equates to a supply of 4.6 years. Whilst the local record of completions suggests there has not been a persistent under delivery of housing, at the time of the Hearing, the position was even worse. I was told by the Council's representatives that a deficit of 560 units (2011 – 2012) was identified, which equates to 4.12 years. This does not take into account for the need to maintain an additional 5% buffer. If the buffer was added, the Council would be in a far worse position when it comes to the supply of deliverable housing sites in the short-to-medium term.
15. Notwithstanding the reasons behind them, in particular, UDP Policies H1 and S3 have a bearing on the supply of housing and must, for the purposes of the Framework, be considered out-of-date given the fact that the Council cannot

⁴ For this agreement, see paragraph 5.1 (i) of the SoCG.

demonstrate a five-year supply of housing land. In this context, these Policies are inconsistent with the Framework. In these circumstances, greater weight would need to be attached to the Framework⁵. In my view, this finding attracts significant weight in favour of the proposed development because of the Government's aim to boost the supply of housing and to stimulate the economy.

16. The Council conceded that the future trend is for more housing sites. Their own objectively assessed housing needs information indicates that a minimum of 16,500 homes would be required between 2011 and 2031. This would meet market and affordable housing needs⁶. Land within the urban part and fringes of the City would need to be considered given the particular constraints on PDL. There is a real possibility that greenfield sites would need to be considered for development, which is endorsed in the Council's own cabinet report⁷. In addition, the SHLAA itself identified and evaluated potential housing sites that are located on the edge of the City with varying degrees of environmental constraints; the site is just one example.
17. The Council's assertion that the identified shortfall in deliverable housing sites would be made up within the next 12 to 18 months through the identified SHLAA housing sites, is not borne out by the evidence because these sites are not available now. They would not be deliverable or developable to meet the five-year requirement. Moreover, these sites do not benefit from planning permission; at least one site for the provision of 800 units has come forward, but at the time of the Hearing, the planning application for that phased scheme had recently been submitted for the Council's determination. Additionally, I attach weight to the appellant's argument that, given the current economic conditions, there is no information to suggest that these sites would be viable. On the other hand, the Council did not challenge the assertion that the proposed scheme would be implemented, delivered within five years and it would be viable. The appeal site is available now and adjoins the 300 house scheme.
18. Given its edge-of-settlement positioning, I concur with the Parties that the site is located in a highly sustainable location and, having regard to the overall guidance in the Framework, would be suitable for the proposed development. The immediate vicinity includes schools, health facilities, local amenities such as shops and supermarkets. It is accessible by public transport with good links in and out of the town centre, and the bus stops are within walking distances. Such a location would meet with the Government's objectives of locating new housing in sustainable areas so that people are less dependent upon private transport to get around. This consideration attracts considerable weight in favour of the scheme.
19. Drawing all of the above threads together, the provision of 29 dwellings would make a material contribution towards the delivery of much needed quality homes in the City. Together with the 35% affordable housing (AFH) element, these findings attract substantial weight in favour of the grant of planning permission. Therefore, the release of this particular site would not undermine

⁵ For further guidance on the implementation of the Framework see paragraph 214 and 215.

⁶ There are existing housing commitments planning permissions and allocations which would need to be taken into account and the actual amount required from April 2011 is 13,555 as stated in the draft Core Strategy.

⁷ See Appendix 15 to the appellant's bundle - cabinet report 12 July 2012 on Local Development Framework and Local Transport Plan Update.

the Council's approach to delivering housing in Hereford and there are strong and sound planning justifications in support of the development.

20. Where relevant development plan policies are out-of-date, or are significantly in conflict with the advice contained in the Framework, the advice in paragraph 14 is that decision-takers should grant planning permission unless any adverse impacts of doing so would *significantly and demonstrably* [my emphasis] outweigh the benefits, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted. In this context the Council, supported by local councillors and the Parish Council, argued that the development would significantly and demonstrably harm the landscape, due to the loss of a green field, hedgerows, and the development's visual impact upon the stream corridor, which form distinctive landscape qualities.

Landscape impact

21. UDP Policy LA2 says that proposals for new development that would adversely affect either the overall character of the landscape, as defined by the adopted landscape character assessment 2004 ('the LCA'), will not be permitted. The Policy says that proposals should demonstrate that landscape character has influenced their design, scale, and nature. This Policy is broadly consistent with advice contained in the Framework⁸ and should be given weight.
22. The site is one of many small fields in the area that make up the small scale pastoral landscape character facing the northern edge to this part of Hereford. The land beyond the settlement boundary is classified in the LCA as principal settled farmlands ('the PSF'). The key quality of such local designation is the hedgerows used for field boundaries and the mixed farming land use. The Hereford Urban Fringe Sensitivity Analysis ('the HUFSA'), although not formally adopted by the Council, identifies the site as being located in a landscape that is considered to be high to medium landscape sensitivity. The HUFSA recognises that a large proportion of land at the edge of the City would be considered as high sensitivity mainly because these areas would potentially be required for future development.
23. The development proposed would undoubtedly change the appearance of this green field, but this particular locality has an urban to rural transitional quality. Given the built-form and scale of the scheme, it would safeguard the transitional characteristics of this part of the urban fringe. The PSF character of the landscape would not be adversely affected due to the site's proximity to the urban fringe, the adjacent site for the 300 house scheme and the location of the former builder's yard. I find that the design and layout of the estate would safeguard the valued stream corridor.
24. Views from public vantage points into and out of the site, including those from the PROW (H08A), and nearby rural roads, would ultimately change. However, views from the wider valley setting towards the site are restricted or filtered by landform and the area's undulating topography. The site is viewed against the visual backdrop of the urban fringe that is heavily characterised by residential development. I find that the scale of the development would not adversely affect the visual amenities of the wider landscape.

⁸ Given the advice in the implementation section (Annex 1, paragraphs 214 and 215) to the Framework, the UDP Policy is consistent with advice in paragraphs 56 and 109.

25. The Council recognised that, apart from a short section of hedgerow that would be removed to make way for the access road, the majority would remain as part of the proposed landscaping scheme. I consider that the removal of a small section of the hedgerow would not adversely affect the visual amenity of the wider landscape.
26. The landscaping scheme would help to successfully integrate the design and layout of the houses and give the whole development a semi-rural setting. The scheme would include open space to the north of the site; there would be associated landscaping treatments which would retain boundary hedgerows. New planting measures would be carried out including the implementation of a management plan to secure taller and more densely treed hedgerows in keeping with the wider local valley setting. These elements would reduce the visual impact of the development.
27. Taking all of the points in the preceding paragraphs together, I find that the development would not have a significant or demonstrable visual effect upon the landscape character of the surrounding area. Accordingly, the development would comply with the main aims and objectives of UDP Policy LA2 and guidance contained in paragraphs 56 and 109 to the Framework.
28. On the first main issue I conclude as follows. The development would help address an identified shortfall in deliverable housing sites. The site is suitable and sustainable for residential development of 29 dwellings given its location. National policy in the Framework seeks to boost significantly the supply of housing, and this, in combination with the AFH element and the landscaping scheme, provides a strong consideration in favour of the current release of the site contrary to UDP Policies H1, H7 and S3.

Second main issue

29. UDP Policy DR3 says that where relevant to the proposal, all development will be required (amongst other matters) to provide a safe, convenient and attractive pattern of movement into, out of and across the site, and include good links to public transport. Policy S6 relates to transport and infrastructure and Policy T8 to the road hierarchy. These Policies are broadly consistent with advice contained in section 4: '*promoting sustainable transport*' to the Framework and should be given weight⁹.
30. The gist of the Council's main argument was that the proposed development would have an adverse impact upon the efficient operation of the local highway network. This is by reason of cumulative traffic impacts. I heard first hand evidence on behalf of local residents who expressed concerns about the increased level of congestion. There is a genuine fear that once the 300 house scheme is occupied congestion is likely to increase alongside other developments. The argument was that the development would further exacerbate the situation.
31. Roman Road, which is classified as the A4103, is part of the County's strategic highway network; it is a single carriageway that connects the City to Worcester and the M5 Motorway to the east, the A49 north-south trunk road through the centre of Hereford, and the A438 and A480 to the west. To its south, there are out-of-town light industrial and commercial units. The A4103 is subject to a

⁹ Given the advice in the implementation section (Annex 1, paragraphs 214 and 215) to the Framework, the UDP Policies cited here are consistent with advice in paragraphs 29, 32 and 34 to the Framework.

- speed limit of 40 miles per hour where it meets the A49; it has street lighting in the vicinity of the access to the 300 house scheme.
32. The development would be accessed via the internal road network to the 300 house scheme, which itself is accessed via a signal-controlled junction on Roman Road. It has a single entry lane and two exit lanes; a right turn lane is provided on the A4103 for vehicles turning into the 300 house scheme. The Council conceded that, in terms of the proposed access arrangements, highway layout and off-street parking, there are no objections to the development and I concur with that assessment.
33. The development is supported by a transport assessment ('the TA'). The Council was concerned that the TA was essentially an updated version that was submitted in support of the 300 house scheme back in 2005, and the data was outdated. It mainly examined the potential impact of the access for that particular scheme and traffic implications for the A49/Roman Road intersection, known as the 'Starting Gate' roundabout. However, given the development's scale and location, the local highway authority ('the LHA') and the Highway Agency ('the HA') were concerned about the traffic impacts upon the Starting Gate roundabout as this is the most sensitive part of the local highway network¹⁰. The Starting Gate roundabout is a major intersection and is likely to be busy at peak times.
34. Whilst the trip rates for the 300 house scheme have been used, the figures in the submitted TA for the appeal development have been factored up to 2010 and forecast to 2020. These are accepted by the Council and I agree with the appellant's highway expert that the submitted TA is not out-of-date. These rates represent 85th percentile trip rates and were agreed with the LHA and the HA. The likely trips generated by the 29 dwellings indicate that from 0800 – 0900 there would be four arrivals and 17 departures. From 1700 to 1800 hours there would be 16 arrivals and six departures. The development would generate a maximum of 22 vehicle movements in the AM and PM peak hours. Effectively, this equates to about one vehicle movement every three minutes. In my view, this additional traffic level is so low that it would be barely perceptible on the local road network.
35. In terms of the traffic impact upon the Starting Gate roundabout, during the AM peak the increase would be less than 0.3% and in the PM peak it would be less than 0.1%. In addition, the data shows that traffic flows would not be significantly increased due to the additional 29 dwellings. I agree with the HA and LHA's assessment that the development would not materially increase congestion at the Starting Gate roundabout, or increase the risk to other highway users of the local road network.
36. In addition to all of that, potential vehicle movements and traffic flows would further be reduced given appeal site's links to public transport services. The development would be located in an area where the need to travel by private car would be minimised and the use of sustainable transport modes would be maximised. The site would be within reasonable walking distance of bus stops and local amenities. This is mainly because of the site's edge-of-settlement location and proximity to alternative means of public transportation.

¹⁰ See paragraph 2.14 of the TA by Key Transport Consultants Limited (January 2013).

37. There are other committed developments in the vicinity of the site recently granted planning permission. For example, the new livestock market on Roman Road was granted planning permission, a mixed-use development at Holmer Trading Estate, an industrial facility at Staniers Way and a new car showroom on Legion Way. The Council did not produce any evidence of its own to show that these developments have resulted in a material increase in traffic congestion. On the other hand, the TA indicates that these committed schemes do not have a considerable impact upon queue times or congestion around the Starting Gate roundabout or along Roman Road, due to the location or scale of these committed developments.
38. The weight of the evidence presented does not show that there would be unacceptable and significant traffic congestion in the immediate locality as a result of the additional 29 dwellings. I find that the development would not result in severe residual cumulative traffic impacts. Accordingly, the development would comply with UDP Policies DR3, S6 and T8 and advice contained in the Framework referred to elsewhere.
39. For all of the above reasons, I conclude that the proposed development would not have a materially harmful impact upon the efficient operation of the local highway network.

Conditions and Obligations

Planning conditions

40. In this case, the Parties agreed a set of planning conditions which were attached to appendix 2 to the SoCG. I will consider imposing these suggested conditions in the light of guidance contained in the Framework and the Circular¹¹. The Framework says that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The Circular says that the imposition of conditions can enhance the quality of development and enable many proposals to proceed where it would otherwise have been necessary to refuse planning permission. Firstly, I have made some changes to the suggested conditions throughout in the light of the discussion at the Hearing. This is mainly in the interests of precision.
41. In addition to the standard commencement condition, it is necessary to ensure that the development is carried out in accordance with the submitted plans¹² attached to the schedule below. Notwithstanding the street scene images, the Council suggested a condition requiring details of the slab levels. To avoid any doubt over the overall height and finished floor levels of the buildings, which includes the dwellings and garages, it would be reasonable and necessary to require the submission of details of the finished floor levels and overall height of the buildings hereby approved. This would further ensure that the development integrates with the adjacent residential areas on the edge of the settlement.
42. Notwithstanding the details shown on drawing no. 12.006 – 003 A relating to the materials to be used on the external elevations of the dwellings, in the

¹¹ For further guidance, see paragraphs 203 and 206 to the Framework and Circular 11/95: 'The use of conditions in planning permissions' ('the Circular').

¹² The agreed drawings are set out in paragraph 1.2 to the SoCG.

- interest of safeguarding the character and appearance of the surrounding area, samples need to be submitted to the Council for its written approval.
43. Given the extent of the details on the submitted landscape and boundary treatment plans, it would be unnecessary to require a landscaping scheme, which would avoid duplication. The plans lack specific details of hard-surfaces and so these should also be required. Conditions would be necessary to ensure that the landscaping scheme is implemented, managed and maintained, and any boundary fences or walls are erected.
 44. Additionally, the landscaping scheme includes the retention of hedgerows and trees in accordance with British Standard 5837:2012 '*Trees in relation to design, demolition and construction – recommendations*'. A condition requiring tree protection zones and temporary fencing would be required in order to safeguard these trees and hedgerows during the construction process. Any tree work would need to be carried out in accordance with advice contained in British Standard 3998:2010 '*Tree Work – Recommendations*'.
 45. Vehicle access would be from Roman Road via the adjacent 300 house scheme. The drawings also illustrate the general layout of the proposed estate including car parking. Nonetheless, it would be necessary to ensure that details of surfacing materials for the access, parking and turning spaces are submitted to, and agreed with, the Council and thereafter implemented prior to the occupation of the dwellings.
 46. The submission of a construction method statement would be the best way to address concerns about delivery vehicles, arrangements for material storage and the hours of work. It would be reasonable to require the statement to be submitted to, and approved in writing by, the Council and thereafter implemented. In the interests of flexibility, any variation to the approved statement would need to be agreed in writing with the Council.
 47. The development would be linked to the adjacent 300 house scheme's drainage infrastructure. The Parties agreed that, in order to address matters concerning the foul and surface water drainage it would be reasonable to require details to be submitted to, and approved in writing by, the Council. The Council may wish to consult statutory undertakers or the local water authority if it deems necessary. This would obviate the need for a condition requiring engineering details and specifications of the road and highway drains.
 48. The Council suggested a condition requiring car and cycling spaces to be made available given the design and layout of the housing development. Instead of the wording in the suggested condition no. 8, to achieve that purpose a condition requiring that the garages hereby permitted and car spaces to be provided shall be kept available for the parking of motor vehicles at all times would be reasonable and enforceable.
 49. The appellant was concerned about the imposition of a condition requiring the development to be carried out to meet with code level 4 of the Code for Sustainable Homes ('the Code'). The assertion was that there is no local planning policy for such a requirement. The aim of the Code is to improve the overall sustainability of new homes by setting a single national standard within which the home building industry can design and construct homes to higher environmental standards. The Code measures the sustainability of a new home

against nine categories of sustainable design. The Council did not challenge the appellant's commitment to build sustainable homes.

50. Nonetheless, the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The aims of sustainable development should also apply to the quality of the physical buildings and not just how they look externally. Given the commitment for well-designed homes, this development should be attractive, functional and sustainable for life. In the absence of a specific local planning policy, however, it would be sufficient and reasonable to require the development to be designed and constructed to meet with Code level 3.
51. The Council referred to the Keystone ecology report¹³. Officers suggested a condition requiring the development to be carried out in accordance with the findings of that report. However, the report relates to phases 1 and 2 of the 300 house scheme. There is no evidence that the appeal site is ecologically sensitive. It would be unreasonable, therefore, to require the development to be carried out in accordance with mitigation measures outlined in the Keystone report as it is not site specific.

Planning obligations

52. The Framework says obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms, directly related to the development, fairly and reasonably related in scale and kind to the development. These tests have statutory force because of the CIL regulations referred to earlier.
53. In accordance with broad guidance contained in the Framework, UDP Policy DR5 says that planning obligations will be sought to achieve community, transport and environmental benefits where these benefits are reasonable, necessary, relevant and directly, fairly and reasonably related to the proposed development. The circumstances in which such benefits would be sought by the Council are identified in its Local Development Framework Planning Obligations supplementary planning document ('the SPD'), adopted April 2008, and is a material consideration.
54. UDP Policy H9 sets out the Council's approach to the provision and delivery of AFH on sites for 15 or more dwellings on suitable sites. The Policy is generally consistent with advice contained in paragraph 50 to the Framework and should be given weight. The development would provide 10 AFH units thereby meeting with the 35% indicative target set out in UDP Policy H9. Although the Council was content about the number of AFH units proposed, its representatives raised concerns about the manner in which the AFH provision has been addressed in the UU.
55. Ensuring a balanced housing market is one of the Council's highest priorities and is outlined in the housing strategy 2012 – 2015¹⁴. Objectively based evidence for AFH is reflected in the local housing market assessment ('the LHMA'). This identifies an AFH requirement in Hereford of 35% which is reflected in UDP Policy H9. The LHMA also identifies a split between 64% social

¹³ See Keystone ecology report dated 3 August 2012.

¹⁴ See paragraph 4.24 to the Council's statement of case.

rent and 36% intermediate tenure. The AFH units would be made ready and available for occupation prior to the occupation of 90% of the open market units. The Council argued that the figure should be reduced to 50%. However changes in market conditions should be taken into account. Given the current economic climate, it is reasonable to assume that the higher occupancy threshold would assist in the overall viability of the development. I am quite satisfied that the stated threshold for AFH units would ensure that the UU is sufficiently flexible.

56. The intention is that the AFH units shall not be used for any purpose other than the provision of AFH by way of shared ownership housing, and either social or affordable rented housing for occupancy by eligible persons. The Council preferred the deletion of the reference to words '*affordable rented housing*' in the UU. However, I agree with the appellant's view that the wording in the parenthesis (*'unless otherwise agreed in writing by the Council'*) sufficiently allows a degree of flexibility to meet local demand and needs. Given the scale of the AFH provision, I am content that the UU would not significantly undermine or harm the Council's objectives in ensuring a balanced housing market. In this regard, the development and provisions of the UU would meet with UDP Policy H9, the SPD, and the Framework. In this context, the UU complies with the CIL regulations.
57. UDP Policy H19 sets out open space requirements for development of 10-30 family dwellings. The requirement is to incorporate open space in accordance with the minimum standards set out in Policy RST3. Although there were some concerns as to how the informal 'kick about' part of the play area would be physically built on sloping land, broadly speaking, the Council does not raise objections to the amount, scale or quality of the open spaces. The UU says that no more than 10 open market units would be occupied before the open space has been laid out and made available; maintenance would be transferred to the Council. While the Council required a payment of a commuted sum for 15 years, there is insufficient evidence to show that a 10-year period would be unreasonable.
58. The UU makes provision for the financial contribution of £53,353 index linked for the purposes of providing new or enhancing existing play and sports facilities in the locality. This may include the Hereford Skate Park and new sports facilities at Aylestone Park, which are in proximity to the site. Given the location of the site and the scale of the development, the contribution would be justified and support existing community facilities. It is fairly and reasonably related in scale and kind to the development. Therefore, the development's open space provisions, and off-site financial contributions, satisfy UDP Policy H19, the SPD, and guidance contained in paragraph 73 to the Framework. The requested obligation complies with the CIL regulations.
59. The UU makes provision for the financial contribution of £82,095 index linked for the purposes of enhancing educational infrastructure in the area. This includes 1% of the contribution for special educational needs. I have considered all of the concerns raised by the appellant about this contribution. However, given the scale of the development and the shortage of school places as described by the Council, the development would potentially add pressure upon the existing educational infrastructure in the locality. The increased demand should be mitigated through the contribution sought to make the development acceptable in planning terms. The obligation would be directly

related to the development, fairly and reasonably related in scale and kind to the development. In this regard, the contribution sought meet with the SPD guidance; they comply with advice contained in paragraph 72 to the Framework and with the CIL regulations.

60. To address concerns about the potential impact of the development upon local highway infrastructure, the UU includes improvements to the Old School Lane/College Road/Venns Lane signalised junction, traffic calming measures on Cleve Orchard, and a new pedestrian crossing on the A49 trunk road north of the Starting Gate roundabout. Improvements to the PROW network would also be made in the vicinity of the site, which would meet with advice contained in paragraph 75 to the Framework. Given the scale of the development, and the location of the site in proximity to the A49, which includes bus stops and pedestrian links to the site, I take the view that all of these improvements would be necessary to make the development acceptable in planning terms. The contribution of £60,200 would be fairly and reasonably related in scale and kind to the development. Therefore, I find that the requested obligation meets with the SPD and complies with the CIL regulations.
61. I am satisfied that the contributions of £4,321 towards library facilities, and £2,280 towards waste and recycling, meet with the main aims and objectives of the Framework, the SPD, and comply with the CIL regulations. These contributions would be necessary to make the development acceptable in planning terms because of its scale. The obligations directly relate to the development given the site's location. The contributions fairly and reasonably relate in scale and kind to the development.

Conclusion

62. For all of the reasons given above, and having considered all other matters, I conclude that the appeal should be allowed subject to the conditions set out in the Formal Decision below.

Formal Decision

63. The appeal is allowed and planning permission is granted for residential development comprising 29 dwellings with associated access, car parking, landscaping and open space at Land off Atwood Lane, Holmer, Hereford HR1 1LJ in accordance with the terms of the application, Ref S112612/F, dated 14 September 2011, and the plans submitted with it, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the schedule of plans attached to this Decision below.
 - 3) Notwithstanding condition 2, no development shall take place until details of the finished floor levels and overall height of the buildings hereby approved have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) Notwithstanding condition 2, no development shall take place until samples of materials to be used externally on walls and roofs of the buildings hereby approved, including dwellings and garages and any

boundary walls, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.

- 5) Notwithstanding condition 2, no development shall take place until there has been submitted to, and approved in writing by, the local planning authority details of all proposed hard surfaces to be used in the development hereby approved. The development shall be carried out in accordance with the approved details.
- 6) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to, and approved by, the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved prior to the completion of the development or in accordance with the programme agreed with the local planning authority in writing.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) All hard and soft landscape works referred to in conditions 6 and 7 shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority in writing.
- 9) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the completion of the development or in accordance with the programme agreed with the local planning authority in writing.
 - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998:2010 'Tree Work – Recommendations'.
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been

removed from the site. 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, without the written approval of the local planning authority.

- 10) Notwithstanding conditions 2 and 5, no development shall take place until details of the surfacing materials for the access, parking and turning areas and an implementation programme, linking completion with occupation of the dwellings, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) No development shall take place until a construction method statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall include details of deliveries including the storage arrangements and timing, hours of work, and traffic and parking management scheme. The approved statement shall thereafter be implemented unless otherwise agreed with the local planning authority in writing.
- 12) Development shall not begin until drainage works for foul and surface water have been carried out in accordance with details which shall have been submitted to, and approved in writing by, the local planning authority.
- 13) The garages hereby permitted and car spaces to be provided shall be kept available for the parking of motor vehicles at all times. The garages and car spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.
- 14) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

A U Ghafoor

INSPECTOR

Schedule of Plans referred to in condition 2

The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan (edged in red) 1010/03A
Survey Plan scale 1:250
Proposed Site Plan 12.009-001C
Soft Landscape Proposals Bir.3511_01C
Screen Wall Details 1010/13/01
Fence Detail 1010/13/02
Materials Schedule 12.006-003A
Street Scenes 12.006-100
Schedule of accommodation 12.009-004
Proposed Site Access Plan 12.009-005
Illustrative Landscape Master plan Bir. 3511_03C
C415 House Type Floor Plans 12.006.101A
C415 House Elevations 12.006.102A
M403 House Type Floor Plans 12.006-103
M403 House Type Elevations 12.006-104
G House Type Plan 12.006-105A
G House Type Elevations 12.006-106A
M400 House Type Plans & Elevations 12.006-107A
K House Type Plans & Elevations 12.006-108A
3.6 House Type Plans & Elevations 12.006-109
3.5 House Type Plans & Elevations 12.006-110A
3.5 House Type Plans & Elevations 12.006-111
3.5 House Type Plans & Elevations 12.006-112
Plot 26 Floor Plans 12.006-113A
Plot 26 Elevations 12.006-114A
Garages 123.006-115A
Boundary Treatment 123.006-116
Proposed Street Scenes.

APPEARANCES

FOR THE APPELLANT:

Desmond Dunlop	D2 Planning Limited
Jonathan Golby	Pegasus Planning Group
Peter Mansell	KTC Transport Consultants Limited
Andrew Morgan	DAC Beachcroft

FOR HEREFORDSHIRE COUNCIL:

Russel Pryce	Strategic Planning Applications Officer
Amanda Neil	Senior Landscape Officer
Yvonne Coleman	Planning Officer
Tina Wood	Housing

INTERESTED PERSONS:

Phil Edwards	Local Councillor
Sally Robertson	Ward Councillor
Neil Jenkins	Local resident and Parish Council member

DOCUMENTS

- 1 Statement of Common Ground – signed copy
- 2 Assessment of Housing Land
- 3 Copy of UDP Policy S6
- 4 Pegasus figure 15
- 5 Pegasus figure 14
- 6 Pegasus figure 13
- 7 Guidance for RHEs on the implementation of rural exception sites
- 8 LHMA report June 2011