



Appeal Decision

Hearing held on 16 April 2013

Site visit made on 16 April 2013

by P N Jarratt BA(Hons) Dip TP MRTPI

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

Decision date: 31 May 2013

Appeal Ref: APP/T3725/A/13/2190334

Land south of St Fremund Way, Whitnash, Leamington Spa, CV31 1AB

- 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 A C Lloyd Ltd against the decision of Warwick District Council.
 - The application Ref W/12/0027, dated 12 January 2012, was refused by notice dated 29 September 2012.
 - The development proposed is residential development comprising 209 dwellings with associated garages, parking facilities, infrastructure, public open space, allotments, landscaping and access.
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Decision

1. The appeal is allowed and planning permission is granted for residential development comprising 209 dwellings with associated garages, parking facilities, infrastructure, public open space, allotments, landscaping and access at land south of St Fremund Way, Whitnash, Leamington Spa, CV31 1AB in accordance with the terms of the application, Ref W/12/0027, dated 12 January 2012, subject to the conditions in the attached schedule.

Procedural Matters

2. The appellant has amended the proposed development following refusal by the Council's Planning Committee and wishes the amended scheme to be considered in this appeal. The amendments arise from the reasons for refusal of the Council and relate primarily to the alignment of the access from St Fremund Way into the site and to the layout of the development. The appellant has referred to the Planning Inspectorate's Good Practice Advice Note¹ regarding amendments to schemes at appeal.
3. This advice states that in deciding whether to accept amendments to appeal schemes the principles of the 'Wheatcroft' judgement will be applied². In this judgement the High Court considered the issue of amendments in the context of conditions and established that "the main, but not the only, criterion on which... judgement should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such

¹ Planning Inspectorate Good Practice Advice Note 09 : Accepting amendments to schemes at appeal, February 2011

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

- consultation". An integral part of the legal test is therefore the issue of fairness to third parties.
4. The appeal process should not be a means to progress alternatives to a scheme that has been refused or a chance to amend a scheme so as to overcome the reasons for refusal. In the first instance materially changed schemes should be re-submitted to the local planning authority as a fresh planning application. However the guidance indicates those circumstances where it may be possible to overcome objections by making amendments within the Wheatcroft principle, such as where elected members have overturned officers' advice and the specific points of objection may not have been identified until the decision notice was issued, as has occurred here.
 5. The appellant sought to have a constructive dialogue with the local planning authority on the amended scheme but the informal view of the Planning Committee was that the amendments did not overcome their concerns. The appellant therefore carried out consultation on the amendments by contacting third parties identified by the local planning authority. Contact was by direct mail and information was placed on the Company's web site. Where representations had been made by email, the Council assisted the appellant in notifying third parties. Consultation on the amended proposals generated a number of responses most of which expressed similar concerns to those on the originally submitted application. Although at the hearing it was alleged that some local residents were not aware of the amended proposals, I am satisfied that the appellant carried out adequate consultation with third parties to enable comment on the amendments to be made.
 6. As the appellant has followed the advice issued by the Planning Inspectorate and on the basis of the information before me, I am satisfied that third parties have had the opportunity to comment on the amended scheme and that they would not be prejudiced by the determination of the appeal on the amended proposals. Accordingly, the appeal has been determined on the basis of the amended plans and documents submitted following the refusal of the application by the Council. The amended plans are incorporated in the list of approved drawings set out in Condition 2 of this decision.
 7. The proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Representations have been made that the proposed development would have significant effects on the environment such that an Environmental Impact Assessment should have been carried out and an Environmental Statement submitted by the developer. In the Council's screening opinion, which considered the characteristics of the development, its location and the nature of the potential impacts, it was concluded that an Environmental Statement was not required and this was confirmed by the Planning Inspectorate's screening decision.
 8. Some days before the hearing, the appellant submitted a noise assessment report prepared by their acoustic consultant, Owen Clingan of Auracle Acoustics, and dated 28 March 2013. This was placed on the appellant's and the Council's websites and this provided third parties the opportunity to comment on the detail of that report.
 9. A planning obligation in the form of an agreement was submitted at the hearing but this had not been signed by the Council (Document 5). A second

obligation in the form of a completed unilateral undertaking (UU) and dated 16 April 2013 was also submitted at the close of the hearing (Document 7). Its provisions concern contributions towards affordable housing, open space, medical services, sports and leisure facilities, education, libraries and policing. However, the UU also required an undertaking from the Council who was not a party to the document. In view of this, the appellant subsequently submitted a third obligation in the form of a UU also dated 16 April 2013³ which does not bind the Council and incorporates a number of typographical corrections.

Main Issues

10. The main issues in this appeal are:

- i) Whether there is a 5 year supply of deliverable housing sites.
- ii) Whether the proposed development represents good design in terms of its layout and access.
- iii) Whether the proposed development would be premature by precluding future options for meeting housing needs.
- iv) The effect of the proposed development on the living conditions of the occupants of nearby dwellings.
- v) Whether the proposals make suitable provision for local facilities.
- vi) Whether the proposals would represent sustainable development.

Reasons

11. The appeal site is in agricultural use in open countryside on the edge of the built up areas of Leamington and Whitnash. It is bounded on the north by a recent residential development around St Fremund Way and the Campion School playing fields. To the west is track beyond which is a railway line and to the east is the Whitnash Brook Local Nature Reserve. To the south is a public right of way.

Five Year Housing Supply

12. The site forms part of a designated Area of Restraint in the Warwick District Local Plan 1996-2011 (adopted 2007) by virtue of its scale and location. However the Council acknowledges that it does not have a 5 year supply of deliverable housing sites as required in paragraph 47 of the National Planning Policy Framework (the Framework) and consequently the Council does not oppose the principle of development of the site. The latest Annual Monitoring Report (December 2012) indicates that the housing land supply is 2.6 years. The Framework at paragraph 49 indicates that 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.

Layout and Design

13. The Framework attaches great importance to the design of the built environment and encourages the use of local design review arrangements (paragraph 62). The proposed development was considered by the MADE Design Review Panel who expressed concern over the legibility of the street

³ Attached to an email to the Planning Inspectorate on 7 May 2013 from Wright Hassall, Solicitors

network, which appeared convoluted, and the absence of a wider strategic plan by either the developer or the Council for further residential expansion. I note that the appellant amended the scheme to address some of these comments and in so doing had regard to the Council's prospectus for 'Garden Towns, Villages and Suburbs' (May 2012) which provides part of the evidence base for the emerging local plan. I also note that the Council officer considered the then amended layout to be appropriate for the location.

14. Following the refusal of the application the development has been amended further by the proposed demolition of two existing flats and a garage to provide a wider entry point to the site and by alterations to the layout to allow for the inclusion of a tree lined east-west estate road. The revised access arrangements from St Fremund Way are a considerable improvement and provide a more commodious entry point into the development than the original proposals. The layout has also been significantly improved through the proposed tree lined avenue on an east-west alignment with a central landscaped public open space at the heart of the development. This provides for an interesting contrast between the formality of the avenue and the informality of the remaining part of the scheme.
15. Notwithstanding the above, the scheme has been subject to considerable criticism in that the development would be served by only one point of entry/egress which is a cul de sac extension of Chesterton Drive/St Fremund Way. Concerns have been expressed that congestion would arise due to the increase in traffic from the development, that parked cars on the current access route currently prevent the free flow of traffic and buses have difficulty negotiating the route due to parked vehicles with consequential effects on highway safety. Objectors have also raised concerns over a proposed emergency access route from Church Lane across a narrow bridge over the railway line.
16. The appeal site forms part of a larger area of land that the Council has included as a housing allocation in its Local Plan Preferred Options report (May 2012) and indicates that access could be provided from the Sydenham Drive/Chesterton Road roundabout, through the grounds of Campion School. The Council considers this would provide a suitable alternative access to the smaller appeal site that would be less convoluted than the appeal proposals.
17. The highway authority and fire service have raised no objection to the proposed emergency access route. The highway authority considers that the roads along the access route from Sydenham Drive roundabout have sufficient capacity to accommodate the predicted traffic and the road layout would be suitable for refuse vehicles and buses. The Council considers the proposed access arrangements would be inadequate but neither the Council nor local residents have provided any evidence by way of surveys or expert assessment to indicate that the views of the highway authority are misplaced. Whilst no doubt the concerns of the local residents about the access are genuinely made, I have no reason to doubt the judgement reached by the highway authority.
18. I therefore conclude on this issue that the design of the layout and access to the proposed development are acceptable and satisfy the requirements of the Framework and Policy DP1 of the Warwick District Local Plan 1996-2011.

Future Housing Requirements and Prematurity

19. As referred to above, the appeal site forms part of a larger area of land that the Council has included as a housing allocation in its Local Plan Preferred Options report. However, the Inspector into Coventry's Core Strategy has requested Coventry City Council to withdraw the Core Strategy in order to work with other councils in the sub region in preparing a Joint Strategic Housing Market Assessment. Warwick District Council is one of these councils and consequently the programme for the preparation of Warwick's Submission Draft Local Plan will be delayed.
20. Should the land to the south of the appeal site be identified for housing development in the future adopted local plan, its development would not be prevented through the development of the appeal site. The appellant at the hearing indicated that the company has an interest in this further site and that they have control of the land between the west of the appeal site and the railway line. They are in discussion with Campion School and are seeking to negotiate with the County Council over the prospect of gaining access to the land to the south of the appeal site. In view of this, it appears that the land to the south would be able to be developed and would not be dependent on access via the appeal site, which I note in any event would not be suitable for accessing additional development to the south beyond the appeal proposals due to limited capacity in the Sydenham road network.
21. The Government document *The Planning System: General Principles*⁴ sets out the approach to questions of prematurity. It explains at paragraph 17 that it may be justifiable to refuse planning permission on the ground of prematurity where a Development Plan Document is being prepared if a proposal is so substantial or the cumulative effect would be so significant that granting permission would pre-determine decisions about the scale, location or phasing of new development. Paragraph 18 states that otherwise refusal of planning permission on the grounds of prematurity will not usually be justified. An example of this is where a DPD is at consultation stage with no early prospect of submission for examination and refusal on prematurity grounds would impose a delay in determining the future use of the land in question.
22. In the light of this advice, I am satisfied that the development of the appeal site would not be premature by precluding future options for meeting housing needs. Additionally in the light of paragraph 216 of the Framework, I attach only limited weight to the emerging local plan.

Living Conditions

23. There is concern over the potential impact on living conditions arising from noise and disturbance from increased traffic using St Fremund Way and Withy Bank to access the development site. The main impact would be felt by the occupants of existing dwellings in Badgers Retreat and Withy Bank situated alongside the proposed access. These dwellings have habitable room windows which face what is currently only a field access. The appellant has sought to limit potential impacts through the amended proposals which require the demolition of 2 flats at 21 and 22 Badgers Retreat and the garage at 31 Badgers Retreat. This provides for an improved alignment to the access road through a wider gap between dwellings. In view of the difference in ground

⁴ ODPM 2005

levels, the retaining wall to the parking court at Badgers Retreat is substantial and in its present state could potentially exacerbate the noise of traffic through the canyon effect. The proposed new access would require a replacement retaining wall for the parking court and this should be of a design that would not exacerbate traffic noise. Similarly, the surfacing materials for the proposed traffic calmed section of the access should be of a type that would not exacerbate tyre noise. A condition requiring details of a scheme to be carried out could satisfactorily control these matters.

24. The Council has proposed conditions that require the developer to carry out noise assessments after the occupation of the 105th and 188th dwellings to assess the impact of traffic noise on the nearest dwellings in Badgers Retreat and Withy Bank. The conditions would require the developer to provide suitable mitigation measures if the assessment demonstrates that there would be unacceptable traffic noise within those dwellings. However, I have some concern over whether the use of such conditions would be reasonable or necessary. If future disturbance from traffic noise would be at an unacceptable level, then it would not be appropriate to grant planning permission for the development without adequate mitigation measures being determined at an early stage. A noise assessment has been submitted by the appellant that indicates the worst case predicted day-time and night-time noise levels would increase by 6dB and 7dB respectively and that such increases are within or close to the various standards considered in the assessment. Mr Clingan, on behalf of the appellant, concludes that existing residents adjacent to the proposed access road would not suffer unacceptable noise and disturbance from vehicular traffic.
25. Mr Lawson, for the Council, believes that the nature of the noise is such that it cannot be easily measured or predicted and referred to the World Health Organisation Guidelines for Community Noise (Document 6). Whilst there was no disagreement with the predicted noise levels outside the dwellings, Mr Lawson considered that the noise experienced inside the dwellings would be dependent on a number of factors such as the nature of the construction of the building. Notwithstanding this, Mr Lawson agreed that increased traffic noise arising from the development would not be at a level that would justify refusal of the appeal.
26. In view of the assessment of predicted noise levels by both the appellant and the Council; the proposed amendments to the access road; and, the imposition of a condition requiring the submission and approval of a scheme regarding the design of the retaining wall and road surfacing materials, I do not consider that the Council's suggested conditions are necessary or reasonable and would not accord with tests set out in Circular 11/95.
27. Many residents are concerned about noise and disturbance arising during the construction of the proposed development as they say they have been subject to construction traffic for 11 years arising from the development of existing dwellings. In order to minimise the impact of construction works, a number of conditions could be attached. These would require the submission of a Management Plan for Construction, restrictions on deliveries and restrictions on hours of work. Furthermore, a condition requiring the amended proposals for the access road to be constructed before the remainder of the development could also be attached in order to reduce disturbance to residents.

28. The proposed development would be situated south of existing dwellings. Although proposed separation distances are generally in excess of the Council's minimum standards, the first floor windows in the side gables of proposed houses on plots 166 and 198 could lead to some degree of overlooking. However a condition requiring obscure glazing and non-opening windows below 1.7m above floor level would overcome the potential for overlooking.
29. I conclude that with the imposition of the various conditions referred to above, the extent of any impact on the living conditions of some of the occupants of existing dwellings would not be to an unacceptable degree.

Local facilities

30. The Council considers that the proposed development would fail to provide any local facilities, that none were provided in the existing development to the north of the appeal site and it should not be expected that facilities should be provided on the land to the south if that site were eventually to be developed.
31. I am satisfied that the development would be in reasonable walking distance of a range of local facilities on the basis of the walking catchment data submitted by the appellant. Similarly, the town centre is within a reasonable cycling distance and walking distances to bus stops on St Fremund Way and Whitnash Road are also reasonable.
32. Concerns have been expressed about the ability of local services to cope with increased demand arising from the development but these impacts would be mitigated by the Planning Obligations that the appellant has entered into.
33. I conclude that whilst only open space and allotment facilities would be provided on the site there would be reasonable access to local facilities by walking, cycling or by bus and that the proposed development makes adequate provision for the expansion of local services.

Sustainable Development

34. The golden thread of the Framework is the presumption in favour of sustainable development of which there are three dimensions: economic, social and environmental. House building on the appeal site would generate jobs within the local economy, it would provide a fundamental social role of delivering market and affordable homes and it would promote healthy communities through the improvements to services and the provision of open space and allotments. It would be in a sustainable location adjacent to the urban area and the development would also conserve the natural environment through the protection and enhancement of the adjacent Whitnash Brook Local Nature Reserve and provide measures for the sustainable drainage of the site.
35. In the absence of a 5 year housing land supply I attach little weight to the relevant housing distribution policies in the Local Plan. Paragraph 14 of the Framework indicates that there is a presumption in favour of sustainable development which in decision-taking means, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless, firstly, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, or secondly, specific policies in the Framework indicate development should be restricted.

36. Against the benefits of the development must be balanced the loss of a generally open site and the impact of increased traffic arising from the development. However, these do not outweigh the beneficial characteristics of the development, which I consider satisfies the core planning principles of the Framework and would contribute to sustainable development.

The Planning Obligation

37. The planning obligation in the form of a completed unilateral undertaking, dated 16 April 2016 but sent to the Planning Inspectorate on 7 May 2013, would require the provision of 40% of the dwellings to be affordable of which 50% would be social rented units, 30% affordable rented units and 20% shared ownership units. This satisfies the general requirements of the Council's Affordable Housing SPD (January 2008) and Policy SC11 of the Local Plan.

38. Policy SC14 of the Local Plan requires contributions to the provision of community facilities in conjunction with new facilities. The UU makes provision for financial contributions to the extension of the Croft Medical Centre (£175,956.61); towards education (£783,435); libraries (£35,675); policing (£82,764); and sports and leisure facilities (£195,731).

39. NHS Warwickshire has set out a detailed assessment of the health needs arising from the proposed development based on the NHS Healthy Urban Development Unit Model as a basis for quantifying contributions. The development is within the catchment of the Croft Medical Centre which has a duty to accept any requests for new patients. The Centre has 11,100 patients and has no spare capacity and the contribution is necessary for the costs of expanding the Centre and increasing its facilities.

40. Although Sydenham Primary School is being expanded to meet current identified need there would be an identified shortfall in school spaces at this and other local schools to meet the increase in the population arising from the proposed development. The education contribution would be fairly and reasonably related in scale and kind to the development.

41. It is likely that the proposed development would lead to increased demands on the library service. However the Council has not provided any information on current facilities and existing or future shortfalls in service provision other than to indicate that the sum requested of £35,675 is based on a 3 bed dwelling size. No projects have been identified to indicate how the sum would be used. Accordingly, there is insufficient information to enable a view to be reached that the contribution would be fairly and reasonably related in scale and kind to the development.

42. The level of the policing contribution reflects a lower level if Secured by Design standards are applied to the development and is based on a proportional increase in house numbers within the county in relation to existing police infrastructure. This approach is based on 'Policing Contributions from Development Schemes'⁵ and annual crime and incident data for 2011-12. I am satisfied that the contribution would be fairly and reasonably related in scale and kind to the development.

43. Sport England requested a contribution towards built sport facilities in the region of £163,961 - £249,647 based on their Sports Facility Calculator.

⁵ Warwickshire Police Authority February 2011

However, this does not have regard to any existing sports facility provision in the locality of the application site nor to the impact that the proposed development would have on those facilities. The contribution request does not appear to be directly related to the development.

44. The proposed development provides for open space requirements based on the Council's Open Space SPD, June 2009. The UU also provides the option for the transfer of open space land and arrangements for its future maintenance.
45. I consider that the provisions of the planning obligation in respect of affordable housing, health, education and policing are necessary to make the proposal acceptable in planning terms, are directly related to the proposed development and fairly and reasonably related in scale and kind to the development. Consequently they satisfy Regulation 122 of the Community Infrastructure Levy Regulations and paragraph 204 of the Framework. However, the request for contributions towards libraries and sports and leisure facilities is tenuous, not appearing to be directly related to the development and not compliant with the CIL Regulations.
46. The UU contains clauses stating that certain obligations would have no effect if I find that they do not comply with the tests in the CIL Regulations. However, notwithstanding my findings on the provisions of the UU, it has been executed and has legal effect.

Conditions

47. I have considered the conditions suggested by the Council in the light of Circular 11/95 and I have modified them where necessary to ensure that they meet the tests in the Circular. I have referred to the need for a number of the conditions above and I will not repeat them here but there are a number of other conditions that are necessary to make the proposed development acceptable.
48. Condition 2 specifies the drawings and plans to which this permission relates and is necessary in the interests of the proper planning of the area. The visual amenities of the area will be protected or enhanced through conditions 3, 5 and 6. As an archaeological evaluation has been carried out that identified several features of archaeological interest, condition 9 requires the further work to be carried out. Condition 10 requires the submission and approval of a lighting scheme and this is necessary to protect European Protected Species and to enhance opportunities for biodiversity in view of the sensitivity of species to artificial light.
49. Conditions 11 and 12 are necessary to ensure satisfactory provision is made for the disposal of foul sewage and storm water based on sustainable drainage principles and in accordance with an approved Flood Risk Assessment. Condition 13 is intended to protect the amenities of adjoining occupiers by having due regard to different levels on the site. The emergency water requirements of the Fire Service will be met through condition 14 and condition 15 is necessary to ensure that the development makes adequate provision for the generation of energy from renewable energy resources. Condition 19 is necessary to ensure that the development achieves Secured by Design standards. Sustainable travel will be encouraged through condition 20.
50. In order to protect and enhance the adjacent Local Nature Reserve and to secure biodiversity gain, condition 21 requires the mitigation and enhancement

proposals specified in the Landscape and Ecological Management Plan to be implemented. Condition 22 protects existing trees and hedgerows in order to protect the amenities of the area.

Conclusions

51. I conclude that the proposal represents sustainable development in the context of the Framework and this outweighs the provisions of the Warwick District Local Plan 1996-2011 in respect of the location of housing development. Furthermore the emerging local plan carries little weight. For these and the other reasons given above and having taken account of all relevant considerations, I conclude that the appeal should be allowed.
52. I have also had regard to the effect of the revocation of the Regional Strategy but in the light of the facts in this case the revocation does not alter my conclusions.

P N Jarratt

Inspector

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Richard Kimblin of Counsel Greg Mitchell	Framptons, Chartered Town Planning Consultants, Oriel House, 42 North Bar, Banbury.
Vanessa Eggleston	i-Transport, Transport Consultants, Centurion House, 129 Deansgate, Manchester
Peter Brown	RPS Planning & Development, Highfield House, 5 Ridgeway, Quinton Business Park, Birmingham
Owen Clingan BSc(Hons) MIOA FRSA	Auracle Acoustics, 5 Honeygate, Luton.
Desmond Wynne	Director, A C Lloyd Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Rob Young BSc DipTP MRTPI	Planning Officer
Peter Lawson BSc Hons MSc MCIEH	Senior Environmental Health Officer
Cllr Bertie MacKay	
Cllr John Barratt	

INTERESTED PERSONS:

Ray Oakley	Local resident
Elizabeth Twohig-White	Local resident and member of MUD (Millpool Meadows Unsustainable Development) residents action group
Keith Palmer	Local resident
Cllr A Davis	Whitnash Town Council
Julie Cross	Andrew Martin Planning

DOCUMENTS

- 1 Bundle of plans which relate to the determination of the application by the Planning Committee on 25 September 2012 (Appellant)
- 2 Bundle of plans which relate to post decision amendments requested by the appellants to be considered at the appeal (Appellant)
- 3 Agenda Item 7, Warwick District Council Executive, 17 April 2013 (Appellant)
- 4 Plan showing postal addresses of the existing development (Appellant)
- 5 Uncompleted Planning Obligation by way of Agreement (Appellant)
- 6 Extract from the World Health Organisation's Guidelines for Community Noise (Council)
- 7 Completed Planning Obligation by way of Unilateral Undertaking (Appellant)

CONDITIONS SCHEDULE

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the application form, site location plan and approved drawings AAH1953/03N dated 03.08.12, AAH1953/04C, AAH1953/05C, AAH1953/06B, AAH1953/07B, AAH1953/08B, AAH1953/09B, AAH1953/10B, AAH1953/11C, AAH1953/12C, AAH4953/13C, AAH4953/14B, AAH4953/15B, AAH1953/16, AAH1953/17, AAH1953/18, AAH1953/20C, AAH1953/21E, AAH1953/22E, AAH1953/23E, AAH1953/24, AAH1953/25, AAH1953/32, AAH1953/41 and AAH4953/43C.
- 3 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted 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 No development shall take place until a Management Plan for Construction has been submitted to and approved in writing by the local planning authority. The Management Plan shall include measures for the protection of important ecological features on and adjacent to the site (including the Local Nature Reserve, hedgerows and trees); measures to ensure that mud and debris will not be deposited on the highway as a result of construction traffic leaving the site; confirmation that best practical means shall be employed by contractors to minimise noise on the site during the construction of the development and to comply with BS 2009:5228 'Noise Control on Construction and Open Sites; and, that all vehicles, plant and machinery on site shall be of a type that minimises noise production. The development shall be carried out in accordance with the approved Management Plan for Construction.
- 5 In addition to the landscaping proposals in the Landscape and Ecological Management Plan and Landscape Strategy Plans AAH1953/21E, AAH1953/22E and AAH1953/23E, a landscaping scheme for the whole of the site excluding the house plots shall be submitted to and approved by the local planning authority before the development hereby permitted is commenced. The approved scheme shall be completed not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted.
- 6 No development shall take place until details of the boundary treatment have been submitted to and approved by the local planning authority and the development shall be carried out in accordance with the approved details and retained thereafter.

- 7 No development shall take place until a scheme for attenuating the impact of traffic noise on the realigned access road into the site (shown on drawing AAH4953/43C) has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the proposed road surfacing materials and details of the design and materials of the new boundary treatment between the flats at 21 and 22 Badgers Retreat and the garage at 31 Badgers Retreat that are proposed to be demolished, and the access road. The development shall be carried out in accordance with the approved scheme.
- 8 The realigned access road from St. Fremund Way into the site and shown on drawing AAH4953/43C, together with the scheme to be approved under condition 7 above, shall be constructed prior to any construction, foundation, infrastructure or other works for the development of the remainder of the site as provided for through this permission unless otherwise agreed in writing by the local planning authority.
- 9 No development shall take place until the applicant has secured the implementation of a written programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the local planning authority.
- 10 No development shall take place until a detailed lighting scheme has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and shall be retained thereafter.
- 11 No development shall take place until details of the means of disposal of foul sewage from the development have been submitted to and approved by the local planning authority in writing and the development shall be carried out in accordance with the approved details.
- 12 No development shall take place until a scheme for the provision, implementation, ownership and maintenance of the surface water drainage for the site, based on sustainable drainage principles and in accordance with an approved Flood Risk Assessment, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is occupied and shall be retained thereafter.
- 13 No development shall take place until details of the proposed finished floor levels of the dwellings have been submitted to and approved in writing by the local planning authority. These details shall include existing ground levels in and adjoining the site and the levels of proposed highways, driveways and footpaths and the surface water flow paths across the site. The development shall be carried out in accordance with the approved details.
- 14 No development shall take place until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by

the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first occupied and shall be retained thereafter.

- 15 No development shall take place until a renewable energy scheme has been submitted to and approved in writing by the local planning authority. The scheme shall show how 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources and include a programme for its implementation and measures for the maintenance, replacement or removal of microgeneration equipment. The scheme shall be implemented and retained thereafter in accordance with the agreed programme.
- 16 There shall be no construction related deliveries to the application site before 0800 or after 1700 on Monday to Saturday and no deliveries on Sundays and Bank Holidays.
- 17 There shall be no construction work on site before 0730 or after 1700 on Monday to Saturday, or at any time on Sundays or Bank Holidays.
- 18 Prior to the occupation of the development hereby permitted, the first floor windows in the north elevation of the dwellings on plots 166 & 209 shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed windows shall be retained in that condition at all times.
- 19 No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority indicating how and when the 'Secured by Design' standards will be incorporated into the development. The scheme shall be implemented in accordance with the approved details and shall be retained thereafter.
- 20 No dwelling shall be occupied until the developer has provided for each dwelling a sustainable welcome pack to help promote sustainable travel in the local area. The contents of the sustainable travel packs shall first be agreed in writing with the local planning authority.
- 21 The mitigation and enhancement proposals specified in the Landscape and Ecological Management Plan hereby approved shall be implemented in full. Unless specifically stated otherwise in the Plan, the mitigation and enhancement proposals shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees or plants removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted.
- 22 All existing trees and hedgerows shall be retained in accordance with BS 5837:2005 and shall not be felled, lopped, topped or pruned without

the previous written consent of the local planning authority. Any trees removed without consent, or dying or being severely damaged or becoming seriously diseased within five years of planting, shall be replaced with trees of such size and species as may be agreed with the local planning authority.

Richborough Estates