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## Appeal Decision

Site visit made on 18 December 2017

**by Zoe Raygen Dip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> February 2018**

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**Appeal Ref: APP/L2820/W/17/3177505**

**Land West of Gipsy Lane, Kettering, Northamptonshire NN15 7JZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Peterborough Diocesan Board of Finance against Kettering Borough Council.
  - The application Ref KET/2015/0551, is dated 1 July 2015.
  - The development proposed is outline application for residential development and details of access.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development and details of access at land west of Gipsy Lane, Kettering, Northamptonshire NN15 7JZ in accordance with the terms of the application, Ref KET/2015/0551, dated 1 July 2015 subject to the conditions set out in the schedule to this decision notice.

### Application for costs

2. An application for costs was made by Peterborough Diocesan Board of Finance against Kettering Borough Council. That application is the subject of a separate Decision.

### Procedural matters

3. The application was made in outline form, with all matters reserved except for the means of access. I have determined the appeal on that basis. Although a masterplan has been submitted showing a layout of 350 dwellings, I have treated this as indicative only.
4. During the course of the appeal a completed S106 agreement was submitted. The agreement, which is a material consideration, includes obligations relating to the provision of open space including a Locally Equipped Area of Play (LEAP) together with their maintenance and management, and financial contributions towards secondary and primary education and libraries based on an agreed formula, sports facilities (£230,000), the maintenance of a bus shelter to be provided by the appellants (£23,196), public transport (£1,144), an extension to a combined footway/cycleway (£50,000), off-site highway works (£1,554,000 £35,000) and town centre regeneration (£133,500.00). There is also an obligation relating to the provision of 30% of the total number of dwellings to be constructed on the appeal site as affordable housing, with a

tenure mix of 70% social or affordable rent and 30% shared ownership, along with a requirement for the approval of an Affordable Housing Scheme. This would include details of the mix of affordable units within the site, the timing of construction and the identity of the Registered Provider where known. In addition, there are obligations regarding the submission, approval and implementation of a travel plan and the provision of bus passes for future occupiers. Finally, there is an obligation requiring the rebuilding of a Vicarage wall in Kettering.

5. At my request the Council to submitted a Planning Obligations and Community Infrastructure Levy (CIL) Compliance Statement. I have had regard to both documents in my consideration of the appeal.
6. During the course of the application the number of access points onto Gypsy Lane was reduced from three to two. As a result, the number of trees proposed to be felled along Gypsy Lane to facilitate the access points was also reduced. I asked the Council and the appellant to submit a joint statement of common ground regarding the trees to be removed as part of the proposal. I have taken this into account in my decision.

### **Main Issues**

7. The main issues are:
  - Whether or not the proposed off site highway works would appropriately mitigate the impact of the proposal on the highway network
  - The effect of the proposal on the character and appearance of the area with particular regard to trees.

### **Reasons**

#### *Off- site highway works*

8. The appeal site forms a large area of land in agricultural use to the west of Kettering. To the west it is bounded by the A14, to the east, by Gypsy Lane and to the north by Thorpe Lane. In agreement with the Highway Authority (HA), the appellant's Transport Assessment 2015 (TA) provides an assessment of the capacity of key junctions with, and without, the development now proposed in 2021 which is predicted to be the opening year for the development, and 2026 as the future design year.
9. The TA states that the Northampton Road/Gypsy Lane junction (NRGL) would be operating beyond capacity at both AM and PM peak periods in 2021 with or without the development. However, with the development there would be a material increase in the level of queueing and delay experienced by drivers accessing the junction from Gypsy Lane. By 2026 the junction would only be operating above capacity within the PM peak period due to an anticipated reduction in flow through the junction predicted in the Northamptonshire Strategic Traffic Model (NSTM) between the years 2021 and 2026.
10. While background traffic growth and committed developments may have a greater impact than the appeal proposal, it would nevertheless result in a material increase in delays and queues on Gypsy Lane. I am satisfied therefore, that improvement would be required to the junction to mitigate the highway impacts of the proposed development.

11. I understand that as part of the approval for what is referred to by the main parties as "the Westhill development" (KET/2006/0541), a S106 agreement was signed which secured the upgrade of the NRGL priority T-junction to a signalised layout. The TA has satisfactorily modelled a scenario that provides a viable signalised junction layout which would accommodate background growth, and the appeal proposal. I am satisfied therefore that the provision of such improvements to the junction would adequately mitigate the impact of the proposals on the capacity of the junction. Such a solution though is reliant on the "Westhill development" proceeding.
12. The Council has confirmed that the West Hill developers have paid the first tranche of the required highway contribution amounting to £367,702 of a £1.2m contribution. The next tranche of 25% of the contribution would be due on the occupation of the 200th dwelling. The final two 25% tranches are triggered at 300 and 400 occupations respectively. When last counted the number of occupied dwellings amounted to 153. On the basis of the evidence before me therefore, I am satisfied that the Westhill development is underway, and adequate mitigation of the impacts of that scheme and the proposal before me now has been secured.
13. The TA demonstrates that the proposal would also have an effect on the capacity of the junction at Warren Hill/Gipsy Lane (WHGL) currently a priority T-junction. Absent the appeal scheme, the TA states that in 2021 the junction would be operating within capacity, although by 2026, background traffic growth will have caused the junction to be operating beyond capacity at both peak periods. However, in both years with the proposal, the junction would be operating considerably above capacity with a level of queuing and average delay experienced on Gipsy Lane that would be significantly, materially higher than that currently experienced, or that experienced if the development were not to go ahead. As a result, in my opinion, there would be a severe impact on the level of congestion experienced on Gipsy Lane. There is no dispute therefore that some form of improvement is required at the WHGL junction.
14. Technical Note 002 (TN2) issued by the appellant February 2016 includes LinSig modelling for the proposed junction and Technical Note 003(TN3) issued by the appellant in February 2017 states that the LinSig model for the junction had been updated to include a pedestrian crossing over Gipsy Lane as requested by the HA. However, both sets of figures show that the installation of a signalised junction would ensure that queuing on Gipsy Lane would be reduced in relation to the scenario absent the signalised junction, and would be at a level that would not cause materially harmful levels of queuing and delay.
15. However, having regard to the LinSig modelling for the proposed junction, it would, at the afternoon peak period, lead to a queue of about 60 vehicles on the eastern length of Warren Hill, operating at a degree of saturation of about 96.8%, which would be considerably above a practical level of capacity of 90%. I appreciate that without the appeal scheme the junction would still be operating at a degree of saturation of 90.4%. However, given that it has already been demonstrated that the junction would be operating at about practical levels of capacity at the PM peak time, this increase in traffic would have a material effect on queuing and delay causing, in my opinion, a level of congestion that would be severe.

16. At my site visit, I saw that Warren Hill is a busy road. At its western end it links onto the main A14 and A43 via a roundabout. It is therefore one of a number of principal routes into and out of Kettering. In addition there is a roundabout to the east of the proposed signalised junction which gives access to industrial estates, and one of the accesses to the hospital, including to the accident and emergency department. Furthermore the signalised junction itself would give access to the crematorium.
17. A queue of about 60 vehicles at the eastern approach to the signalised junction would not only cause significant queuing and delay at the junction itself, but also have the potential to impact on the roundabout to the east, causing congestion at this junction and delays to people accessing the hospital and industrial estates. Accordingly, the resultant levels of delay and queuing would cause material harm to people accessing these facilities and using one of the main routes between the centre of Kettering and the A14 and A43 to the wider area.
18. Although these figures have not been disputed as such by the appellant, a TEMPRO growth rate of 22% was used by the appellant in agreement with the HA to estimate future base year flows in the peak periods. When compared with the NTSM, which takes account of constraints elsewhere on the network, and knowledge of future national growth forecasts, the appellant states that the transport consultants deemed 22% overly robust. The appellant goes on to state that when taking into account a future design year of 2021, which more closely replicates the NTSM forecasts for 2026, the proposed signalised junction would operate within 90% of its capacity within the future design year. Nevertheless, the Planning Policy Guidance supports the use of TEMPRO (ID:42-015-20140306) and I have not been provided with any compelling evidence to persuade me to depart from that approach.
19. I have given some consideration to the benefits that may arise due to the provision of a signalised junction instead of a roundabout, including controlled crossing points for pedestrians and cyclists, better pedestrian links, more control over the movement of users, dedicated green time to Gipsy Lane and less land take. However, these would not be sufficient, in themselves, to outweigh the severe harm I have found to levels of congestion.
20. Therefore, the proposed signalised junction proposed by the appellant would not provide adequate mitigation. As a result, if this option were pursued, the proposal would cause severe harm to the operation of the highway network. In this respect the proposal would be contrary to Policy 8 of the North Northamptonshire Joint Core Strategy 2011-2031 adopted 2016 and paragraph 32 of the Framework which, amongst other things, require that development does not prejudice highway safety and that residual cumulative transport impacts are not severe.
21. I note that at the time of the Council's consideration of the planning application the HA's final comment regarding the proposed signalisation at the WHGL junction indicated that while there would be an improvement on the Gipsy Lane approach, predicted queuing and delay is predicted on the Warren Hill approaches, which previously had permanent priority over movements from Gipsy Lane, and the junction would continue to operate over capacity in the forecast year. However the HA is given to understand that the proposed improvement is the best that can be achieved within existing constraints and

- does not consider that a highways objection could reasonably be sustained purely on the basis of the above.
22. However, based on the information before me, and my observations on site, I have reached a different conclusion from the HA. Furthermore, circumstances have changed since the HA made those comments. In particular, the Council has released land associated with the Crematorium which would enable the provision of a roundabout at the junction, land that was not readily available previously.
23. The agreed S106 Agreement allows for the payment of a contribution, by the appellant, towards the provision of a roundabout at the WHGL, equivalent to the cost of the proposed signalised junction. Work undertaken by the Council and the HA has demonstrated that in 2026 a roundabout solution would be operating at 0.85 ratio of flow to capacity which is about at practical capacity. However, the maximum length of queue on the Warren Hill East leg at any one time would only be 12.28 cars which would not, in my view, be a materially harmful level of congestion.
24. The HA is satisfied that the level of contribution would be sufficient to ensure that the roundabout would be delivered, together with other available funding. I have seen nothing to suggest that this would not be the case and, on the basis of the evidence before me, I have no reason to suppose that the contribution would be caught by the pooling restrictions imposed by Regulation 123 of the CIL Regulations.
25. Therefore, for the reasons above, in accordance with the requirements of the S106 Agreement the proposed roundabout is acceptable to mitigate the impact of the proposal on the highway network. Accordingly there would be no conflict with Policy 8 of the CS and paragraph 32 of the Framework.

*Character and appearance with particular regard to trees*

26. Gipsy Lane is on the edge of Kettering with residential development on its eastern side, and open fields where the appeal site is located to the west. On the eastern side of the road is a relatively wide verge incorporating a footway and a grassed area. On the west side there is also a wide grassed verge but no footway. Within both grassed areas is a fairly continuous line of mature trees giving a very pleasant, verdant quality to the road. To the west, behind the street trees, there is a mix of trees of various sizes and hedges, reinforcing the rural character of that side of the road.
27. When the application was originally submitted to the Council, three access points were proposed along Gipsy Lane which would have required the removal of 27 trees. During the course of the application the number of access points was reduced. As a consequence, the number of trees that are now proposed to be removed to facilitate the development is 21. In addition, the appellant's Tree Survey and Arboricultural Impact Assessment 2017 (TSAIA) highlights two further trees which require felling, irrespective of the development, due to their poor condition.
28. Of the 21 trees required to be felled due to the development, two have also been assessed as needing to be felled due to their poor condition. A number of the trees which are proposed to be removed are those on the edge of the verge, lining Gipsy Lane. Most of these have been assessed in the TSAIA as

being of moderate landscape quality, and as having at least twenty years life expectancy. The remaining trees to be removed are located to the rear of these dominant street trees, and most are assessed in the TSAIA as having low landscape quality with at least ten years life expectancy or are young trees with a stem diameter below 150 mm.

29. Given the number of trees along the road that would remain, the area would retain a green quality following the construction of the development. Nevertheless, the proposed removal of the street trees, along with those which require felling due to their poor condition, would reduce the continuity of the tree cover along Gipsy Lane, and, as a result, there would be some erosion of the verdant rural character of the road.
30. I have also had regard to the required removal of four street trees on Warren Hill to facilitate the highway improvement works, whether that comprises a roundabout or a signalised junction. However, Warren Hill is one of the main roads into Kettering where there are a number of non-residential uses and access points on both sides of the road. In this respect the character of Warren Hill is different from that of Gipsy Lane and therefore the removal of a small number of trees would not be materially harmful.
31. I am mindful that the character of the area around Gipsy Lane would be altered in any case through the introduction of 350 houses on the appeal site. Furthermore, as landscaping is a reserved matter for future consideration by the Council, planting could be incorporated to offset and mitigate the loss. Nonetheless, the removal of the trees in the first instance would cause some harm to the character and appearance of the area. In this respect the proposal would be contrary to Policy 8 of the CS and paragraph 7 of the Framework. These require that development responds to the local topography and the overall form, character and landscape setting of the settlement and protects the natural environment.

#### *S106 Agreement*

32. Policy 10 of the CS requires that development must be supported by the timely delivery of infrastructure, services and facilities necessary to meet the needs arising from the development, and to support the development of North Northamptonshire. The Senior Project Manager for the County Council advises that both the nearest primary and secondary schools are currently operating at capacity. Furthermore, the extra population from the development would make increased demands on the local library.
33. Policy 7 of the CS requires the provision on site where necessary or contributions towards accessible, new or enhanced community services and facilities to meet the needs arising from the development. The S106 Agreement allows for the provision and maintenance of a LEAP on site and the payment of a contribution towards sports facilities off site. The Council confirms that the sports facilities contribution will be made towards the improvement of Kettering swimming pool and to upgrade the athletic track.
34. I am satisfied therefore that given the number of houses proposed there would be an increase in demand for school places, sports and open space facilities and library provision, due to the development. Therefore, a proportionate contribution towards education and library provision would be necessary to make the development acceptable.

35. Obligations regarding the provision and maintenance of a bus shelter, an extension to a combined footway/cycleway, public transport, the provision of bus passes and the agreement and implementation of a travel plan are all necessary to integrate and improve alternative transport methods to the private car as required by Policy 8 of the CS. Obligations requiring contributions to off-site highway works are necessary in the interests of highway safety.
36. Policy 30 of the CS requires that in growth and market towns such as Kettering affordable housing is provided on site, unless there are exceptional circumstances, at a rate of 30% of the total units. The obligation to submit an Affordable Housing Scheme should ensure that the requirements of the Council's Housing Strategy team are met. I am satisfied therefore that the obligation in respect of affordable housing in the S106 Agreement is necessary and meets the requirements of Policy 30.
37. The S106 Agreement contains two obligations regarding town centre regeneration. One requires a contribution to be paid towards the delivery of a two way road system, identified in Policy 7 of the Kettering Town Centre Area Action Plan (AAP). The AAP states that the transport network will be improved in Kettering to reduce traffic congestion as a result of, amongst other things, the expansion of the Kettering urban area. As the proposed development represents a significant expansion to the west of Kettering, then a contribution is necessary in accordance with Policy 7 of the AAP.
38. The other obligation secures the rebuilding and repair of a collapsed Vicarage Wall in Kettering. I have been provided with no justification as to how such works would be necessary to make the development acceptable or how they would be directly related to the proposed development. I am not persuaded therefore that such an obligation would meet the tests set out in the Framework. I have not therefore, taken it into account in my decision.
39. The Council confirm, within its CIL compliance schedule, that all of the proposed contributions would not exceed the restriction on pooling contributions imposed by Regulation 123 of the CIL Regulations 2010. Therefore, with the exception of the obligation regarding the Vicarage Wall, I am satisfied that the other proposed contributions and requirements contained within the S106 agreement would comply with the contents of Regulation 122(2) and 123 of the CIL Regulations 2010 and paragraph 204 of the Framework.

### **Other matters**

40. Gipsy Lane is characterised by a mix of house and bungalows mostly set back from the road. In that context, local residents make reference to their concerns regarding the potential provision of flats and high density housing at the southern end of the appeal site. However, the proposal before me is in outline form, with only the means of access to be considered. Matters of scale, layout and the mix of homes would be reserved for consideration by the Council in the first instance, were the appeal to succeed.
41. Residents also object to the provision of the two access points along Gipsy Lane to serve the development, both in terms of the impact on the street trees, which I have already considered, and the consequent increase in traffic using Gipsy Lane. They consider that the road is already heavily used and has a high level of speeding traffic. Instead they consider that the development would be

better served via an access off Thorpe Lane and a continuation of the main access road through to the proposed residential development on the adjacent site to the south.

42. However, I must consider the scheme as proposed, and the TA demonstrates that the two accesses would operate within capacity in both 2021 and 2026. At the time of my site visit at mid-morning there was some traffic along Gipsy Lane, however I was able to cross the road easily with little waiting time. I appreciate that this is only a snap shot in time, and at other times of the day, traffic may be more frequent. However, I have seen no substantive evidence to suggest that Gipsy Lane itself is currently operating at capacity and would not be able to safely accommodate the anticipated level of traffic movements. I accept that in the future, with or without the development, the junctions at both ends of Gipsy Lane would be operating beyond capacity. Nevertheless, I have already found that the proposals for junction improvement at both the north and south junctions would effectively mitigate the adverse impacts at the junctions caused by the proposed development.
43. Concern has been raised regarding the potential for queuing along Gipsy Lane by vehicles using the new junction, in terms of preventing egress from and access to Thorpe Lane. The objector considers this would affect the villages of Thorpe Malsor, Loddington, Cransley and those further afield, such as Mawsley and Rothwell.
44. The TA shows that, without the development and without a revised WHGL junction layout, queues on Gipsy Lane are expected to reach 22 vehicles in the future design year which translates into some 132m of queueing traffic on Gipsy Lane. However, the TA also demonstrates that, with the development and the junction improvements proposed, the maximum queue expected on Gipsy Lane in 2026 base would be just 10 cars. The appellant states that this level of queueing translates into a queue of 60m compared with the 80m of queueing space available. As a result, there would not be any material harm caused to access to the junction with Thorpe Lane.
45. The North Northants Badger Group maintains an objection to the development due to its potential impact on badger setts, particularly in association with the proposed development on the adjacent site to the south. It considers that there remains insufficient evidence and analysis of the impact of the proposed development on the known badger setts bearing in mind badgers are a protected species. As the objection, in the main, relates to lack of up to date survey work, particularly given the different rates of development on other sites in the area, then I am satisfied that a condition could be imposed requiring further survey and mitigation work, if the appeal were to be allowed.

## **Conclusion**

46. I have found that the proposal would cause some harm to the character and appearance of Gipsy Lane due to the loss of street trees. In this respect the proposal would be contrary to the environmental role of planning and local policy. I attach moderate harm to the adverse impact described. I have found that the offsite highway works as secured within the S106 agreement would mitigate the highway impacts of the proposal. This would be neutral within the planning balance.



47. The Council does not dispute that this is an accessible location for the development on the edge of Kettering. The appeal site falls within the town boundary of Kettering as defined by saved policy 35 of the Local Plan for Kettering. Policies 11 and 29 of the CS focus new housing development within the growth town of Kettering. The site is also identified in the Site Specific Proposals Local Development Options Paper as a preferred option to meet housing requirements. The development makes specific provision for the improvement of cycle and bus facilities as well as methods to encourage future occupiers to use alternative transport options to the car, helping to mitigate and adapt to climate change including moving to a low carbon economy.
48. Therefore, in terms of the economy, new development would create employment and support growth during the construction period. It is a reasonable assumption, given the sustainable location, that the increase in population, and resulting boost in the spending power of the local economy, would also help support services in Kettering.
49. The appellant alleges that the Council is unable to demonstrate a five year housing land supply. I have seen nothing from the Council to dispute this. On this basis, the relevant policies for the supply of housing land cannot be considered up-to-date. In these circumstances, and in relation to decision taking, paragraph 14 of the Framework advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specified policies in the Framework indicate that development should be restricted.
50. Thus, the provision of up to 350 houses within an accessible location would contribute significantly towards helping address the identified undersupply of housing. Furthermore, the provision of 30% of the housing as affordable, would also be a substantial social benefit. The economic benefits I have identified, and the social benefit of additional housing described above, in combination, are noteworthy benefits of the scheme to which I attach significant weight.
51. All in all therefore, I consider that the harm that would be a consequence of the adverse impact I have identified would not significantly and demonstrably outweigh the considerable benefits referred to above when assessed against the policies in the Framework when taken as a whole. Consequently, the proposal would benefit from the presumption in favour of sustainable development as defined in the Framework, and material considerations indicate that planning permission should be granted for development that is not in accordance with the development plan.
52. For this reason, and having regard to all other matters raised I conclude, on balance, that the appeal should be allowed.

### **Conditions**

53. I have had regard to the various planning conditions that have been suggested by the Council, and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents.

54. In addition to the standard conditions relating to outline permissions and the submission of reserved matters, it is necessary to ensure, in the interest of certainty that the development is carried out in accordance with the approved plans, and that the number of dwellings is restricted. Conditions regarding levels and the design rationale for the site are necessary to protect the living conditions of surrounding residents and the character and appearance of the area. The details of ground levels need to be submitted prior to the commencement of development to ensure accurate details of existing conditions are recorded.
55. The details of drainage are necessary to protect the site and surrounding area from flooding and to allow adequate removal of foul water. The submission of a Construction Method Statement is required, prior to work starting on site, to protect residents living conditions at all times and highway safety. A condition regarding contamination is required to prevent pollution and ensure the safety of future and surrounding residents.
56. Given the findings of the Desk Top Study accompanying the planning application, a condition is necessary securing the agreement and implementation of a Written Scheme of Investigation of archaeology prior to work commencing on site to enable all archaeology to be recorded.
57. Conditions 11, 16, 17 and 18 are necessary both to protect the existing ecology in and around the site and to ensure a net gain in biodiversity across the site. Given the proximity of the site to the A14 a condition is required to ensure that noise levels would not be harmful to future occupiers of the approved houses.
58. A condition requiring a vehicle connection to the southern boundary of the site is necessary to achieve sustainable transport connections between the appeal site and the adjacent development site. Conditions 24, 26 and 27 are required in the interests of highway safety and encouraging alternative methods of transport to the private car. I have amended condition 26 to remove reference to the Warren Hill/Gipsy Lane junction improvements which will now be undertaken by the HA.
59. A landscape management plan, together with details of trees to be retained and removed is necessary in the interests of the character and appearance of the area. Details of fire hydrants are needed in the interests of fire safety. Condition 30 is required in order to deliver sustainable buildings in accordance with Policy 9 of the CS. Condition 31 is required to provide an acceptable housing mix to provide sustainable and inclusive communities in accordance with Policy 30 of the CS.

*Zoe Raygen*

INSPECTOR

## SCHEDULE OF CONDITIONS

### **Reserved Matters**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

### **Plans**

- 4) Unless required otherwise by the conditions set out below, the development hereby permitted shall be carried out in accordance with plan Nos: 30750/5501/SK05 H but only in so far as it relates to access.

### **Development parameters**

- 5) No reserved matters applications shall be submitted until a Design Rationale for the site has been first submitted to and approved in writing by the Local Planning Authority. The Design Rationale shall set out principles and means to achieve them relating to all the following matters:
  - street types,
  - block structure,
  - open spaces, landscape and SuDS
  - character areas including building heights, building types, housing mix, setback, parking and materials.
- 6) Any application which seeks approval for the reserved matters pursuant to condition 1 of this permission shall be in complete accordance with the approved Design Rationale (as required by condition 5).
- 7) No more than 350 dwellings shall be constructed on the site.

### **Contaminated land**

- 8) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
  - i) a survey of the extent, scale and nature of contamination;
  - ii) the potential risks to:

- human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems; and
  - archaeological sites and ancient monuments.
- 9) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the development [or relevant phase of development] is occupied.
- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

#### **External lighting**

- 11) Other than within private gardens, there shall be no external illumination on the site other than in accordance with a scheme which shall first have been submitted and approved in writing by the Local Planning Authority.

#### **Archaeology**

- 12) No development shall take place within the site until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include:
- 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;

- vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 13) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 12.

### **Flooding and drainage**

- 14) 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.
- 15) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings hereby permitted shall be occupied until the works have been carried out in accordance with the foul water strategy as approved.

### **Ecology/Trees**

- 16) The development shall not be carried out other than in accordance with the conclusions and recommendations of the Updated Walkover Survey and Extended Phase 1 Habitat Assessment by JBA Consultancy Revision A dated February 2015.
- 17) No development shall take place until an updated badger survey has been submitted to and approved in writing by the Local Planning Authority together with details of any required mitigation measures and timing of implementation of these measures. The development shall not be carried out other than in accordance with the approved details and mitigation.
- 18) No works shall take place on site until an Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority, the implementation of which should be overseen by a suitably experienced ecological clerk of works. The development shall not be

carried out other than in accordance with the approved Ecological Management Plan.

- 19) The landscaping scheme to be submitted pursuant to the requirement of condition 1 of this permission shall be accompanied by a scheme for the retention and removal of trees, hedges and hedgerows on site. The scheme shall include a plan and schedule in accordance with BS 5837: 2012 (or as updated). Development shall be carried out only in accordance with the approved scheme.
- 20) The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of any of the dwellings hereby approved, unless these works are carried out earlier. Any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 21) The landscaping scheme to be submitted pursuant to the requirement of condition 1 of this permission shall be accompanied by 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 in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved.

### **Construction**

- 22) No development shall take place on site until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the demolition and construction works. The Statement shall include, but is not restricted to the following:
  - Site HGV delivery / departure hours;
  - Supply of pre-journey information on routing and site restrictions to contractors, deliveries and visitors;
  - Detailed plan and scheme detailing the location of on-site stores and facilities including the site compound, contractor & visitor parking and turning, un/loading points for plant and materials, turning and queuing for HGVs and storage of plant and materials;
  - Details of debris management including location of wheel wash, programme to control debris spill/ tracking onto the highway, sheeting/sealing of vehicles and dust management;
  - Site Manager name, contact details and details of any public liaison officer;
  - Route details as required covering culverts, waterways, passing places, tracking of bends/junctions and visibility splays;
  - Details of temporary construction accesses and their remediation post project;
  - Provision for access by emergency vehicles;
  - Erection and maintenance of any security hoardings/fencing;
  - Measures to control the emission of dust and dirt during demolition and construction;
  - Scheme for waste minimisation and recycling/disposing of waste;
  - Hours of construction work;

- Control of noise and/or vibration;and
- Details of lighting and measures to control overspill of lighting.

### **Noise**

- 23) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until a scheme for achieving the noise levels outlined in BS8233:2014 with regards to the residential units and noise attenuation for gardens and open space has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of the residential units and thereafter maintained in the approved state.

### **Highways**

- 24) The accesses to the site hereby approved shall only be constructed in accordance with the drawing ref 30750/5501/SK05 H.
- 25) Any application which seeks approval for the reserved matter of layout pursuant to condition 1 of this permission shall provide a vehicle connection to the southern site boundary, in accordance with the approved access plan for the site drawing ref 30750/5501/SK05 H.
- 26) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until full engineering, drainage and constructional details of the following highway improvement works have been submitted to, and approved in writing by, the Local Planning Authority. No part of the development shall be occupied until the works have been completed in accordance with the approved details:
- i) Improvements to the Rothwell Road and Telford Way junction as set out 30750/5501/SK07 rev A.
  - ii) Works to Northampton Road and Lake View Avenue roundabout as set out in 30750/5501/SK09.
- 27) Prior to the first occupation of the development the relocated bus stop and new northbound bus stop shall be provided in accordance with inset plan A of drawing ref 30750/5501/SK05 H.

### **Site levels**

- 28) Any application which seeks approval for the reserved matters of layout and/or scale pursuant to condition 1 of this permission shall include details of intended final ground and finished floor levels. The development shall not be carried out other than in accordance with the approved details.

### **Fire hydrants**

- 29) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until a scheme and timetable detailing the provision of fire hydrants has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the hydrants serving the development have been provided in accordance with the approved details.

**Sustainability**

- 30) All dwellings shall be constructed to achieve a maximum internal water use of no more than 105 Litres per person per day and a maximum of 5 litres/person/day external use, in accordance with the optional standard 36(2)(b) of Approved Document G - Sanitation, hot water safety and water efficiency (2015 edition).

**Accessibility**

- 31) Any application which seeks approval for the reserved matters of layout and/or scale pursuant to condition 1 of this permission shall be accompanied by a scheme identifying the dwellings that will achieve M4(3) Wheelchair User Dwellings optional category 3 of part M of the Building Regulations 2010 (as amended). Those dwellings identified are required to meet M4(3) and all other new dwellinghouses shall meet the requirement of M4(2) Accessible and Adaptable Dwellings (optional category 2) of part M of the Building Regulations 2010 (as amended). The development shall thereafter be carried out in accordance with the approved details and be certified by the appointed building control approval body. Prior to the first occupation of the dwellings, a copy of the certification confirming compliance shall be submitted to and approved in writing by the local planning authority.

-----END OF CONDITIONS SCHEDULE-----

Richborough Estates