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## Appeal Decision

Inquiry opened on 18 December 2018

Site visits made on 20 December 2018

**by Richard Clegg BA(Hons) DMS MRTPI**

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

**Decision date: 15<sup>th</sup> February 2019**

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**Appeal Ref: APP/F2360/W/18/3202604**

**Land north of Brindle Road, Bamber Bridge (to the east of the M6 and to the west of the M61)**

- 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 Persimmon Homes (Lancashire) Ltd against the decision of South Ribble Borough Council.
  - The application Ref 07/2017/2325/FUL, dated 3 August 2017, was refused by notice dated 16 November 2017.
  - The development proposed is described as 'residential development for 261 new homes including 30% affordable housing, landscaping and associated infrastructure'.
  - The inquiry sat for three days: 18-20 December 2018.
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### Decision

1. The appeal is allowed and planning permission is granted for 261 new homes including 30% affordable housing, landscaping and associated infrastructure on land north of Brindle Road, Bamber Bridge (to the east of the M6 and to the west of the M61), in accordance with the terms of the application, Ref 07/2017/2325/FUL, dated 3 August 2017, subject to the conditions in the attached schedule.

### Procedural matters

2. The proposed development is more clearly described as 261 new homes including 30% affordable housing, landscaping and associated infrastructure, and I have considered the appeal on this basis.
3. On its western side, the appeal site includes a length of Shuttling Fields Lane. It extends eastwards from the lane across several fields towards the M61 motorway. Within this area a small triangular piece of land on the east side of the lane is excluded from the site<sup>1</sup>. It is physically part of the field alongside Shuttling Fields Lane, but I heard that the boundary of the appeal site reflects land ownership considerations. No built development is proposed on this piece of land, which would lie within a strip of open space shown on the proposed layout plan (Core Document 55 – CD55). Given the proposed layout, the situation concerning this small piece of land would not be an impediment to the development proceeding. I also agree with the main parties that, as the land is excluded from the appeal site, its

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<sup>1</sup> See site location plan, CD3.

status would not stand in the way of enforcing the planning obligations relating to the proposed development.

4. In August 2018, planning permission was granted on appeal for up to 193 dwellings on land to the south of and adjoining the present appeal site alongside the M61 (CD63). In the light of that decision, the Local Planning Authority (LPA) resolved not to defend its refusal of planning permission for the proposal before me<sup>2</sup>. The subsequent planning statement of common ground, agreed between the Appellant and the LPA, stated that there were no planning or technical reasons to prevent planning permission being granted for the appeal proposal<sup>3</sup>.
5. Drawing ref TGDP/BRBB/SOU (CD19) shows the Souter house type. This is incorrectly referred to in the list of plans and documents upon which the LPA made its decision as the Souter house type revision A. At the inquiry the Appellant pointed out that the boundary treatment plan subject to the refusal of planning permission (CD57) incorrectly shows an earth bund and acoustic fence on the east side of Shutling Fields Lane, and not the intended 3m acoustic fence on the west side of the lane and adjacent to the M6. An amended plan (Document A12) shows the intended boundary treatment on this side of the appeal site. The noise impact assessment considered by the Council's Environmental Health Officer correctly refers to a 3m barrier on the side of the site by the M6 (CD46), and the LPA acknowledged that this was the case. Accordingly I do not consider that prejudice would be caused to any party by referring to the amended boundary treatment plan, and I have taken it into account in my considerations.
6. At the inquiry the Appellant explained that it wished to reconsider the house type for plot No 224, and suggested that a condition could require the details for this dwelling to be submitted for approval. This plot is shown in a central position on the site plan, where it would not be close to any existing dwellings, and the LPA had no objection to the Appellant's suggestion. I am satisfied that no prejudice would be caused to any party by the approach suggested if planning permission were granted.
7. A planning agreement makes provision for affordable housing, public open space, a travel plan, and financial contributions towards off-site open space, cycle parking, a bus service and mobile speed indicators (Document O5).
8. Documents submitted after the inquiry opened are detailed in the lists appended to this decision.

### **Main Issues**

9. Although the LPA decided not to defend its reasons to refuse planning permission, there remain objections to the proposal from the local community. Having regard to the representations made, I consider that the main issues in this appeal are:
  - (i) The effect of the proposed development on the character and appearance of the area.

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<sup>2</sup> The report on the approach to the appeal and the Planning Committee's resolution are at CDs64 & 65.

<sup>3</sup> CD75, para 1.4(i).

- (ii) The effect of the proposed development on the living conditions of future residents with regard to noise from the M6 and the M61.
- (iii) The effect of the proposed development on traffic movement and highway safety.
- (iv) Whether the proposal would be consistent with policies in the Development Plan.
- (v) The effect of other considerations on the overall planning balance.

## **Background**

10. The Development Plan includes the Central Lancashire Core Strategy and the South Ribble Local Plan (CDs 78 & 79). Policy D1 of the Local Plan allocates land for housing: site S, land off Brindle Road, extends between the M6 and M61 motorways and existing development on the north-east side of Brindle Road<sup>4</sup>. It includes the appeal site, the adjacent land on which planning permission has been granted to Bellway Homes for up to 193 dwellings and other smaller parcels.

## **Reasons**

### ***Character and appearance***

11. The principle of residential development on the appeal site was established by Policy D1 of the Local Plan. As a consequence of that allocation the character of this predominantly open area is destined to change. Moreover the site is not part of an extensive tract of open land. It abuts the built-up area of Bamber Bridge, and is contained elsewhere by the two motorways, and the Bellway housing site<sup>5</sup>. Whilst the loss of open land represents some harm, in this context it carries little weight.
12. The Brindle Road Action Group (BRAG) acknowledges that site S is to be developed. However it is concerned about the amount of development proposed, referring to paragraph 7.32 of the Local Plan which states that site S could accommodate in the region of 250 dwellings. That number also appears in table 1 which forms part of Policy D1, although the table makes clear that dwelling numbers are estimates. The combined number of dwellings on the appeal site and the Bellway site would be a maximum of 454, well above the indicative number given in the Local Plan. In her report on the examination into the Local Plan<sup>6</sup>, the Inspector addressed the capacity of site S, commenting that nothing in the Plan would prevent additional dwellings coming forward above the indicative number of 250 units should the LPA be satisfied that this is appropriate following detailed assessment. BRAG itself considers that 220 dwellings would be acceptable on the appeal site, notwithstanding the Bellway permission.
13. The proposed development would have a gross density of 27 dwellings per hectare (dph)<sup>7</sup>. There is a variety of housing in the adjacent built-up area, and an analysis undertaken for the Appellant indicates a range of gross

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<sup>4</sup> Site S is shown on the extract from the Policies Map, Document O1.

<sup>5</sup> Location and site plans for the Bellway development are at Documents O2 & O3.

<sup>6</sup> CD71: the Local Plan was then known as the Site Allocations and Development Management Policies Development Plan Document.

<sup>7</sup> CD28, para 8.2.

densities in the nearby part of Bamber Bridge of between 5dph and 29dph<sup>8</sup>. The density would be in line with that of other housing in the area, and I note that a similar finding was made in the Bellway appeal decision.

14. The development would provide about 3.5ha of open space, in excess of the 0.82ha required by Policy G10 of the Local Plan. This is acknowledged by BRAG, but the Action Group is critical of the arrangement of the open space, which would be provided between the housing and the two motorways and in a central location above a drainage easement. Landscaped open space on the western and eastern sides of the site would enable a softening of the edge of the built development, and the central open corridor would not only break up the mass of the new housing, but would offer an alternative area for residents' use away from the motorways.
15. The main parties agree that the proposal meets the car parking standards set out in Appendix 4 of the Local Plan, and it therefore complies with Policy F1. It is also common ground between the Appellant and the LPA that separation distances between properties and the size of private amenity space would be acceptable<sup>9</sup>. For the reasons given above, I do not consider that the proposal would involve a cramped form of development with an excessive number of dwellings. Policy 5 of the Core Strategy requires that densities are in keeping with local areas and would have no detrimental impact on matters including character and appearance, with consideration being given to making efficient use of land. The proposal would comply with this policy. There would be no conflict with criterion (a) in Policy 17 of the Core Strategy which requires that the siting, layout, massing and building to plot ratio of new buildings take account of the character and appearance of the local area, or with criterion (a) in Policy G17 of the Local Plan, which similarly requires that there should be no detrimental impact on neighbouring buildings or the street scene due, amongst other considerations, to scale, plot density and massing.
16. The proposed development would include 2.5 storey housing. Although existing housing is predominantly 1, 1.5 and 2 storey in height, I saw several 2.5 storey houses on the recent development at Oak Leaf Drive, a short distance to the south-east. These buildings do not appear incongruous, but add an element of variety and interest to the local street scene. The proposed 2.5 storey houses would be distributed throughout the development: the schedule of building heights (Document A10) indicates that the greatest differences in eaves and ridge levels compared to the 2 storey houses would be 0.15m and 2.9m respectively. I do not consider that these differences would be harmful, but as at Oak Leaf Drive they would contribute interest to the development, and given the variety of housing in the area they would not result in the development appearing out of keeping with its surroundings. I have reached a similar view about the inclusion of a number of short terraces in the scheme.
17. The appeal site is part of a wider area of land allocated for residential development. It is contained between the existing built-up area, the Bellway housing site and two motorways. The proposal would not involve overdevelopment of the site, and, given the variety of housing in the

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<sup>8</sup> Appendix c to Mr Lomas's proof of evidence.

<sup>9</sup> CD75, para 7.3(iv) & (vi).

locality, the design of the scheme would not be out of keeping with its surroundings. I conclude that, overall, the proposed development would not detract from the character and appearance of the area, and in this respect it would accord with Policy 17 of the Core Strategy and Policy G17 of the Local Plan.

### **Living conditions**

18. The appeal site lies between two busy motorways, and traffic noise from these roads is evident on and around the appeal site. In this situation, the concerns expressed by the local community about the effect of noise on the living conditions of future residents of the development are understandable.
19. A noise assessment by Capita accompanied the planning application (CD46). BRAG was critical of certain aspects of this work, in particular the absence of measurements throughout the day at location B. Further noise measurements and modelling were undertaken by the Appellant's noise witness (who is not from Capita). He concluded that the Capita modelling was generally accurate and reliable, although it over-predicted noise levels by up to 3dB. There is no specific criticism of the exercise undertaken for the appeal. BRAG submitted a photograph showing a noise level reading of 71.4dB taken by the existing fence alongside the M6<sup>10</sup>. Full details of the machine used are not available, but, in any event, the level recorded is in line with that of 72dB<sub>L<sub>Aeq16h</sub></sub> given for a position close to the M6 in the survey undertaken by the Appellant's noise witness<sup>11</sup>. BRAG also undertook an exercise in which they compared a set of noise measurements from Capita with a series of average figures calculated from three assessments, including one relating to another site<sup>12</sup>. These assessments involved noise measurements taken at different locations and BRAG's exercise does not provide a robust means of considering the second set of Capita data.
20. The housing would be arranged in outward facing clusters to reduce the passage of noise into the site. In addition acoustic barriers are proposed alongside both motorways. A 3m acoustic fence would be erected by the M6, and adjacent to the M61 a 2m earth bund would be formed with a 3m fence on top<sup>13</sup>. These mitigation measures were taken into account in the noise assessment. British Standard BS 8233:2014 gives guideline values for internal ambient noise levels in dwellings<sup>14</sup>. Predicted façade noise levels in the daytime range from about 50-65dB<sub>L<sub>Aeq16h</sub></sub> and at night time the predicted range is about 55-65dB<sub>L<sub>Aeq16h</sub></sub><sup>15</sup>. With enhanced acoustic glazing where necessary, the sound insulation of the facades would enable the maximum daytime noise level of 40dB<sub>L<sub>Aeq16h</sub></sub> and the maximum night time level of 30dB<sub>L<sub>Aeq16h</sub></sub>, recommended in BS 8233, to be achieved within the proposed dwellings. The mitigation measures involving barriers alongside the motorways and the form of façade construction could be secured by a condition.

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<sup>10</sup> Attached to Mr Carter's letter of 4 July 2018.

<sup>11</sup> Mr Lewis's proof of evidence: location 3, table 5.

<sup>12</sup> Included in Document B1.

<sup>13</sup> The position of these acoustic features is shown on the plan at Document A12.

<sup>14</sup> Appendix 3 to Mr Lewis's proof of evidence, table 4.

<sup>15</sup> Mr Lewis's proof of evidence paragraph 84 and appendix 8.

21. For outdoor living areas BS 8233 recommends that the noise level should not exceed  $50\text{dB}_{\text{LAeqT}}$ , with an upper value of  $55\text{dB}_{\text{LAeqT}}$  which would be acceptable in noisier environments. These guidelines are consistent with the range put forward in the World Health Organisation's Guidelines for Community Noise, which have been referred to by BRAG. BS 8233 recognises that in higher noise areas, such as urban areas adjoining the strategic highway network, a compromise between elevated noise levels and other factors may be appropriate. In these situations, which would include the appeal proposal, BS 8233 advises that development should be designed to achieve the lowest practicable levels in external amenity spaces. In this case, the Council's Environmental Health Officer has agreed that noise levels up to  $60\text{dB}_{\text{LAeq16h}}$  would be acceptable in gardens, provided that every step has been taken to reduce sound levels as much as possible. The higher noise levels predicted outside dwellings (above, para 19) would be outside the front elevations. The layout of the development would provide more sheltered areas of private amenity space where outdoor living would take place. The daytime noise model plot indicates that noise levels would not exceed  $60\text{dB}_{\text{LAeq16h}}$  in any of the areas of private amenity space.
22. Highways England intends to erect a 2.9m noise barrier along the west side of the M6 between junctions 29 and 30. This includes the section of the motorway which runs past the appeal site. BRAG suggested that the proposed barrier would reflect noise towards the appeal site. There is no substantive evidence to support this view, and the Appellant's noise witness considered that any such effect would be insignificant in the context of this busy motorway.
23. The site layout and boundary treatment plans (CD55 & Document A12) include a notation of *No build zone* adjacent to the M61. The Appellant explained that this originated from a feasibility exercise, and has been superseded by subsequent detailed work undertaken in relation to the appeal proposal. In any event, the dwellings on this side of the site would be set back from the M61 in line with the edge of the *No build zone* notation.
24. I conclude that, the proposed development would not result in unacceptable living conditions for future residents due to noise, and it would not, therefore, conflict with criterion (d) in Policy 17 of the Core Strategy.

### **Traffic movement and highway safety**

25. The appeal site is located adjacent to the built-up area. A range of facilities and services, including shops and schools, are within walking and cycling distance of the site, and Walton Summit employment area is nearby. A bus service between Preston and Wigan operates along Brindle Road. The operator had intended to cease running this route: however I heard at the inquiry that Lancashire County Council has agreed to support the service whilst it is put out to tender. It will continue to operate for the foreseeable future. In addition a planning obligation would provide for a contribution to support a service which would provide a connection between the development and Bamber Bridge. Train services are available from

Bamber Bridge station<sup>16</sup> which is about 1.3km from the site using public footpaths and about 1.65km along roads. To encourage the use of the station, a planning obligation would provide for the provision of six cycle parking stands at the station. The provision of mobile speed indicator devices on Brindle Road is also the subject of a planning obligation and would facilitate pedestrian movement to and from the site.

26. Given its location and the measures proposed to encourage the use of alternative modes of transport to the car, I am satisfied that the proposal involves appropriate opportunities to promote sustainable transport in accordance with paragraph 108(a) of the National Planning Policy Framework (NPPF). This would have a moderating influence on traffic generation by the development.
27. The Appellant's transport witness has assessed the effect of additional trips from the proposed development on a number of junctions on the local highway network. In most cases the junctions are predicted to operate with spare capacity in the assessment year of 2024 with the development in place. Particular concern has been expressed by members of the local community about the effect of additional traffic at the Brindle Road/ Bank Head Lane junction, which is about 580m south-east of the position of the proposed site access on Brindle Road. The southern part of Brindle Road forms a priority junction with Brindle Road/ Bank Head Lane at a point where there is a sharp bend in the latter road. The priority junction itself is immediately to the north of a level crossing<sup>17</sup>. I have heard and read about delays and queuing at the junction when the level crossing barriers are down, and concern has been expressed by the local community about the threat to highway safety caused by vehicles on the through route overtaking queuing traffic around the bend. The Appellant's transport witness acknowledged that these situations occurred and I observed drivers overtaking queuing traffic during my visit to this junction. It is predicted that there would be an increase in queuing during the peak periods, and that during the afternoon peak the practical capacity of the Brindle Road (south) arm would be exceeded<sup>18</sup>.
28. Network Rail had suggested that the junction should be signalised. This is not supported by the Local Highway Authority (LHA - Lancashire County Council), which considers that signalisation would create difficult technical requirements associated with the level crossing, and would result in an increase in queuing and congestion throughout the day, even when the barriers were raised. A statement of common ground agreed between the LHA, Bellway and Persimmon in respect of the Bellway appeal expressed the view that additional signage and refreshment of road markings would be an appropriate response at this junction, and that the combined impact of the two schemes would be acceptable<sup>19</sup>. There is no detailed assessment to indicate a contrary effect.
29. At the Kellett Lane/ Tramway Lane junction the practical capacity would be exceeded in the morning peak, but there would only be a modest increase

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<sup>16</sup> Mr Devenish's proof of evidence incorrectly refers to a 10 minutes frequency on the Blackpool South to Colne service at peak times (para 6.20). At the inquiry he explained that the service has an hourly frequency.

<sup>17</sup> The arrangement of the junction is shown on the plan at Appendix N to Mr Devenish's proof of evidence.

<sup>18</sup> Mr Devenish's proof of evidence, table 10.6.

<sup>19</sup> CD76, Appendix D.

in queuing. The assessment of the Brindle Road/ Cottage Lane/ School Lane/ Charnley Fold Lane junction indicates that the Brindle Road arm would operate above its practical capacity in the morning peak in 2024 without the appeal proposal, but that the development of the appellant's site would not materially alter this situation<sup>20</sup>.

30. I appreciate the concerns raised by local people about the effect of the proposal at the Brindle Road/ Bank Head Lane junction. The evidence before me, however, indicates that the proposal would not have an unacceptable impact on highway safety, and that the residual impacts on the road network would not be severe. In this respect the proposal would not conflict with criterion (c) in Policy G17 of the Local Plan, or with paragraph 109 of the NPPF.

### **The Development Plan**

31. The appeal site is part of a housing allocation in the Local Plan and the proposal is consistent with Policy D1. Policy 17 of the Core Strategy and Policy G17 of the Local Plan include a series of criteria against which the design of new buildings and development should be assessed. I have already found that the proposal would not harm the character and appearance of the area, cause no unacceptable harm to the living conditions of future residents due to noise, and not have a materially adverse effect on highway safety or traffic movement. At the inquiry BRAG expressed the view that noise from vehicles using the access road would not cause disturbance to existing residents, and I have no reason to disagree. Vehicles leaving the site would face dormer bungalows on the opposite side of Brindle Road. I heard that there are ground floor bedrooms at the front of these properties. Concern has been expressed about the effect of vehicle headlights, but this is not an unusual arrangement in residential areas, and I expect that dipped beams, which are aligned downwards, would be in use. I find no harm in this respect.
32. Criterion (d) in Policy G17 seeks to at least conserve the setting of heritage assets. Newhouse Farm on Brindle Road to the east of the proposed access is a grade II listed building. It was built in the late seventeenth century, and provides evidence of a typical form of design for a farmhouse of this period. Although there was an historic functional relationship between the farmhouse and the appeal site, it is partly concealed from this direction by outbuildings. The listed building is principally experienced from Brindle Road, where it sits within a line of varied frontage development. The LPA has raised no concern about the effect of the appeal proposal in respect of the listed building, and I do not consider that it would adversely affect the setting of Newhouse Farm or the contribution that setting makes to its significance.
33. A tree preservation order covers trees in six areas on the site. The condition of the existing trees has been assessed, and the scheme includes retained trees as part of the green infrastructure proposals, thereby complying with criterion (e) in Policy G17 and also with Policy G13 which seeks to safeguard existing tree cover. In addition to trees, lengths of hedgerow would be retained and a pond restored. Although there would be some loss of low quality bat foraging habitat, the Council's Ecological

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<sup>20</sup> Mr Devenish's proof of evidence, tables 10.5 & 10.8.



Advisors consider that the additional planting proposed would be sufficient compensation. The proposal would protect biodiversity resources in accordance with Policy G16 of the Local Plan.

34. The proposal would meet the parking requirements of Local Plan Policy F1 (above, para 15) and it would provide more than the amount of open space necessary to accord with Policy G10 (above, para 14). Policy 7 of the Core Strategy seeks the provision of 30% affordable and special needs housing in the urban parts of South Ribble. A planning obligation would secure compliance with this policy. In accordance with Policy A1, contributions would be provided towards off-site open space, cycle parking, a bus service and mobile speed indicators by means of planning obligations. These are necessary to mitigate the effect of the development.
35. I conclude that the proposal would accord with the Development Plan considered as a whole.

### ***Other considerations***

36. The LPA's housing land assessment of 31 March 2018 calculates that there was a 5.01 years supply in South Ribble (CD85): the Appellant suggested that delay on the Moss Side test track would result in fewer dwellings being delivered there which would have the effect of there being no five years supply. Be that as it may, it is clear that the housing land supply is marginal. Within the identified supply are 130 units from the appeal site<sup>21</sup>. Should planning permission be refused, this would inevitably delay delivery from the site whilst a fresh proposal was prepared and considered. As the assessment shows that the supply only exceeds the requirement by four dwellings, any such delay would result in the loss of sufficient units to reduce the level of supply below five years. I agree with the view expressed by the main parties in the planning statement of common ground that the site provides an essential boost to the ability to achieve a five years supply of deliverable housing land.
37. Concern has been expressed by BRAG and other objectors about air quality, with reference made to its proximity to the two motorways. An air quality assessment has been undertaken on behalf of the Appellant. It predicts that on-site pollutant concentrations would be below the relevant air quality objectives. There is no substantive evidence before me to support a contrary view.

### ***The planning obligations***

38. I have already referred to obligations concerning affordable housing, financial contributions towards cycle parking, a bus service and mobile speed indicators. Open space would be required as part of the new development to provide amenity areas and separation from the motorways, and a planning obligation also makes provision for the necessary maintenance arrangements. The development would result in increased demand being placed on sports pitches at King George V playing fields in Higher Walton and Holland House and on Withy Grove Park, and the contribution of £393,327 is necessary to mitigate the effect on these facilities. The travel plan would encourage the use of sustainable modes of

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<sup>21</sup> See the Local Plan allocations schedule in Document L2.

transport, and the associated monitoring fee is important to ensuring the effective operation of the plan. The LPA has not identified that any of the infrastructure covered by the planning obligations is affected by the pooling restrictions in Regulation 123 of the Community Infrastructure Levy (CIL) Regulations. All of the measures would be necessary to contribute to a satisfactory standard of development. I find that the statutory tests in Regulation 122 of the CIL Regulations are met, and the provisions of the planning agreement are material considerations in this appeal.

### Conditions

39. I have already referred to conditions concerning plot No 224 and noise mitigation measures. A condition specifying the relevant drawings is important as this provides certainty. To safeguard the living conditions of nearby residents, restrictions are necessary on the times when machinery is operated and deliveries made. For the same reason, the location of the site compound and details of piling should be submitted for approval and the times of any piling activities should also be restricted. Noise mitigation measures are necessary to protect the living conditions of occupiers of the proposed dwellings. In order to ensure that the development would be in keeping with its surroundings, conditions are required concerning tree protection measures, landscaping, and the approval of materials.
40. A scheme for the construction of the site access and off-site highway works and a construction plan detailing vehicle routing are required before building commences, facilities for cleaning vehicle wheels should be provided during the construction period, and the visibility splays at the site access should be kept free from obstruction in the interest of highway safety. The package of off-site highway works would also promote the use of sustainable travel modes, and for the same reason the travel plan should be implemented. Several conditions need to be imposed to minimise the effect of the development on the environment: these concern contamination, the importation of subsoil and topsoil, the provision of electric vehicle charging points, and dwelling emission rates.
41. To ensure that the site would be satisfactorily drained, schemes for the disposal of foul and surface water and a sustainable drainage scheme should be submitted for approval. To protect breeding birds, site works should not take place between March and August unless nesting birds are absent. Himalayan Balsam is present on the site. This is an invasive species and a method statement for its control is required. A scheme is required to ensure the provision of the public open space.
42. The LPA suggested that a condition should be imposed requiring air quality monitoring. The substantive information before me on this matter, in the air quality assessment, does not support the need for such a condition, and I note that no such condition was imposed on the planning permission for the adjacent Bellway site.
43. The conditions concerning piling, contamination, noise mitigation, highway works, a construction plan, foul and surface water drainage schemes, details of dwelling emission rates, the site compound, Himalayan Balsam, landscaping and material details, and public open space are pre-commencement conditions. The Appellant has agreed to these conditions (Document A14).

## Conclusions

44. I have found that the appeal proposal would accord with the Development Plan considered as a whole. There are few adverse effects. The proposal would clearly result in the loss of open land. I have taken this into account in concluding that, overall, the proposed development would not detract from the character and appearance of the area, and the loss of the fields which comprise the appeal site merits little weight. In addition, the traffic generated by the development would cause the practical capacities of three junctions to be exceeded at peak times, although the residual impacts on the local highway network would not be severe. These limited harms do not warrant a decision being taken other than in accordance with the Development Plan. In any event, the contribution of the proposal to augmenting the Borough's housing land supply is an important benefit which itself outweighs the limited harms I have identified.
45. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

*Richard Clegg*

INSPECTOR

Richborough Estates

### Schedule of 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:
  - Location plan ref TGDP/BRBB/LP1 Rev A
  - Planning layout ref TGDP/BRBB/PL2 Rev C
  - Traffic management plan ref BRBB.TMP.01
  - Landscape structure plan ref 47646.02 Rev C
  - House type plans refs: TGDP/BRBB/ALN, TGDP/BRBB/CHE, TGDP/BRBB/CLA, TGDP/BRBB/GIL, TGDP/BRBB/HAN, TGDP/BRBB/HAT, TGDP/BRBB/LON, TGDP/BRBB/MOS, TGDP/BRBB/RUF, TGDP/BRBB/SOU, TGDP/BRBB/TAU Rev A, TGDP/BRBB/WAR, TGDP/BRBB/WP2B, TGDP/BRBB/WP3B, TGDP/BRBB/WP3BC, TGDP/BRBB/WP3BT, LY-WD16 Rev Q
  - Single & double garage plan ref SGD-01 Rev B
  - Boundary treatment plan ref BRBB.302.01 Rev E
  - Movement & access plan ref TGDP/BRBB/M&A Rev B
  - Affordable dwellings layout ref BRBB.ALP.01 Rev A
  - Site access plan ref SCP/17246/F01.
- 3) Notwithstanding the details shown on the drawings listed in condition No 2, prior to the commencement of plot No 224 details for the layout and appearance of that plot shall be submitted to the Local Planning Authority for approval in writing. The development shall be constructed in accordance with the approved details.
- 4) Prior to the commencement of the development hereby permitted, a scheme for the laying out of 3.51ha of public open space shall be submitted to and approved in writing by the Local Planning Authority. The public open space scheme shall specify the works to be undertaken to provide the public open space and the delivery and timings for each section of public open space.
- 5) The development hereby permitted shall not commence until details of materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved materials.
- 6) The development hereby permitted shall not commence until details of hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 7) The approved landscape structure plan ref 47646.02 Rev C shall be implemented in the first planting season following completion of the development of first occupation, whichever is the soonest, and it shall be maintained thereafter for a period of not less than five years in accordance with *British Standard BS 5837 2012 Trees in Relation to Design, Demolition and Construction – Recommendations*. This maintenance shall include the watering, weeding, mulching, and the adjustment and removal of stakes and support systems, and the replacement of any tree or shrub which is removed, becomes seriously

- damaged, seriously diseased or dies, by another of the same species and of similar size to that originally planted.
- 8) The trees covered by Tree Preservation Order 2014 No 7 identified for retention on drawing 4746.02 Rev C shall be protected for the duration of the construction period, such protection to include the erection of fencing in accordance with *British Standard BS 5837 2012 Trees in Relation to Design, Demolition and Construction – Recommendations*. No access shall be permitted into the identified root protection areas without first obtaining agreement in writing from the LPA. No machinery, tools or equipment shall be stored within the root protection area of any trees on the site. No tree identified for retention shall be pruned, cut down, uprooted, topped, lopped, damaged or destroyed, including the cutting of roots, without the prior written approval of the Local Planning Authority. Any trees subject to those actions or which die, become significantly damaged or seriously diseased within a period of five years shall be replaced with trees of such size and species as are approved by the Local Planning Authority.
  - 9) Within the root protection areas of trees T3, T18, T26, T37 and T38 (as identified on drawing 4746.02 Rev C), the existing ground levels shall be retained, and any excavation required shall be carried out by hand. Any exposed roots shall be immediately wrapped to prevent desiccation. Wrapping should be removed prior to backfilling. Roots smaller than 25mm diameter should be pruned with a sharp tool. Roots over 25mm diameter should only be removed following consultation with an arboricultural consultant. Prior to backfilling, roots shall be surrounded with topsoil, sharp sand or inert granular fill before the soil is replaced.
  - 10) Prior to the commencement of any development, details of the foul drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. Foul water shall be drained on a separate system. No building shall be occupied until the foul drainage system to serve that building has been completed, in accordance with the approved details.
  - 11) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions, shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be in accordance with the *Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015)* or any subsequent replacement national standards, and, unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewer system either directly or indirectly. The development shall be completed, maintained and managed in accordance with the approved details.
  - 12) None of the dwellings hereby permitted shall be occupied until a sustainable drainage management and maintenance plan for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
    - (a) Arrangements for adoption by an appropriate public body or statutory undertaker, or for management and maintenance by a residents' management company, and

- (b) Arrangements for the inspection and ongoing maintenance of all elements of the sustainable drainage system.
- 13) With the exception of demolition, site preparation and remediation works, no development shall take place until a scheme for the construction of the site access, the emergency access, and the off-site works of highway improvement have been submitted to, and approved in writing by, the Local Planning Authority. The highway works shall be constructed in accordance with the approved scheme prior to the first occupation of any part of the development hereby permitted. The highway improvement works shall include:
- (a) Provision of a new access point from Brindle Road in accordance with drawing ref SCP/17246/F01.
  - (b) Provision of mobile speed indicator devices at appropriate locations along Brindle Road in accordance with drawing ref SCP/17246/F02.
  - (c) Safety improvement markings at the junction of Brindle Road and Bank Head Lane in accordance with drawing ref SCP/17246/F03.
  - (d) Improvements to the existing east and west bound bus stops on Brindle Road to quality bus standard in accordance with drawing ref SCP/17246/F02.
  - (e) Enhancement of existing weight restriction signs along Brindle Road and Kellet Lane in accordance with drawing ref SCP/17246/F05.
  - (f) Provision of an uncontrolled pedestrian crossing on Brindle Road in accordance with drawing ref SCP/17246/F02.
- 14) The residential framework travel plan ref JI/17246/TP/0, dated June 2017, shall be implemented in full for a period of at least five years.
- 15) No hedges, trees or shrubs over 1m above the road level shall be planted within the visibility splays of the site access on Brindle Road, shown on the approved site access drawing ref SCP/17246/F01.
- 16) Prior to construction, a construction plan shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall cover method and details of construction, including vehicle routing to the site, construction traffic parking, and the proposed temporary closing of any roads or streets. No construction traffic or deliveries are to enter or exit the site during the network peak periods or to wait on the public highway. Such a construction plan is to be implemented and adhered to during the construction of the development.
- 17) During the construction period, facilities shall be made available for the cleaning of the wheels of vehicles leaving the site. The wheel cleaning facilities shall be used throughout the construction period, and the roads adjacent to the site shall be mechanically swept during this period.
- 18) During the construction period no machinery, plant or powered tools shall be operated, no processes carried out, and no deliveries taken or despatched outside the following times: 0800 to 1830 hours Monday to Friday and 0830 to 1300 hours on Saturday, nor at any times on Sunday and bank and public holidays.

- 19) Prior to the commencement of any works on site, details of all piling activities, including mitigation measures to be taken, shall be submitted to and approved in writing by the Local Planning Authority. Piling activities shall be limited to between the hours of 0930 to 1700 Monday to Friday and 0930 to 1300 on Saturday, with no activities permitted on Sunday and bank and public holidays.
- 20) Prior to the commencement of any works on site, the location of the site compound and materials storage area shall be submitted to, and approved in writing by, the Local Planning Authority.
- 21) Prior to the commencement of the development, details of the noise mitigation measures, incorporating the formation of a 2m noise bund and 3m acoustic fence adjoining the M61, the formation of a 3m acoustic fence adjoining the M6, and glazing specifications, shall be submitted to the Local Planning Authority for approval in writing. The noise bund and acoustic fence adjoining the M61 and the acoustic fence adjoining the M6 shall be constructed in accordance with the approved details prior to the first occupation of any part of the development hereby permitted. The glazing specification for each relevant dwelling shall be implemented in accordance with the approved details prior to the first occupation of that relevant dwelling.
- 22) If, during the course of development, any contamination is found, which had not been previously identified, work shall be suspended and measures for remediation shall be submitted to, and approved in writing by, the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures, and a verification report for all of the remediation works shall be submitted to the Local Planning Authority within 28 days of the report being completed.
- 23) Prior to the importation of any subsoil and/ or topsoil onto the site, an investigation shall be undertaken to assess the suitability of the material to ensure that it would not pose a risk to human health as defined under Part IIA of the Environmental Protection Act 1990. The soil material shall be sampled and analysed by a competent person. The details of the sampling regime and analysis shall be submitted to and approved in writing by the Local Planning Authority prior to the work taking place. A verification report, which contains details of sampling methodologies and analysis results, and which demonstrates that the material would not pose a risk to human health shall be submitted to the Local Planning Authority for approval in writing.
- 24) Prior to the first occupation of any dwelling hereby permitted with a garage or driveway parking space, an electric vehicle recharge point shall be installed at that dwelling in accordance with a scheme to be submitted to, and approved in writing by, the Local Planning Authority. The electric vehicle infrastructure shall be retained thereafter.
- 25) All dwellings must achieve a minimum dwelling emission rate of 19% above Part L1a of the Building Regulations 2013.
- 26) Prior to the commencement of the development, details shall be submitted to, and approved in writing by the Local Planning Authority, demonstrating that each dwelling will meet the required dwelling emission rate. The development thereafter shall be completed in accordance with the approved details.

- 27) No dwelling hereby permitted shall be occupied until a standard assessment procedure or an alternative proof of compliance (which has previously been approved in writing by the Local Planning Authority) has been submitted to, and approved in writing by, the Local Planning Authority, to demonstrate that the dwelling has achieved the required dwelling emission rate.
- 28) No work to clear vegetation within the site, no tree removal, and no other works that may affect nesting birds shall take place between 1 March and 31 August inclusive, unless the absence of nesting birds has been confirmed by surveys or inspections, and written approval has been given by the Local Planning Authority.
- 29) Prior to the commencement of development, a detailed method statement for the removal or long-term management or eradication of invasive plants, as identified under the Wildlife and Countryside Act 1981, shall be submitted to, and approved in writing by, the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of invasive plants during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds, roots, or stems of any invasive plant covered by the Wildlife and Countryside Act 1981. The development shall proceed in accordance with the approved method statement.

Richborough Estates



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr D Whelan	Legal Services Manager, South Ribble BC
Mrs J Crook	Planning Officer, South Ribble BC
Ms Z Harding	Planning Policy Officer, South Ribble BC

### FOR THE APPELLANT:

Mr P Tucker QC & Mr A Gill of  
Counsel

They called	
Mr T W Lewis MSc LLM CEnvH CSci MCIEH MIOA MIEEnvSci MIAQM	Associate Acoustic Consultant, WSP
Mr M Devenish CEng FCIHT	Associate Director, SCP
Mr R Lomas BA(Hons) BLA CMLI	Managing Director, e*SCAPE Urbanists
Mr J Suckley MTCP MRTPI	Senior Director, GVA HOW Planning

### INTERESTED PERSONS:

Mr P Carter	BRAG
Mr T Nuttall	BRAG
Mr M Topping	BRAG
Councillor M Nelson	Member of the Borough Council for Walton-le-Dale West Ward
Councillor B Yates	Member of the Borough Council for Samlesbury & Walton Ward, and Member of the County Council for South Ribble East Division
Councillor W Bennett	Member of the Borough Council for Coupe Green & Gregson Lane Ward
Ms S Fox	Nature conservationist

## THE LPA'S DOCUMENTS

- L1 Mr Whelan's opening statement.
- L2 Updated housing land schedules -31 March 2018.

## THE APPELLANT'S DOCUMENTS

- A1 Letter dated 11 December 2018 to the Appellant from Sage Housing concerning affordable housing as part of the appeal proposal.
- A2 Letter dated 11 December 2018 to the Appellant from Strenger. Ltd concerning vehicle headlights.
- A3 Mr Tucker's & Mr Gill's opening statement.
- A4 Note concerning boundary treatment plan and Souter house type.

- A5 Notice of temporary closure of public footpaths 7-2-FP21, 7-2-FP22 & 7-2-FP133.
- A6 Copy of register of caution title in respect of land at Shuttling Fields Lane.
- A7 Aerial photograph showing hatching on M61 adjacent to the appeal site.
- A8 Email dated 18 December 2018 from Persimmon Homes to Mr Suckley concerning the no build zone notation on layout and boundary treatment plans.
- A9 Mr Lewis's note concerning design criteria for the noise mitigation scheme.
- A10 Table of building heights in proposed development.
- A11 Note on distance from dwellings to bus stops.
- A12 Boundary treatment plan ref BRBB.302.01 revision E.
- A13 Mr Tucker's & Mr Gill's closing submissions.
- A14 Note of agreement to Document O7, including pre-commencement conditions.

### **BRAG'S DOCUMENTS**

- B1 Mr Nuttall's statement and appendices.
- B2 Mr Carter's statement.
- B3 Mr Topping's statement.
- B4 Letter dated 25 July 2018 from Balfour Beatty Mott MacDonald to local residents concerning noise barrier works alongside the M6.
- B5 Mr Topping's closing statement.

### **OTHER DOCUMENTS**

- O1 Extract from the Local Plan Policies map.
- O2 Location plan for Bellway housing scheme off Brindle Road.
- O3 Site plan for Bellway housing scheme off Brindle Road.
- O4 Composite core documents list.
- O5 Planning agreement relating to the appeal proposal.
- O6 Statement of compliance with CIL Regulations.
- O7 Revised list of possible conditions.
- O8 Environmental Health consultation response relating to the Bellway housing scheme.
- O9 Preston, South Ribble & Lancashire City Deal Business and Delivery Plan 2017/20.
- O10 Site plan for residential development on land off Moss Lane, Whittle-le-Woods.

### **CORE DOCUMENTS**

- CD62a Lumley house type, drawing ref LY-WD16 Rev Q.
- CD62b Single & double garage plans, drawing ref SGD-01 Rev B.
- CD85 South Ribble BC Housing Land Position at 31 March 2018 (replaces previous CD85 dated 31 March 2017).