



Appeal Decision

Hearing Held on 11 October 2017

Site visit made on 11 October 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 7th November 2017

Appeal Ref: APP/J1860/W/17/3174725

Land at Winsmore, Powick WR2 4QY

- 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 Fortis Living against the decision of Malvern Hills District Council.
 - The application Ref 16/00737/FUL, dated 20 May 2016, was refused by notice dated 13 February 2017.
 - The development proposed is described as "application for residential development on land at Winsmore, Powick for 49 affordable dwellings".
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Decision

1. The appeal is allowed and planning permission is granted for residential development on land at Winsmore, Powick WR2 4QY for 49 affordable dwellings in accordance with the terms of the application, Ref 16/00737/FUL, dated 20 May 2016, subject to the conditions attached in the schedule to this Decision.

Application for costs

2. At the Hearing an application for costs was made by Fortis Living against Malvern Hills District Council. This application is the subject of a separate Decision.

Procedural Matters

3. A plan showing street scenes (Ref Zeb717/011) was submitted with the planning application. I have treated this plan as indicative only.
4. A draft Statement of Common Ground relating to Transportation and Highways was submitted during the Hearing. The main parties confirmed that the document had not been fully agreed. Consequently, it carries little weight as a Statement of Common Ground. I have, however, had regard to the document in relation to those matters which were discussed during the Hearing, as attendees had the opportunity to comment on specific points.
5. A signed and executed planning obligation¹ has been submitted to the satisfaction of the main parties, in accordance with terms that were set out in the officer's report to planning committee. This was discussed at the Appeal Hearing and I am satisfied that interested parties would not be prejudiced by my consideration of the planning obligation.

¹ Section 106 of the Town and Country Planning Act

6. The deed secures the provision of affordable housing and contributions towards highway improvements. The highways infrastructure contribution would fund the provision of a waiting restriction on Winsmore, a speed limit on the proposed estate roads, dropped kerbs in four identified locations in the vicinity, bus stop provisions in two identified locations in the vicinity and phase 11 of the Malvern to Worcester cycleway. In respect of each planning obligation in the deed, I need to be satisfied that it would meet the tests of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations, namely: (i) it is necessary to make the development acceptable in planning terms; (ii) is directly related to the development and; (iii) fairly and reasonably related in scale and kind to the development. I have received a Statement of Compliance with the CIL Regulations, and further details relating to relevant development plan policy. Information on how the highways contributions have been calculated was provided during the Hearing.
7. The purpose of the waiting restriction on Winsmore is to prevent car parking on or close to the bend on the approach to the site, which may prevent access by the refuse vehicles and/or a fire tender. I was advised that a Traffic Regulation Order (TRO) would define the scope, duration and location of the waiting restriction. However, the parties were in agreement that there is no guarantee that the TRO would be approved. Moreover, there was a degree of uncertainty about its details, and a lack of confidence that a waiting restriction in this location would be enforced. Consequently, I am not satisfied that this obligation would achieve what is intended.
8. The appellant also argued that this obligation is designed to address an existing problem, as the concern relates to parking which is not a consequence of the development. Also, it is asserted that it is intended to facilitate a vehicle movement that already occurs. I have considered the Council's reasoning that the waiting restriction, whilst it may be ineffective, would be better than no waiting restriction at all. Nonetheless, I am not satisfied that the requirement for a waiting restriction on Winsmore would meet tests of the Framework and Regulation 122 of the CIL Regulations. In particular, it has not been demonstrated that this obligation is necessary to make the development acceptable in planning terms. Therefore, I cannot take it into account in my consideration of the appeal.
9. In relation to the obligations that secure the provision of affordable housing, a speed limit on the estate roads, specified dropped kerbs, bus stop provision and phase 11 of the Malvern to Worcester cycleway, I am satisfied that these obligations meet the tests of the Framework and Regulation 122 of the CIL Regulations. Further, I am satisfied that the highways obligations would comply with the pooling restrictions in Regulation 123 of the CIL Regulations.
10. Although the Council's third reason for refusal has been partially addressed, it is necessary to consider whether, without the obligation in relation to the waiting restriction, there would be material harm. I deal with this matter below under highway safety. Also, the Council's first reason for refusal related to the effect of the waiting restriction on the living conditions of nearby residents, as a consequence of the likely displaced parking. It follows that this concern has been addressed as I am unable to take the waiting restriction into account.

Main Issues

11. From all that I have seen and read, I conclude that the main issues are:

- The effect of the development on highway safety;
- The effect of the development on the character and appearance of the area.

Reasons

Highway Safety

12. The site is located to the south of Malvern Road (A449) and to the west of Winsmore, which is an existing housing development with a 30 mph speed limit. The access to the proposed development would be from Upton Road (B4424) via Winsmore.
13. The site is within the adopted development boundary and is allocated for residential development under Policy Reference SWDP60/5 and Policy SWDP 59A of the Development Plan.² Powick is defined as a 'Category 2 settlement', having at least two key services and access to at least daily services for employment and shopping purposes. The main parties agreed that the appeal site is in a sustainable location, being on the edge of the village and within a reasonable walking distance of local facilities.
14. The appellant's Transport Statement³ sets out the likely trip generation for the site, which was not disputed by the Council. The weekday peak hour trip rates are predicted to be 24 two-way trips (0800-0900) and 26 two-way trips (1700-1800), which is relatively modest. Accident records do not indicate that there are any inherent highway safety issues in the vicinity of the site.
15. The appellant's "Highways and Transportation Proof of Evidence" finds that the results of a traffic count at two locations on Winsmore show that total traffic movements are light. The maximum two way count of trips was 28 during the school PM peak (1500-1600), which the appellant explained equates to an average of one vehicle movement approximately every two minutes. There is no evidence to suggest that the traffic count presents an inaccurate picture or that the interpretation is flawed. The Council's concern lies primarily in the likely increase in vehicle movements, especially on the western cul-de-sac of Winsmore. However, the evidence before me shows that the existing and predicted traffic volumes on Winsmore would be moderate and, as such, there is unlikely to be vehicle conflict or delay.
16. The Council was also concerned about the forward visibility towards the junction of the western cul-de-sac. The main parties agreed that the forward visibility for vehicles exiting the site would be 13 metres, which would be below the 20 metres required (based on the methodology set out in the Manual for Streets). This suggests that cars moving at the speed recorded in the appellant's speed survey would not be able to stop in time to avoid a hazard, such as a pedestrian crossing the road. Although it was agreed that this situation exists at present, the Council argued that the trips resulting from the development would increase the likelihood of an accident.

² South Worcestershire Development Plan, adopted February 2016

³ JMP Consultants Ltd, Ref TS001b 003, June 2016

17. However, the predicted number of vehicle movements associated with the development is modest. Whilst I agree that the visibility at the junction is below that recommended, I do not consider that the development would make the existing situation materially worse.
18. The main parties agreed that the western cul-de-sac is wide enough on the straight elements to accommodate a refuse vehicle and a car simultaneously, but on the bend the refuse vehicle requires the full road width. As set out above, the Council sought to prevent car parking on the bend through a planning obligation, as the Highway Authority advised that this may hinder access to the site by the refuse vehicle. However, I have found that the planning obligation to secure the waiting restriction cannot be taken into account. As such, I have to consider the effects of the development on the basis that parking may continue to occur in the vicinity of the bend.
19. I appreciate that manoeuvring the refuse vehicle around the parked cars is inconvenient and reversing is undesirable for reasons of highway safety. Nonetheless, I saw from the appellant's video evidence that this vehicle movement already occurs. During the Hearing, the Council acknowledged that the refuse vehicles are able to enter the western cul-de-sac, and it was agreed that the number of refuse vehicles is unlikely to increase. The Council argued that the greater number of trips resulting from the development would increase the likelihood of an accident. In particular, there would be insufficient driver-to-driver intervisibility between a car arriving at the site and a refuse vehicle leaving the site. The Council contended that this would lead to cars having to reverse. As demonstrated by the traffic counts, Winsmore is lightly trafficked at present and the increase in trips resulting from the development is likely to be modest. As a consequence, the evidence to support the Council's argument is limited. I consider that the development would not exacerbate the current situation to such an extent that there would be a material impact on highway safety, due to conflict between the refuse vehicle and other users of the highway.
20. There was a dispute between the parties in respect of whether a fire tender could access the site in emergencies. This is, again, due to the bend and width of the road at the western cul-de-sac and the high likelihood of on-street parking in this location. Whilst there is clear evidence of demand for on-street parking, especially in relation to Nos 31-37 Winsmore, this is highly unlikely to be affected by the development as the main parties agree there would be adequate parking provided within the site. The Council acknowledged that at present, in an emergency, the fire tender would find a means of accessing the properties beyond the bend in the road. Furthermore, it was not demonstrated conclusively that the fire tender could not manoeuvre around the bend and any parked cars, and I am not aware that the Fire Service has been consulted on the matter. Consequently, I am not satisfied that access for the fire tender is a reason to find against the scheme on grounds of highway safety.
21. Local residents expressed further concerns about the capacity of the local highway network and its ability to cope with the development. The appellant's Transport Statement found that the development would not have a material effect on the surrounding highway network. Moreover, the Highways Authority did not object to the proposal in terms of the development's impact on the local road network and I attach significant weight to this advice.

22. There is also concern that the development would lead to children crossing Malvern Road unaccompanied, and increased conflict between users of the public right of the way to the west of the site. However, there is limited evidence to support these assertions.
23. On the basis of the evidence before, I find that it has been demonstrated that safe and suitable access to the site can be achieved and the local road network has capacity to accommodate the traffic resulting from the development, in accordance with Policies SWDP4 and SWDP21 of the Development Plan. Moreover, the Framework advises that development should only be refused on transport grounds where the residual cumulative impacts of development are severe, and this has not been demonstrated.

Character and Appearance – Effects on Landscape Character

24. The site is largely flat and is currently used for agricultural purposes. It extends to some 1.58 hectares and is bounded by mature trees and hedgerows. To the east is the residential estate Winsmore, which is characterised by houses and flats arranged around a central area of open space. The gardens to the properties on Winsmore are generally spacious and the area has a pleasant and open character and appearance, akin to its location at the edge of the settlement. The density of the existing development is around 19 dwellings per hectare. Beyond Winsmore, there are a larger period dwellings and farm houses. To the south of the site there are open fields.
25. The landscape type identified for the area, as defined by the Worcestershire County Landscape Character Assessment, is 'Settled Farmlands on River Terrace'. The overall strategy for this landscape type is to conserve and enhance the scale, tree cover and hedged character of the landscape together with its distinctive land uses.
26. The proposed development of 49 affordable dwellings would be focussed around an area of public open space (POS), and there would be further smaller areas of POS throughout the development. In total, the open space would account for 35 percent of the site area, and the proposals include the retention of the majority of trees and hedgerows on the site. The development would comprise mostly two-storey terraced and semi-detached houses, with a group of six bungalows and a block of apartments.
27. The appellant's viability report⁴ was assessed by the Council's independent advisor and it has been agreed that the proposals would be unviable. Nonetheless, highways contributions have been secured. The Council was also seeking 40 percent green infrastructure on the site, in accordance with Policy SWDP5 of the Development Plan. However, this policy allows for a reduction if the development is proven to be unviable, and the Council has accepted the appellant's position in this respect.
28. The site provides a pleasant outlook for local residents and it contributes to the setting of the village. The development would result in the loss of the greenfield site and it would have a permanent effect leading to a noticeable change in the local landscape. It would also result in the loss of two large and well established trees at the proposed access. However, the retention and enhancement of the boundary hedgerows would limit the adverse effects and

⁴ Ref RCA060f dated November 2016

would partly meet the aim of landscape strategy. The layout of the development, in particular the amount and location of the POS, would soften the appearance of the development and enable it to assimilate with the landscape. Moreover, due to the topography and the intervening vegetation, the impact of the development on the landscape character would be restricted to the area relatively close to the site. Overall, I find that the defining characteristics of the wider area would not be adversely affected.

Character and Appearance - Visual Effects

29. The residents of the properties on Winsmore, and the other properties adjacent to the site, would experience a significant degree of change to their outlook. Residents in more distant properties along Malvern Road and Powyke Court Close, to the north, would be less affected as they currently see the site across the main road and views are limited due to existing houses and vegetation. Walkers and users of the public right of way to the west would experience a moderate change in view as the built form of the development would be evident, although offset to a degree by the hedgerow. The site would be partly visible from Malvern Road but it is relatively well screened to the north. Users of the road would be transient and less sensitive to the development than residents.

Design and Layout

30. The site allocation under Policy Reference SWDP60/5 provides an indicative number of 35 dwellings for the site. The main parties emphasised the number is indicative only, which would be dependent on the nature of the development. My attention was also drawn to Policy SWDP13 of the Development Plan which guides that, in villages, new development should be provided at an average density of 30 dwellings per hectare.
31. The development would be for affordable housing, with one and two bed properties accounting for a large proportion of the housing. The development density would be approximately 31 dwellings per hectare, which would be greater than the existing development at Winsmore. However, it is important to recognise that density is only one aspect of a successful scheme. Policy SWDP21 of the Development Plan requires all new development to be of a high quality design, create a positive sense of place, respect the key features and distinct character of its surroundings and integrate effectively with its surroundings.
32. The majority of the proposed dwellings would be two-storey with a simple roof form reflective of the houses on Winsmore. The bungalows that would be located at the northern end of the site would form a transition between the existing single story houses on Malvern Road and the remainder of the site.
33. The architect explained the design ethos, which includes dual aspect houses in key locations, the central area of open space, a link to the public right of way, the retention and enhancement of landscaping, and locating rear gardens to act as a landscape buffer at the edges of the site. Proposed materials would be brick with small plain roof tiles, chimneys, brick and stone cills and headers and eaves detailing, which would be reflective of local vernacular architecture.
34. I accept that the proposal would be different to Winsmore and, therefore, the two developments would appear physically distinct. However, the local need for

affordable homes and the desire to make the most effective use of land allocated for development, set out in Policy SWDP13 of the Development Plan, points to a different type of development that would not necessarily copy what has gone before. The proposal would respect the key landscape features of the site and its surroundings, and the open space would enhance the development whilst also providing a focus and identity, reflective of that which exists in Winsmore. The proposed house design and materials would provide visual variety and interest, whilst incorporating local architectural features. Although the density would be higher than that envisaged by local residents, I do not agree that the development would be cramped or urban in appearance due to the amount and arrangement of open space, which would be provided in accordance with Policy DWDP5 of the Development Plan.

35. The Council explained that a lower density scheme would enable the provision of a landscape buffer and eliminate the need for frontage parking. Although there would be an element of frontage parking, I do not consider this would be especially dominant throughout the development, and its appearance could be improved through the use of appropriate materials and landscaping. The rear gardens would form a buffer between the built development and the adjoining land and this could be further enhanced through landscaping.
36. Concern has been raised by West Mercia's Crime Risk Manager regarding the pathway adjacent to plot 37 that may allow access to the rear of houses. I am satisfied that this pathway could be secured through an appropriate condition to ensure boundary treatment. I have also considered the similar point about access through the development to the public right of way to the west and whether this would become an escape route for criminals. I have no information on levels of crime in the area and there is very limited evidence to support this claim.

Conclusion on Character and Appearance

37. The development would result in a change to the landscape character restricted to the area relatively close to the site, but the defining landscape characteristics of the wider area would not be adversely affected. Also, there would be a change of outlook for those residents in close proximity to the site. However, the site is allocated for development in the recently adopted Development Plan. The allocation carries considerable weight, and any development of the site is likely to result in visual effects comparable to those identified above.
38. I find that the development would be of an appropriate scale and type and would be of a high quality design. It would create a positive sense of place, whilst also respecting the key features of the site and its surroundings, in accordance with Policies SWDP2 and SWDP21 of the Development Plan. It would meet the aims of the Framework, insofar as it seeks to secure good design.

Other Matters

Local Services

39. The local residents have expressed concerns about increased pressure on local services, especially Powick School. The Children's Services Department of the County Council has advised that it is not current policy to seek contributions for the provision of education facilities in respect of affordable housing developments, and I agree with this stance.

Drainage

40. I have considered matters in relation to drainage and flood risk. The proposed drainage strategy includes soakaways across the site and permeable paving for the driveways. The Local Lead Flood Authority has raised no objections, and has requested a condition to ensure the implementation of the management plan. There is no evidence that the drainage strategy would not be effective in addressing flood risk within the site and ensuring that flood risk is not increased elsewhere.

Heritage Assets

41. The Council's Conservation Officer has advised that the development would preserve the setting of nearby listed buildings and would preserve the character and appearance of the Conservation Area. There is no evidence before me to dispute these findings.

Noise and disturbance

42. Concerns have been raised regarding potential noise and disturbance during construction. I agree that it would be necessary to require a construction environmental management plan to mitigate the harm, which could be secured through a condition.

Bats

43. The appellant's Ecological Appraisal (Phase 1)⁵ found no evidence of protected species on the site, but a condition to enhance the ecological features is requested.

Five Year Housing Land Supply

44. The Council considers that the proposal would be contrary to the development plan and should be refused. The Council can demonstrate a five year supply of deliverable housing, and has referred to relevant court judgements. It is clear from these judgements⁶ that if the development proposal is in conflict with a development plan, where relevant policies are not out of date and the plan is not absent or silent, the presumption in favour of sustainable development in Framework paragraph 14 does not apply. Paragraph 12 of the Framework advises that proposed development that conflicts with an up-to-date

⁵ Worcestershire Wildlife Consultancy (Nov 2015)

⁶ *East Staffordshire BC v SSCLG & Barwood Strategic Land [2016] EWHC 2973 (Admin)* confirms that local plans are intended to be the means by which sustainable development is secured and that up to date plans promote sustainable development. *Barwood Strategic Land v East Staffordshire BC and SSCLG [2017] EWCA Civ 893* and *Trustees of the Barker Mill Estates and Test Valley BC & SSCLG [2016] EWHC 3028 (Admin)* and is supported by the approach advocated in *Cheshire East BC v SSCLG [2016] EWHC 571 (Admin)*

development plan should be refused unless other material considerations indicate otherwise.

45. The Council argued that it has satisfied paragraph 47 of the Framework through its recently adopted development plan. It was also suggested that there is no proven local or district shortfall in affordable housing provision as the delivery of the development plan will meet anticipated need. Nonetheless, the site is allocated for development and, as such, it contributes to the five year supply of deliverable sites. It is expected, through development plan policy, that a proportion of the homes would be affordable. Consequently, I give little weight to the Council's argument. Also, I note that the Council's Housing Development Officer advised that there is a predominant need in the area for one bed properties, and the provision of bungalows would help meet the needs of the elderly and disabled people in the area. The development would secure 49 affordable homes, and I find that the provision of housing would be a significant benefit.

Other benefits

46. The main parties agree that the site is in an accessible location and there would be economic benefits in the form of jobs within the construction industry and the associated supply chain, and increased spending in local shops and businesses.

Conclusion

47. Having regard to all that I have seen and read, and taking into account all matters raised, I conclude that the development would accord with the development plan and, having regard to the third bullet point of Paragraph 14 the Framework, the appeal should be allowed.

Conditions

48. The conditions were discussed during the Hearing. I have made some minor revisions to the suggested conditions to take account of the discussions and to ensure the conditions meet the tests of the Framework.
49. I have not imposed the Council's suggested condition 21, which requires secure cycle parking for the dwellings and/or apartment building. The proposed wording is not precise in terms of the required specification, and I am not satisfied that the condition is necessary to comply with the relevant policy.
50. I have not imposed the Council's suggested conditions 12, 23 and 24, which would restrict permitted development rights. I am not satisfied that the Council has demonstrated that there is a clear justification for the conditions and that exceptional circumstances exist.
51. I am merged the proposed conditions 4 and 6 to avoid duplication. I have incorporated the proposed boundary treatment condition 12 into a condition requiring hard and soft landscaping, and I have merged conditions 9 and 10 to avoid repetition.
52. In addition to the standard time limit condition (1), I have imposed a condition specifying the approved plans as this provides certainty (2).
53. Pre-commencement conditions requiring the prior approval of materials (3), levels (7), the implementation of a landscaping strategy and tree/hedgerow

- retention and protection are necessary to ensure the development would complement its surroundings (8, 9 and 10).
54. I have imposed conditions to control surface water drainage and to ensure the effective disposal of foul water (4, 5).
 55. A pre-commencement condition requiring an archaeological investigation is necessary as there is potential for regionally significant remains on the site (6).
 56. A pre-commencement condition requiring a scheme for the provision, specification and maintenance of the public open space is necessary to ensure the development makes adequate provision for outdoor space (11).
 57. A pre-commencement condition to ensure the ecological features of the site are protected and enhanced is necessary (12).
 58. Conditions to facilitate super-fast broadband (13) and the efficient use of water (14), and require on-site renewable energy (15), a travel plan (19), electric vehicle charging points (20), low emission boilers (21), waste and recycling facilities (22) and a cycle/pedestrian link (24) are necessary to ensure the development meets the Council's aims of promoting the sustainable use of resources and to minimise the use of the private car, as set out in relevant development plan policies.
 59. A pre-commencement condition requiring a construction environmental management plan is necessary to protect the amenity of neighbouring occupiers and the safety of highway users (16).
 60. I have imposed a condition to restrict the hours of construction to protect the amenity of neighbouring residents (17).
 61. A condition is required to ensure the access, turning and parking areas are constructed in accordance with approved details and maintained (18).
 62. Finally, I have imposed a condition requiring details of external lighting to protect the potential foraging routes and habitat of bats, which are a protected species (23).

Debbie Moore

Inspector

APPEARANCES

FOR THE APPELLANT:

Sian Griffiths	RCA Regeneration Ltd
Chris Partington	Zebra Architects
Brian Sharp	Systra

FOR THE LOCAL PLANNING AUTHORITY:

John Teasdale	Malvern Hills District Council
Stuart Castle	Malvern Hills District Council
Michael Brain	Glanville Group
Peter Aston	West Mercia Police

INTERESTED PERSONS:

Michael Richmond	Parish Councillor and Resident
Felicity Williams	Local Resident
Steven Williams	Local Resident

DOCUMENTS SUBMITTED AT HEARING

Statement of Common Ground signed and dated 10 October 2017

Section 106 Planning Obligation and related emails

Draft Statement of Common Ground: Transportation and Highways

Photographic Evidence on behalf of the Local Residents

Email from Highways Authority dated 9 October 2017 and plan Malvern to Worcester Cycleway

Neighbour notification letter of the Hearing, dated 3 October 2017, and list of those notified

DOCUMENTS SUBMITTED AFTER THE HEARING BY AGREEMENT

Development Plan Policies

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 following approved plans:
 - Proposed Site Plan Ref Zeb717/010 Rev P
 - Proposed House Type Plans and Elevations Plots 29-32 Ref Zeb717/201
 - Proposed House Type Plans and Elevations Plots 45-48 Ref Zeb717/202
 - Proposed House Type Plans and Elevations Plots 41-44 Ref Zeb717/203 A
 - Proposed House Type Plans and Elevations Plots 7-10 Ref Zeb717/204
 - Proposed House Type Plans and Elevations Plots 21-22 Ref Zeb717/205
 - Proposed House Type Plans and Elevations Plots 33-34 Ref Zeb717/206
 - Proposed House Type Plans and Elevations Plot 49 Ref Zeb717/207 Rev A
 - Proposed House Type Plans and Elevations Plots 3, 11 Ref Zeb717/208
 - Proposed House Type Plans and Elevations Plot 20 Ref Zeb717/209
 - Proposed House Type Plans and Elevations Plots 1-2, 23-24, 25-26, 27-28 Ref Zeb717/210
 - Proposed House Type Plans and Elevations Plots 4-6 Ref Zeb717/211
 - Proposed House Type Plans and Elevations Plots 35-37 Ref Zeb717/212
 - Proposed House Type Plans and Elevations Plots 38-40 Ref Zeb717/213
 - Proposed House Type Plans Plots 12-19 Ref Zeb717/214
 - Proposed House Type Elevations Plots 12-19 Ref Zeb717/215
 - Visibility Splay Ref MID3659-003.
- 3) No development shall commence until samples and trade descriptions of the materials to be used in the construction of the external surfaces of the development hereby permitted, including window heads and cills and porches, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged

- from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 5) None of the dwellings hereby permitted shall be occupied until works for the disposal of foul water shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 6) No development shall take place until a programme of archaeological investigation, including a Written Scheme of Investigation, has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation; and
 - vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and provision made for the analysis, publication and dissemination of results and archive deposition has been secured.
- 7) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 8) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) a plan showing all existing trees and hedgerows to be retained;
 - ii) all species, planting sizes and planting densities, and the spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads and other works;
 - iii) earthworks showing existing and proposed finished levels or contours;

- iv) a plan showing the type, height, composition and appearance of boundary treatment throughout the site;
- v) vehicle parking layouts;
- vi) other vehicle and pedestrian access and circulation areas;
- vii) hard surfacing materials.

The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

- 9) 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 five 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.
- 10) All the trees and hedges shown as "to be retained" and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto 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 within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]
- 11) The public open space for the development (as shown on the approved plan) shall be laid out prior to the first occupation of 80 percent of the dwellings hereby permitted. The public open space shall be provided in accordance with a scheme for its specification and maintenance, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The public open space shall be maintained and managed in accordance with the approved scheme for the lifetime of the development.
- 12) No development shall take place until a scheme (including methodology and programme of implementation) for the enhancement of biodiversity through the provision of features including bat and bird boxes and holes at ground level in boundary walls and fences for hedgehogs to pass through, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in accordance with the approved programme of implementation and be retained thereafter for the lifetime of the development.
- 13) Prior to the first occupation of any of the dwellings or apartments hereby permitted, details of proposed utilities connections to facilitate super-fast broadband connectivity including fibre optic rather than copper cabling where feasible shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 14) No development shall commence until details of sustainability measures to reduce potable water usage and to recycle rainwater, to be incorporated into the design of the development hereby permitted to reduce energy costs to the occupier shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented concurrently with the development and retained thereafter.
- 15) No development shall commence until a scheme to demonstrate on site micro-generation to meet at least 10 percent of the households' predicted energy requirements from renewable or low carbon sources equivalent to at least 10 percent of predicted energy requirements shall be submitted to and approved in writing by the local planning authority. If photovoltaic roof panels are proposed a plan shall be submitted showing the location of these on the roofs of the buildings. The development shall be carried out in accordance with the approved details and retained hereafter.
- 16) There shall be no on site works, including any site clearance, ground works or site set up, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP must include:
 - a. Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009
 - b. Details of any temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
 - c. Details of the proposed storage of materials and disposal of surplus materials;
 - d. Details of a schedule for the delivery of all materials to the site, to include details of how deliveries would not take place during peak-time hours of the highway network in the vicinity of the application site, and details of the nature and number of vehicles, temporary warning signs to be used, and measures to manage crossings across the public highway.
 - e. Details of the routing of construction traffic, including details of the construction access, and swept path of the largest construction vehicles requiring access during the period of works.
 - f. Details of dust management;
 - g. Pollution control measures in respect of:
 - (i) Water courses and ground water
 - (ii) Bunding of storage areas
 - (iii) Foul sewerage
 - h. Details of temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
 - i. Details of surface treatments and the construction of all hard surfaces and tracks to include their decommissioning and subsequent reinstatement of the land;
 - j. Details of emergency procedures and pollution response plans;
 - k. Siting and details of wheel washing facilities;
 - l. Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials

to/from the site to prevent spillage or deposit of any materials on the highway;

m. Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 17) Ground clearance or construction works shall take place only between 07:30 – 18:00 hrs on Monday to Friday, 08:00 to 13:00 hrs on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 18) Prior to the occupation of any of the dwellings hereby permitted the access, turning area and parking facilities shown on the approved plan shall have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted and approved in writing to the Local Planning Authority and these areas shall thereafter be retained and kept available for those users at all times.
- 19) The dwellings and apartments hereby permitted shall not be first occupied until a travel plan has been submitted to and approved in writing by the local planning authority that promotes sustainable forms of access to the site. The approved travel plan shall be implemented in accordance with the approved details.
- 20) Appropriate cabling and an outside electrical socket must be supplied for each dwelling to enable ease of installation of an electric vehicle charging point (houses with dedicated parking). For developments with unallocated parking i.e. flats/apartments 1 EV charging point per building (as a minimum) should be provided and be operational before the respective dwelling or apartment building is first occupied. The charging points must comply with BS7671. The socket shall comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.
- 21) Details shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development for the installation of Ultra-Low NOx boilers with maximum NOx Emissions less than 40 mg/kWh. The details as approved shall be implemented prior to first occupation in the case of each dwelling. The boilers shall be retained thereafter unless they need to be replaced in which case the replacement boiler shall be of the same specification or have a lower NOx emission output.
- 22) Details of satisfactory provision for the storage of refuse and recycling within each plot shall be submitted to and approved in writing by the local planning authority before the first occupation of any of the dwellings or apartments hereby approved. The approved details shall be implemented prior to the occupation of the respective dwelling or apartment hereby approved and retained thereafter.
- 23) Prior to the installation of any external lighting on the development hereby approved, a scheme of external lighting shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and no other external lighting shall be erected.

- 24) Prior to the occupation of any of the dwellings hereby permitted, a cycle and pedestrian link between the site and the adjacent Public Right of Way No. 589(B) shall be constructed in accordance with details that shall have first been submitted to and approved in writing by the local planning authority. The cycle and pedestrian link shall be retained in accordance with the approved details thereafter.

[end of conditions]

Richborough Estates