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## Appeal Decision

Inquiry held on 11-14 and 17-21 December 2018

Site visit made on 20 December 2018

**by Michael Boniface MSc MRTPI**

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

**Decision date: 11<sup>th</sup> February 2019**

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### **Appeal Ref: APP/N4720/W/18/3198312**

#### **Land to the south of Selby Road, Garforth**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by The Millrace Farming Partnership and Persimmon Homes against the decision of Leeds City Council.
  - The application Ref 17/05759/OT, dated 31 August 2017, was refused by notice dated 14 February 2018.
  - The development proposed is up to 290 dwellings and the demolition of an existing dwelling.
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#### **Decision**

1. The appeal is allowed and planning permission is granted for up to 290 dwellings and the demolition of an existing dwelling at Land to the south of Selby Road, Garforth in accordance with the terms of the application, Ref 17/05759/OT, dated 31 August 2017, subject to the conditions contained in the attached Schedule.

#### **Preliminary Matters**

2. Evidence was heard at the Inquiry in relation to two appeals, the other being APP/N4720/W/18/3200471 (Land east of Scholes, Leeds). A conjoined Inquiry was held given the common issues between the schemes. However, I have considered each appeal on its own merits and a separate decision is issued for each.
3. The application is submitted in outline with detailed access proposals. Matters of appearance, landscaping, layout and scale are reserved for subsequent approval.
4. There is a discrepancy between the Council's decision and the planning application form as to when the application was submitted and when it was accepted by the Council. For the avoidance of doubt and in the interests of properly identifying the application, my decision refers to the date contained in the Council's decision notice.
5. After the Council had issued its decision, a revision to the National Planning Policy Framework (July 2018) (the Framework) was published. The appeal proceeded having regard to this document and all parties were able to address the implications of the revisions during the course of the appeal. With respect to the Council's reasons for refusing planning permission, it confirmed that reference in reason 1 to paragraph 85 of the former iteration of the Framework

should be replaced with reference to paragraph 139(d); reference to Planning Practice Guidance in relation to prematurity should now refer to paragraphs 49-50 of the Framework.

6. It was agreed for the purposes of this appeal that the Council could demonstrate a 4.3 year housing land supply<sup>1</sup>. As such, no evidence was presented in relation to this matter and the appeal proceeded on the basis of this agreed position.
7. Before the Inquiry closed, a S106 agreement was completed to secure a range of planning obligations in the event that planning permission was granted. This overcame the Council's third reason for refusal so that it was not necessary to hear detailed evidence on these matters.

### **Main Issues**

8. In light of the above, the main issues are:
  - (a) The extent to which the proposal would accord with the development plan and other planning policies; and
  - (b) Whether the development would be premature and prejudicial to plan-making.

### **Reasons**

#### *Policy*

9. The development plan, so far as it is relevant to this appeal, comprises the Leeds Core Strategy (2014) (CS) and saved policies of the Leeds Unitary Development Plan Review (2006) (UDPR).
10. The appeal site was first designated as a Protected Area of Search (PAS) in the Leeds Unitary Development Plan (2001) (UDP), having previously been allocated as Green Belt. The PAS designation was carried forward in the UDPR. Policy N34 applies in such areas and development will be restricted to that which is necessary for the operation of the existing uses together with such temporary uses as would not prejudice the possibility of long term development.
11. The purpose of Policy N34 was to provide a reserve of land for longer term development beyond the plan period. The accompanying text states that it is not envisaged that there will be a need to use any such safeguarded land during the Review period. However, that period came to an end in March 2016.
12. The policy is 'saved' and retains its status as part of the development plan despite the plan period having ended. Furthermore, the principle of safeguarding land outside of the Green Belt to meet longer-term development needs is consistent with paragraph 139 (c) and (d) of the Framework.
13. That said, it is highly pertinent that the plan period has ended and that housing needs are not being met, nor is there currently an adopted plan in place that identifies sites for development in order to meet identified needs. A sizeable shortfall of housing land exists and this should be made up as quickly as possible to ensure that the Framework's objective to significantly boost the

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<sup>1</sup> Statement of Common Ground on Housing Land Supply and HLS Supplementary SoCG

supply of housing is met. The lack of a sufficient housing land supply renders Policy N34 out of date according to the Framework. This is a significant and material change in circumstances since the Secretary of State came to a contrary conclusion in respect of an appeal at Tingley<sup>2</sup> in the context of the former iteration of the Framework.

14. This is not simply a notional title as the Council argues, it is a characterisation to be applied to policies which are most important for determining the application. It is relevant where policies are inappropriately restricting the delivery of housing. The weight to be attached to policy conflicts in these circumstances is a matter for the decision maker.
15. The PAS land was safeguarded to meet future development needs. In my view, the current situation at a time beyond the relevant plan period, where housing needs are not being met, and where there is no alternative plan in place to accommodate needs, is the time to make use of such land. After all, the PAS land has been identified as suitable for development in principle and specifically removed from the Green Belt accordingly. To restrict much needed development due to a conflict with Policy N34 would serve no useful or logical purpose, it would simply frustrate development. For this reason, I attach very limited weight to the conflict with Policy N34 in this case.
16. The Council suggests that the appeal should fail having regard to paragraph 139(d) of the Framework alone. However, this is not a restrictive policy of the Framework contained in the closed list footnoted to paragraph 11 and which seeks to protect areas or assets of importance. Furthermore, paragraph 139 is clearly framed with reference to plan-making as opposed to decision-taking. It is nonetheless a material consideration to which I have had regard in reaching the above conclusion. For the reasons I have set out, it would not be appropriate to withhold planning permission in this case pending an update to a plan. The Council's point is, in essence, a point about prematurity, a matter that I will come to later in this decision.
17. It is argued that the proposal is contrary to the spatial strategy, including Policy SP1 of the CS. Policy SP1 sets out the spatial development strategy based on the Leeds settlement hierarchy. Its aim is to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance of brownfield and greenfield land, in accordance with nine principles. One of the principles of the policy is that the largest amount of development will be located in the Main Urban Area and Major Settlements. Garforth is defined as a Major Settlement.
18. According to Policy SP1, priority for identifying land for development will, amongst other criteria, be given to key locations identified as sustainable extensions to the Main Urban Area/relevant settlement. However, no such key locations or indeed any housing allocations have been identified in the development plan to date, pending progression of the emerging Site Allocations Plan (SAP). Furthermore, development in other locations beyond those prioritised is not precluded by the policy. Policies SP6 and SP7 of the CS clearly envisage significant growth in the Major Settlements, identifying that they will accommodate some 14,300 dwellings during the plan period to 2028.

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<sup>2</sup> APP/N4720/W/17/3169594 – Land at Dunningley Lane, Tingley

19. In addition, Policy H2 is clear that new housing development will be acceptable in principle on non-allocated land subject to a range of criteria being met. No conflict is identified with any of the criteria in this case.
20. The CS approach to housing delivery is incomplete until such time as the SAP is adopted and sites are identified to accommodate the necessary levels of housing. Given that the development plan has proved ineffective over a number of years in delivering the needed quantum of housing, the weight to be attached to any conflict that was identified should be reduced. Again, Policy SP1 is rendered out of date in the absence of a sufficient housing land supply. In any case, for the reasons I have set out I find that the proposed development would accord with the spatial strategy of the CS, including Policy SP1, and I find no material conflict.
21. I have had regard to the Council's position that the current housing requirement, contained within the CS, is excessive and likely to be reduced in the near future. I note that application of the Framework's Standard Method would result in a much reduced local housing need but that is not applicable whilst the CS is less than five years old. I have had regard to the Council's Core Strategy Selective Review which also pursues a lower housing requirement but this has not yet been fully tested or found sound through independent examination and may change. For the time being, the CS housing requirement is the adopted, applicable and most reliable figure. Indeed, it is the figure used by the parties in calculating the current housing land supply position. As such, I attach little weight to this matter.
22. Overall, I have found a conflict with Policy N34 but attribute this only limited weight. I have found no conflict with the spatial policies of the CS, including Policy SP1. No other conflicts with the development plan have been identified and the Council does not raise any concerns about other detailed planning considerations.
23. I note that the Garforth Neighbourhood Planning Forum intends to produce a Neighbourhood Plan for the area but this is at the very early stages of preparation and no draft plan is currently available. At the current time, I attach this matter very little weight.

#### *Prematurity*

24. The Council is currently producing the SAP which will identify sites for development pursuant to the CS. It has not progressed as quickly as anticipated and has been subject to delays. It was first submitted for examination in May 2017 and the Council subsequently advanced a revised version in March 2018, though it is now likely that this version will be abandoned and the former document will be modified and progressed in response to the examining Inspectors comments.
25. The initial hearing sessions took place in October 2017, with a second round, which included housing matters, beginning in July 2018. The Examining Inspectors issued correspondence including a 'Post Hearing Note' and 'Further Response' to the Council in October 2018 which raised a number of issues. Subsequently, the Council has provided further information and the Examining Inspectors responded with a 'Further Post Hearing Note' dated December 2018, as well as a list of 'Potential Main Modifications'. These are currently being consulted upon.

26. The position has progressed a little since considered by a previous Inspector in December 2018, who concluded that limited weight could be attached to the SAP at that time<sup>3</sup>. There is now some direction from the Examining Inspectors. However, there remains a great deal of uncertainty as to the final form of the SAP, not least because the Examining Inspectors will not issue their formal comments and binding decision on soundness for some time, necessarily having taken into account any responses to the current public consultation process. The latest notes from the Examining Inspectors do not resolve the significant outstanding objections or definitively deal with controversial matters such as potential Green Belt release.
27. In short, the examination is not concluded and the final form of the SAP remains unknown, particularly as further public consultation is underway. There remain significant unresolved objections and the plan is yet to be found sound. For all of these reasons, the SAP continues to attract only limited weight at this time.
28. The Council argues that development of the appeal site would be premature, and that it would have a prejudicial, pre-determinative effect on plan-making decisions in terms of the emerging SAP. Within this Plan, the site is identified under Policy HG3 as 'Safeguarded Land' to provide a reserve of potential sites for longer term development post 2028, in effect carrying forward its existing PAS status.
29. In preparing the SAP, the Council has carried out a Sustainability Appraisal of potential site allocations and considers that other sites are preferable to the appeal site. That is a matter for the SAP examination and does not preclude this site being found suitable for residential development on its own merits in the meantime. This is particularly the case in light of an overall housing land supply shortfall, a specific shortfall in the Outer South East Housing Market Characteristic Area (OSEHMCA) and in the context of the tilted balance. As set out above, there is a need to significantly boost the supply of housing now.
30. It was suggested that the proposed scheme might prevent emerging allocations from coming forward or undermine the delivery of wider infrastructure anticipated to come forward as part of the plan-making approach. However, no detail was provided as to why the proposed scheme of 290 dwellings should have such an effect on any other emerging allocation. The remainder of the PAS/safeguarded land would be retained and accessible. It is also notable that the Examining Inspectors have now suggested deletion of the largest proposed allocation in Garforth, Stourton Grange. As such, the expected mitigation, including a southern bypass would not be required.
31. Using up PAS or safeguarded land might lead to a requirement to identify compensatory provision elsewhere but this site represents a relatively small proportion of the overall area. The proposed development also represents a very small proportion of the expected housing distribution in the Major Settlements and the OSEHMCA. It is difficult to see how the proposed development would have any material impact on the plan-making process.
32. The Framework is clear that arguments that an application is premature are unlikely to justify a refusal of planning permission. There is very little evidence to suggest that the development would be so substantial or significant, even

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<sup>3</sup> APP/N4720/W/17/3186216 – Land at Ridge Meadows, Linton

cumulatively with other schemes allowed on safeguarded land, as to predetermine decisions about the scale, location or phasing of new development that are central to the SAP. It has not been demonstrated how the plan-making process would be prejudiced. Furthermore, for the reasons I have set out, the SAP is not at a sufficiently advanced stage at the present time to be relied upon.

### **Other Matters**

33. The application was accompanied by a Transport Assessment (August 2017) (TA) that considers the likely traffic impacts of the proposed development in terms of highway safety and capacity. No safety issues are identified and means to improve pedestrian accessibility into the town such as crossing points are proposed. Some of the junctions assessed are predicted to reach capacity in later years with anticipated growth. The proposed development would add to the expected traffic growth but the additional impact would be very limited and the impacts of the development cannot be considered severe in the terms of the Framework. The Council has considered the submitted TA and accepts its findings, raising no objection in highway terms. Highways England has also considered the proposals and raises no concerns in respect of potential impacts on the strategic highway network. I have had regard to the safety, parking and capacity issues raised by local people but there is no evidence before me that leads me to take a different view to the Council.
34. The proposed development would have an impact on the character and appearance of the area given the introduction of housing on a Greenfield site. However, views would largely be screened from the town itself by the existing properties on Selby Road and the topography of the land. In longer distance views from public rights of way or across countryside the development would be seen in the context of the existing town and as a natural extension of the settlement. The development would be clearly visible from existing properties adjacent to the site but the detailed siting and design are yet to be determined and could be designed to ensure an appropriate relationship. Landscaping would also mature over time to soften the effects of the development. There is no right to a private view over the countryside. The Council raise no concerns in respect to character and appearance and I agree that permission should not be withheld due to such impacts. The harm arising would be very limited.
35. The parties agree that a Statement of Construction Practice and hours restrictions would be required by condition in the event that planning permission is granted. This would be sufficient to protect the living conditions of neighbouring occupants during the course of construction and I see no reason why living conditions for neighbouring occupants should be harmed once the development was in operation, subject to detailed design considerations at the reserved matters stage. Any effect on existing property values are not material to my decision.
36. The submitted Preliminary Ecological Appraisal (August 2017) identifies that the site, comprising mainly improved/semi-improved grassland is of little ecological value at the present time. The trees and hedgerows on the site boundaries, close to the watercourse, provide the best areas of habitat and these are largely to be retained and improved as part of the proposed development. A detailed Water Vole Report (October 2017) and Preliminary

- Bat Report (October 2017) demonstrate that, subject to appropriate mitigation measures, no harmful impacts would result to these species.
37. The existing public rights of way crossing the site would be diverted as necessary and incorporated within the development. Public access would therefore be maintained and new areas of open space would be available for use by the public.
  38. The submitted Flood Risk Assessment and Surface Water Management Strategy (August 2017) establishes that the site and development are at a low risk of flooding in all respects and that these matters can be appropriately controlled. Neither the Council nor the Environment Agency dispute these findings and I have no reason to take a different view.
  39. I note concerns about pollution but the development is not located within an Air Quality Management Area and I am satisfied, having had regard to the submitted Air Quality Assessment (August 2017), that no significant effects, either during construction or after development, would result.
  40. Various local people have raised concerns about the impacts of the proposed development on local infrastructure, some of which have been addressed above. The Council has adopted a Community Infrastructure Levy Tariff which would be payable as a result of this scheme. The monies raised through the tariff can be used by the Council to fund various local infrastructure projects, including local education provision. The appellant has submitted a detailed report, Education Matters (December 2018), which demonstrates that the existing schools in the town could accommodate significant growth, well beyond that expected by the appeal scheme. No service providers have raised concerns that the development could not be accommodated, subject to various planning obligations being secured.
  41. Representations were made to the effect that the rights of the adjoining occupiers, under the Human Rights Act 1998, Article 1 of the First Protocol (and others), would be violated if the appeal were allowed. I do not consider this argument to be well-founded, because I have found that the proposed development would not cause unacceptable harm to the living conditions of neighbouring occupants. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol, or indeed any other Article.

### **Planning Obligations**

42. In addition to the Community Infrastructure Levy discussed above, the appellant has submitted a S106 agreement to secure various site specific planning obligations. This includes the provision of 15% affordable housing; on-site greenspace (including arrangements for maintenance and management); safeguarding of land/access required to facilitate development on the wider PAS site and a potential southern bypass; financial contributions towards bus stop and off-site highway improvements; a Travel Plan and associated Travel Plan Fund to maximise its effectiveness; a Footpath Diversion Order contribution; Training and Employment Initiatives; and various legal, monitoring and management fees.
43. The submitted Compliance Statement demonstrates the need for the various obligations and their basis in policy terms. It is agreed between the parties

that the obligations would meet the statutory tests contained within Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 and I am satisfied that this is the case. I have, therefore, taken the obligations into account in reaching my decision.

### **Conditions**

44. The parties have agreed a number of conditions that would be necessary in the event that planning permission is granted, which I have taken into account in imposing the conditions contained in the attached Schedule.
45. I have attached conditions 1-3 to identify the reserved matters, relevant time scales for their submission and commencement requirements. Conditions 4-6 define the terms of the permission, clarifying the approved plans, number of dwellings and phasing arrangements.
46. Conditions 7-12 and 14 are necessary to ensure highway safety, appropriate access to the development and to facilitate and encourage sustainable modes of travel.
47. Condition 13 is necessary to ensure that the existing footpath crossing the site is incorporated into the development and that access remains available for recreational pursuits.
48. As set out above, it is necessary to restrict hours for construction works and obtain a Statement of Construction Practice to minimise disruption arising from the development and to protect the living conditions of neighbouring occupants (conditions 15-16).
49. Conditions 17-20 require details of the proposed foul and surface water drainage arrangements, that maintenance of existing infrastructure remains possible and that development is carried out in accordance with the submitted Flood Risk Assessment and Surface Water Management Strategy. This is necessary to ensure that the development is adequately served and that it would not be at risk of flooding, or cause flooding elsewhere.
50. Given the potential for archaeological remains on the site, condition 21 secures a programme of archaeological recording.
51. Condition 22 requires tree protection during the course of the development in the interests of biodiversity, habitat protection and landscape character. For the same reason, I consider that an additional condition is necessary to ensure that the conclusions and recommendations of the submitted ecological reports are followed. This requirement is attached as condition 23 to ensure that the development would not harm ecological interests and would provide enhancements where appropriate.
52. Conditions 24-27 require appropriate investigation and remediation of potential ground contamination and are necessary to protect public health and ensure that the site is suitable for the intended use.
53. I have not found it necessary to require electric vehicle charging points as part of the development as the Council were unable to identify any specific policy basis for such a requirement. Whilst they might encourage the use of more sustainable private vehicles, this would not be necessary to make the



development acceptable in planning terms, particularly in light of other means of encouraging sustainable travel such as the required Travel Plan.

### **Planning Balance**

54. The appellant has outlined a number of benefits that would arise from the proposed development. These include the provision of market and affordable housing in the context of the Framework's objective to significantly boost supply and the sizeable identified need. Various economic benefits would arise locally from construction and future spending by residents. Additional publicly available open space would be provided, along with improvements to local walkways that the wider community could make use of. Cumulatively these benefits weigh heavily in favour of the proposal and I attach them significant weight.
55. I have found that the development is in accordance with the spatial policies of the CS and I attach only limited weight to the harm that would arise from conflict with Policy N34 of the UDPR, which is out of date. I have found only very limited harm in other respects.
56. In this case, the material considerations that I have identified in favour of the development indicate a decision other than in accordance with the development plan, namely Policy N34. This is particularly so in the context of the Framework's presumption in favour of sustainable development and applying the tilted balance. The harm arising, including from conflict with Policy N34, does not outweigh the considerable material considerations in favour of the proposal when assessed against the policies of the Framework taken as a whole.
57. In light of the above, and having considered all other matters, the appeal is allowed.

*Michael Boniface*

INSPECTOR

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

Juan Lopez of Counsel

He called:

Steven Wilkinson BSc (Hons) DipTP	Senior Planning Officer
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Jessica Thomas BA (Hons Oxon) MA	Principal Planning Officer
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FOR THE APPELLANT:

Sasha White QC

He called:

Mark Johnson MRTPI RICS	Managing Director, Johnson Mowat
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INTERESTED PERSONS:

Mark Dobson, Local Councillor

Richborough Estates

## DOCUMENTS SUBMITTED DURING THE INQUIRY

ID.

- 1 Scholes plans for approval pack
- 2 HLS Supplementary SoCG 10th Dec 2018
- 3 Scholes – Primary School Briefing Note
- 4 Opening Statement Mr Sagar (Garforth)
- 5 Opening Statement Mr White (Scholes)
- 6 Opening Statement Mr Lopez (LCC)
- 7 Opening Statement Cllr Maude (Rule 6)
- 8 LCC SAP – LCC Response Matter 5 – Infrastructure: Further Highways Information
- 9 Mr George Hall Written Statement (On behalf of Save Our Scholes)
- 10 Selby Road, Garforth Planning Obligation – Final agreed form but unsigned
- 11 CSSR HLS Update Statement from LCC
- 12 LCC SAP Post – Hearing Addendum to Sustainability Appraisal (November 2018)
- 13 LCC SAP Post – Hearing Addendum to Sustainability Appraisal Tables (November 2018) – Extracts
- 13A 17/12 Version of SA Tables (Extracts)
- 14 CIL Compliance Stat – Garforth
- 15 Conditions – Draft – Garforth
- 16 Mark Johnson Update to PAS Site Table
- 17 Agreed Draft Conditions – Garforth
- 18 SAP Original Version – Draft
- 19 Johnson Mowat Letter re Pre Com Conditions
- 20 Linton Appeal DL – 14/12/18
- 21 S106 Agreement and Summary – Scholes
- 22 R6 Scholes – Additional information re Highway Safety
- 23 SAP (17/12) Overview Document
- 24 Martin Elliott note in relation to the Council's MM Submission
- 25 Final Conditions on Garforth
- 26 CIL Statement Updated re Garforth
- 27 Garforth Site Visit Route Plan
- 28 Conditions – Scholes
- 29 Reg 122 Statement – General – Scholes
- 30 Reg 122 Statement - Education – Scholes
- 31 Mark Johnson Submission in Relation to Linton Decision
- 32 Wilkinson Note on Linton
- 33 Scholes Main 106
- 34 Scholes Education 106
- 35 Scholes Education 106 Summary
- 36 Submission from Cllr Dobson
- 37 Mark Johnson Note regarding Main Modifications to the SAP
- 38 Vanessa Eggleston Rebuttal regarding Scholes Junction Improvements and S106 payments
- 39 Adrian Hodgson Rebuttal regarding Scholes Junction Improvements and S106 payments
- 40 CIL Regulation 123 List Updated (Core Documents contained out of date version)
- 41 Scholes Conditions – Final

- 42 Mr Hall Closing Statement
- 43 Scholes Residents – Photo of Traffic
- 44 Garforth – Executed Final (Main) S106
- 45 Barwick and Scholes Parish Council Closing Submissions
- 46 LCC Closing Submissions – J Lopez
- 47 Scholes – Executed Final (Main) S106
- 48 Scholes – Executed Final (Education) S106
- 49 Scholes CIL Compliance Statement
- 50 North Wiltshire v SoS Environmental and Clover (1993) 65 P&CR  
137
- 51 Scholes Closing Submissions – S White QC
- 52 Garforth Closing Submissions – R Sagar

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- 1 Barwick in Elmet and Scholes Parish Council representations on SAP progression
- 2 Council’s representations on SAP progression (including copy of ‘Further Post Hearing Note’ dated December 2018 and ‘Potential Main Modifications’)
- 3 Appellants’ representations on SAP progression (including copy of ‘Further Post Hearing Note’ dated December 2018 and ‘Potential Main Modifications’)

Richborough Estates

### **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development relevant to that phase takes place and the development shall be carried out as approved.
- 2) Application for approval of all 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: SRG 2017 002 Revision F, 10117-001 Revision B, 10117-002 and 10117-003.
- 5) The submission of all Reserved Matters and the implementation of the development hereby permitted shall be carried out to deliver a maximum of 290 dwellings.
- 6) Prior to the commencement of development, other than the commencement of ground works and site preparation/investigation, a scheme of phasing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.
- 7) Means of vehicular access to and from the site shall be as shown on the approved plan: "Proposed Site Access arrangements" Drawing No. 10117-001 Revision B. No dwelling shall be occupied until this access has been completed in accordance with the approved drawing.
- 8) Means of vehicular access to and from the site shall be as shown on the approved plan: "Emergency Vehicle Access and Fire Appliance Swept Path Analysis" Drawing No. 10117-003. No dwelling shall be occupied until this access has been completed in accordance with the approved drawing.
- 9) Means of pedestrian/cycle only access routes to and from the site shall be provided, which includes one route at the eastern end of the site which connects to Selby Road just east of the Lidgett Lane junction and a second link which utilises the emergency access route which connects to Selby Road as shown on Drawing No. 10117-003. No dwelling shall be occupied until these means of access have been completed in accordance with the approved drawing.
- 10) Construction of the dwellings within each phase of the development shall not commence until details of cycle storage have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no dwelling on the relevant phase of development shall be occupied before its cycle storage has been provided.
- 11) Construction of the dwellings shall not commence until details of the works associated with the proposed site access arrangements, comprising localised widening, pedestrian refuge islands, right turn lane and relocation of bus stop, as shown for indicative purposes on Drawing No.

10117-001 Revision B, have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be fully implemented prior to occupation of the first dwelling.

- 12) No construction of any vehicular, pedestrian or cycle access point, or any internal roadway, walkway or cycleway on each phase of development, shall commence until details of the proposed access and carriageway gradient(s) within that phase have been submitted to and approved in writing by the Local Planning Authority. Each phase of the development shall thereafter be implemented as agreed and the works completed prior to the occupation of any dwelling within that phase.
- 13) No works shall begin within each relevant phase of development until a scheme for diverting Public Footpath No.1 Garforth has been submitted to and approved in writing by the Local Planning Authority, along with a timetable for implementation. The new footpath should be completed in accordance with the approved details. Should further works to the specified Footpath be required in any subsequent phase of the development, details of its proposed diversion and a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development within that phase.
- 14) Development shall not commence on the relevant phase of development until details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles (including workforce parking) have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided for the duration of construction works.
- 15) Construction activities shall be restricted to 08:00hrs to 18:00hrs Monday to Friday, 08:00 to 13:00hrs Saturdays, with no construction activities on Sundays, nor Bank or Public Holidays.
- 16) No works shall begin on the relevant phase of development until a Statement of Construction Practice for that phase has been submitted to and approved in writing by the Local Planning Authority. The Statement of Construction Practice shall include full details of:
  - (i) the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved;
  - (ii) measures to control the emissions of dust and dirt during construction;
  - (iii) location of site compound and plant equipment/storage; and
  - (iv) how this Statement of Construction Practice will be made publicly available by the developer.

The approved details shall be implemented at the commencement of work on site, and shall thereafter be retained and employed until completion of works on site. The Statement of Construction Practice shall be made publicly available for the lifetime of the construction phase of the development in accordance with the approved method of publicity.
- 17) Prior to the commencement of development a scheme for managing surface and foul water on the relevant phase of development shall be

submitted to and approved in writing by the local planning authority. This scheme shall include provisions and or a schedule for the ongoing maintenance of any SUDS ponds that are also functioning as public open space. The development shall be carried out in accordance with the approved details which shall thereafter be retained in operational condition. No dwelling shall be occupied until its foul and surface water drainage has been completed and made available for use.

- 18) No building or other obstruction including landscape features shall be located over or within 4 (four) metres either side of the centre line of the 381mm diameter public foul water sewer i.e. a protected strip width of 6 (six) metres, and within 3 (three) metres either side of the centre line of the 254mm diameter public surface water sewer i.e. a protected strip width of 6 (six) metres that crosses the site. If the required stand-off distances are to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.
- 19) No building or other obstruction including landscape features shall be located over or within 5.0 (five) metres either side of the centre line of the water main i.e. a protected strip width of 10 (ten) metres, that enters the site. If the required stand-off distance is to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker.
- 20) The development shall be carried out in accordance with the approved Flood Risk Assessment and Surface Water Management Strategy by ID Civils Design Ltd, reference 4819/FRA and dated August 2017. There shall be no ground raising or built development within Flood Zones 2 and 3. The mitigation measures shall be fully implemented prior to the occupation of the first dwelling, or in accordance with any phasing arrangements approved at Reserved Matters stage.
- 21) No demolition or development in any phase shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
- 22) No site clearance, preparatory work or development shall take place on the relevant phase of development until details of existing trees and hedges which are to be retained and details of their protection during construction (the tree protection plan) shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within five years from the date of the first occupation of the final dwelling to be completed, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority. If any retained tree is cut down, uprooted or

destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the local planning authority.

- 23) No development shall take place on any phase of the development until such time as an Ecological Mitigation Plan which sets out how the relevant phase of development will accord with the conclusions and recommendations of the Preliminary Ecological Appraisal (August 2017), Water Vole Report (October 2017) and Preliminary Bat Report (October 2017) has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved Plan.
- 24) The approved Phase I Desk Study report indicates that a Phase II Site Investigation is necessary, and therefore development shall not commence until a Phase II Site Investigation Report, in accordance with the approved phasing plan, has been submitted to, and approved in writing by, the Local Planning Authority.

Where remediation measures are shown to be necessary in the Phase II Report and/or where soil or soil forming material is being imported to site, development shall not commence on the relevant phase of development until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.

- 25) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, public open space or for filling and level raising shall be tested for contamination and suitability for use. A methodology for testing these soils shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto site. The methodology shall include information on the source of the materials, sampling frequency, testing schedules and criteria against which the analytical results will be assessed (as determined by risk assessment). Testing shall then be carried out in accordance with the approved methodology. Relevant evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto the site.
- 26) If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.
- 27) Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site



shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.

Richborough Estates