

Appeal Decision

Inquiry held on 11 November 2014

Site visit made on 12 November 2014

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 16 December 2014

Appeal Ref: APP/P1045/A/14/2218952

Land off Old Derby Road, Ashbourne, Derbyshire

- 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 Trustees of Sir Ian Walker-Okeover's 1959 Settlement against the decision of Derbyshire Dales District Council.
 - The application Ref 13/00911/OUT, dated 23 December 2013, was refused by notice dated 26 March 2014.
 - The development proposed is residential development of up to 200 dwellings, with public open space, highway improvements and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 200 dwellings, with public open space, highway improvements and landscaping, on land off Old Derby Road, Ashbourne, Derbyshire, in accordance with the terms of the application Ref 13/00911/OUT, dated 23 December 2013, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council originally refused planning permission on the grounds that the site is outside the settlement boundary, and that the proposed development would cause harm to the landscape. However, at a meeting on 18 September 2014, the Corporate Committee resolved to withdraw that refusal reason. This decision was taken in the light of changed circumstances relating to the District's housing land requirement. At the inquiry, the Council confirmed that it no longer wished to oppose the scheme.
3. The application seeks outline planning permission with all matters reserved except access.
4. A Section 106 agreement has been entered into by the appellants, the District Council, and Derbyshire County Council, which contains provisions relating to affordable housing, education contributions, greenways, and sustainable travel.

Policy Background

The development plan

5. The development plan for the purposes of the appeal comprises the saved policies of the Derbyshire Dales Local Plan, adopted in November 2005. Ashbourne is identified as one of the District's three market towns. Paragraph

2.6 states that the market towns are the best-placed settlements to contribute to the achievement of sustainable development, and that priority will be given to development in these settlements.

6. The proposals map defines a settlement framework boundary around Ashbourne. The appeal site is adjacent to that boundary, but outside it, and thus in the countryside. Policy SF4 states that development in the countryside will only be permitted for various specified purposes, such as agriculture, forestry, outdoor sport and tourism. The appeal proposal is not for any of these specified purposes.
7. Policy NBE8 states that planning permission will be granted only where the development protects or enhances the character, appearance and distinctiveness of the landscape.

Emerging plans

8. A replacement local plan for the Derbyshire Dales was submitted in May 2013, and a public examination was opened in July 2014. On 29 July 2014, the examining inspector issued an Examination Note, setting out his initial findings. His main conclusion was that the plan as submitted would not be found sound. On 2 October 2014, the Council resolved that the plan be withdrawn.
9. A neighbourhood area has been designated for Ashbourne, and an initial scoping consultation has taken place. But no draft neighbourhood plan has yet been published.

Agreed Matters

10. The Council and the appellants agree that the District's housing land supply is currently less than the 5 years' supply required by the National Planning Policy Framework (the NPPF). However, this is questioned by other objectors.
11. As a result of the above, in accordance with NPPF paragraph 49, it is agreed by the Council and the appellants that the housing supply policies of the 2005 Local Plan should be treated as out of date. Both parties agree that these include Policy SF4.
12. The appellants argue that the same applies to NBE8. This is not agreed by the Council. However, in the light of the land supply situation, the Council accepts that its original objection on landscape grounds should no longer outweigh the need for housing. Other objectors disagree.
13. The Council also agrees that the development would be sustainable, and that there are no overriding objections on technical or other grounds. Again this view is not shared by others, particularly in respect of traffic impacts.

Main Issues

14. In the light of all the matters raised, I find that the main issues in the appeal are:
 - the need for additional housing land in Derbyshire Dales District;
 - the effect of the proposed development on the character and appearance of the landscape;
 - and the effects on traffic congestion and highway safety.

Reasons for Decision

Housing needs

15. When the Council made its decision to refuse planning permission for the proposed development, it did so in the context of the emerging draft Local Plan of May 2013. That plan envisaged a housing requirement, for the period 2006-28, of 4,400 dwellings. However, following the plan's Examination in July 2014, and taking account of all the evidence as to household formation, migration, employment growth, affordable housing needs, and the existing backlog, the Examining Inspector found that the District's full objectively-assessed need was likely to be at least 6,500 dwellings. The evidence regarding environmental constraints did not justify such a wide divergence between these figures.
16. Now that the draft Local Plan has been withdrawn, there is neither an up-to-date adopted housing policy, nor an emerging policy. In these circumstances, having regard to paragraph 47 of the NPPF¹, the Courts have determined that the figure to be used for the purposes of calculating the 5-year land supply should be the objectively-assessed need². In this case, although the Local Plan Inspector himself acknowledged that his figure of 6,500 dwellings was not meant to be definitive, it remains at present the most authoritative estimate available for the District.
17. On this basis, the available supply is either 3.9 years, according to the Council, or 1.9 years, according to the appellants. The difference between these two assessments is accounted for by disagreements of a technical nature over some of the specific components: the size of the NPPF buffer; the way the backlog should be dealt with; the windfall allowance; the contribution from the Peak District National Park area; and the deliverable supply from two of the identified sites. However, for the purposes of the present appeal, both parties agree that these differences are of little significance because, either way, the supply is less than 5 years. Furthermore, there is no dispute between the appellants and the Council that this is a consideration which commands substantial weight in the planning balance.
18. I appreciate the concerns raised by local residents regarding this issue of housing supply, and particularly the view expressed at the inquiry by the Reverend Broadhurst: that the Inspector's figure of 6,500 dwellings is simply too many for Ashbourne to cope with. However, that is a decision to be resolved through the next local plan, whenever that plan now emerges. In the meantime, for the reasons that I have explained, it is necessary to consider the full housing need, and to balance that need against any specific harm that is identified. General issues and constraints affecting the town, such as its road system, schools and health services, and its attractive character, have already been considered by the Examining Inspector, and despite those concerns, he found insufficient evidence to justify the lower level of housing that the Council proposed; especially as the Council's own housing study³ had identified sites (including the present appeal site) with a capacity well in excess of that level. When the draft Local Plan is re-submitted, the Council will be able to present new evidence, if it wishes to do so. But in the meantime, the NPPF requires

¹ The National Planning Policy Framework

² *Hunston Properties v SoS & St Albans Council* [2013 EWHC 2678 Admin] ; AND *Gallagher Homes and others v Solihull Council* [2014 EWHC 1283 Admin];

³ The Strategic Housing Land Availability Assessment, November 2013

that, where there is less than a 5-year supply, housing proposals are considered in the light of the presumption in favour of sustainable development.

19. I am well aware that over the last 12 months or so, planning permissions have been granted for a number of other large development in Ashbourne, including Willow Meadow Farm (65 dwellings) and Hillside Farm (125 dwellings and 65 extra care units). In addition the proposed development at Ashbourne Airfield (367 dwellings and other development) now has a resolution to grant permission, subject to completion of a S.106 agreement, and Leys Farm (145 dwellings) was recommended for approval at an imminent (at the time of the inquiry) Committee meeting. Together, these are large numbers. But this does not change the fact that the test that must be applied is whether a 5-year supply can be demonstrated.
20. I appreciate that some of these sites are not yet included in the 5-year land supply calculations. But the 5-year supply is not just a totalling of all potential sites, it is an assessment of how many houses are realistically deliverable within the relevant period, taking account of each site's particular circumstances. The Airfield site, for example, not only has yet to obtain formal outline planning permission, but will then have a number of stages to still go through, including some significant infrastructure requirements, before houses can be built and occupied. In any event, the Council clearly accepts that, despite these other sites becoming available, there remains a shortfall, and that the present appeal site at Old Derby Road is now needed to meet part of the District's housing requirements. On the evidence before me, I can find no reason to doubt that assessment.
21. I therefore conclude on this first issue that the development now proposed is needed, to contribute to local housing needs. Consequently, the presumption in favour of sustainable development applies, and in accordance with NPPF paragraph 14, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the scheme's benefits.

Effects on the character and appearance of the landscape

22. The appeal site occupies an elevated position, on moderately sloping ground, on the edge of Ashbourne. Although the site is outside the town's current built-up area, it is separated from the more open countryside beyond by the A52 Ashbourne Bypass. And whilst it comprises reasonably attractive, rolling farmland, the site has no special qualities, and is not subject to any protective designation at national or local levels. The National Park is some 3-4 km to the north, on the opposite side of Ashbourne.
23. The site is seen at close range from Old Derby Road, and from the Willow Meadow Road residential area. However, these viewpoints are within the built-up area, and the site is viewed from them in an urban fringe context. The loss of openness would change these views considerably, but the effects would be localised, and could be partly mitigated by new landscaping and the incorporation of open space, as shown in the illustrative Master Plan (Plan No. INCLA-NO213).
24. From the Bypass, there are partial inward views, again from close range. But from here, the views are limited to the site's southern margin, and could be easily screened by reinforcing the existing highway planting. The proposed

acoustic fencing along this boundary would have some additional impact, but this could be reduced by setting it back, amongst the existing and new landscaping.

25. There are longer views from the higher ground at Ashbourne Golf Course, as seen in the photographs in the appellants' landscape and visual impact study. But from this direction, the proposed development would be seen in the context of the approved development at Willow Meadow Farm and that expected to be permitted at Leys Farm, and indeed would be less prominent than either of these. In this context, the additional impact arising from the development now proposed would be very limited.
26. The site is crossed by a public footpath, forming part of both the Centenary Way (Ashbourne to Ilkeston) and Bonnie Prince Charlie Walk (Ashbourne to Derby) routes. However, there is no reason why this footpath could not be retained on its existing alignment. The views obtained by walkers on this section of the footpath would change, and their enjoyment of this part of the path would be reduced. But the appeal site represents only a small proportion of the footpath as a whole. In that context, the change in character of this part of the route would not be unduly significant. To the north of the appeal site, the footpath continues through the built-up area in any event.
27. Views from various other viewpoints are referred to by some local residents, including Thorpe Cloud, Stanton Woods, and around Okeover Hall, some of which are on the edge of the National Park. However, these are very distant. At such long distances, even though the proposed development might be just visible in good conditions, it would be neither unduly noticeable nor harmful.
28. The appeal site contains some attractive and distinctive small-scale landscape features. In the lower part of the site, to the rear of Cedar Close and Chestnut Drive, there is a stream with trees and other vegetation along its banks. And on the higher slopes there are some small groups of mature trees. But the watercourse and its surroundings could be preserved by locating open space adjacent to it, as suggested in the Master Plan. In this connection, I note that the S.106 agreement provides for on-site greenways, along the site's north-western and north-eastern boundaries. The more important trees throughout the site could also be retained, as part of an overall landscaping scheme. These features could therefore be adequately protected by condition.
29. I note the view of some objectors, that the site performs the role of a buffer between Ashbourne and its Bypass, and as part of the town's setting. On the surface, that argument is not without its attractions. However, there appears no particular planning policy to that effect. In the absence of any policy basis, it seems to me that the need for the site to be retained for these purposes (as opposed to other planning objectives such as meeting housing needs) is not compelling. Even if the appeal site were developed, Ashbourne would still have a countryside setting beyond the Bypass. And in this context, there seems little doubt that the latter provides a strong, defensible boundary, which is capable of enduring for the long term.
30. Overall, the development's principal adverse effect would be the loss of the site's openness. This would cause some harm to the local landscape, and to that extent, the proposed development would conflict with Policy NBE8. I also bear in mind that the NPPF, at paragraphs 17 and 109, seeks to protect and enhance valued landscapes, and to recognise the countryside's intrinsic

character and beauty. But nevertheless, for the reasons that I have explained, in this case the harm would be minor, due to the site's urban fringe location, limited visibility, and lack of any special qualities. In these circumstances, it seems to me that the harm to the landscape should be given only modest weight.

Effects on traffic congestion and highway safety

Site access and Old Derby Road/Derby Road junction

31. The proposed development would generate traffic onto local roads, and particularly on Old Derby Road and Derby Road⁴. However, alterations are proposed to the T-junction where these two roads meet. These would include easing the kerb radii, and widening of the exit lane to accommodate left and right-turning vehicles side-by-side, thus increasing both capacity and safety. On this basis, the appellants' computer modelling, in the Transport Assessment report by Bancroft Consulting, suggests that the modified junction would operate well within its safe capacity, and without excessive queuing. The appellants' modelling also shows that the proposed new junction at the site access onto Old Derby Road would be far enough away from the Derby Road junction for the two to operate independently, without traffic conflicts.
32. Alternative evidence has been submitted by Mr Stuart Green, a local resident, based on traffic surveys and modelling carried out by himself, which suggests that the development would cause severe congestion around the site entrance and the Derby Road junction. This evidence therefore directly contradicts that of the appellants. I have no reason to doubt that both exercises have been undertaken in good faith, and using considerable skill and expertise. However, they cannot both be right.
33. I note that the appellants' consultants' modelling has been carried out using 'PICADY', a recognised software package, which is widely used in transport planning. The consultants also state that their study has been carried out in compliance with the relevant guidance⁵, particularly in terms of survey methodology and in consultation with the Highway Authority. Although that guidance has since been superseded, it was in force when the work was carried out, and I therefore give it significant weight in this case. In the case of Mr Green's work, I do not have enough information to judge whether it was carried out on an equally rigorous basis. It therefore seems to me that the appellants' modelling results are to be preferred.
34. In any event, the Highway Authority has accepted the appellants' analysis, and their junction design proposals, subject only to requiring further engineering details in relation to the Derby Road junction. In the circumstances, I find this conclusive. Both main parties are also agreed that the site access and junction works can be secured by condition, and I see no reason to disagree.

Derby Road/Sturston Road junction

35. In addition, the development would also add to the existing traffic flows towards the town centre, and in particular at the 5-way junction which includes Derby Road and Sturston Road. This is an acknowledged problem junction

⁴ Also referred to in some submissions as 'New' Derby Road

⁵ Guidance on transport Assessment: DfT and DCLG, March 2007

which, as I saw on my visit⁶, is already at capacity in the peak hours, and also sometimes outside those hours. Even without any of the developments now proposed, the junction is expected to be significantly over capacity by 2019. In the case of the Leys Farm and Airfield developments, the Highway Authority has sought contributions towards a comprehensive town-wide traffic study and future traffic management scheme, which might include major improvements to the Derby Road/Sturston Road junction, possibly involving third-party land.

36. In the case of the appeal proposals, the appellants initially proposed a contribution on a similar basis. But, for whatever reason, that proposal has not been taken forward in the S.106 agreement, which includes the Highway Authority as one of its signatories. Instead, the appellants propose what is essentially an interim improvement to the Derby Road/ Sturston Road junction. This improvement, which is said to be the best that can be achieved without land acquisition, would involve some minor kerb realignment and new road markings. This would create just sufficient additional capacity for the appeal proposal alone. It would not significantly reduce the existing peak hour congestion, nor would it provide any spare capacity for any of the other planned developments in Ashbourne. But it would mean that the development now proposed would not exacerbate the 2019 'with-development' scenario beyond the levels already predicted without the development. The appellants describe this as a 'net nil detriment' approach.
37. Local residents evidently have deep misgivings about this approach, and I can understand why. If the appeal scheme were to go ahead not on its own, but in tandem with one or both of the Leys Farm and Airfield sites, and in advance of any comprehensive traffic management measures, then the net nil detriment calculation would become purely theoretical. And if a comprehensive scheme is subsequently implemented anyway, as seems likely to be necessary, then the resources spent on the appellants' interim works will have been wasted. Either way, the proposed solution for Derby Road/Sturston Road seems less than optimal.
38. However, the advice in NPPF paragraph 32 is that developments should only be refused on transport grounds where the residual cumulative impact would be severe. In this case, the Highway Authority does not dispute that the appellants' proposed junction improvement would achieve the nil-detriment effect that is claimed. Neither does it dispute that the appellants' junction scheme is feasible and acceptable in safety terms. The proposed development would therefore effectively mitigate its own impact. On this basis, the development's impact cannot be judged as severe.
39. With regard to the issue of cumulative developments, the Leys Farm and Airfield developments are not yet formally committed, and thus the detailed terms of any permissions and obligations relating to those sites remain to be finalised. Whereas, I must make a decision on the appeal scheme now, based on the evidence before me. It is far from clear how the Highway Authority envisages that the Derby Road/Sturston Road junction should ultimately be dealt with, to cope with the cumulative impact of all the likely developments, but that does not mean that a satisfactory solution will not be found. The Highway Authority evidently sees the appellants' interim solution as an

⁶ On my visit, I observed the Derby Road/Sturston Road junction at various times between 08.00 – 09.00 and 10.30 – 11.30

acceptable way forward. The Authority has clearly come to this view in the full knowledge that other major developments are planned⁷. Again I give significant weight to the Highway Authority's view on this, as these matters go beyond the evidence that is available to me, and it seems to me that the Authority is in the best position to judge.

40. I have given all these matters very careful consideration. On the one hand, the appellants' proposal for the Derby Road/Sturston Road junction is probably not a long-term solution. To that extent, it may or may not prove to be the best outcome that could have been achieved from this development. But on the other hand, it would represent a slight improvement on the existing situation; because although in the peak hours the extra capacity might quickly be taken up by the additional traffic from the development itself, at other times it seems likely that there would be some residual net benefit, albeit on a small scale. And notwithstanding the Council's aspirations for a comprehensive town-wide scheme at some time in the future, in the short term there seems little prospect of any improvement to this particular junction, other than through the present appeal proposal.
41. On balance therefore, I conclude that the proposed works to the Derby Road/Sturston Road junction would provide an appropriate level of mitigation. Again the parties are agreed that these works, which are all on highway land, can be secured by condition, and I agree.

Conclusion on traffic and highway issues

42. For the reasons set out above, and subject to the conditions that I intend to impose, I conclude that the proposed development would not have an unacceptable impact on traffic congestion or highway safety. In this respect, it seems to me that the proposals satisfy NPPF paragraph 32, and also the relevant Local Plan policy, TR1.

Other matters

43. The proposed development would create jobs and investment, contributing to economic growth at both local and national levels. In accordance with NPPF paragraphs 17 – 19, this is a benefit to be weighed in the balance, alongside the scheme's contribution to meeting housing needs.
44. I note the concerns expressed about local school capacities, and the difficulties faced in meeting rapidly increasing pupil numbers throughout the town. However, the Education Authority does not object to the development. The S.106 agreement provides for contributions totalling just under £1.2m, towards the costs of providing additional places at all school levels. These contributions are fully in line with the sums calculated and requested by the Education Authority. Similar concerns are voiced in relation to doctors and other medical services. But there is no objection from any of the agencies responsible for providing or co-ordinating these services.
45. With regard to matters of drainage, sewerage and flood risk, these are addressed in the submitted Flood Risk Assessment report. The Environment Agency points to a need for further technical work, but does not see any need for this to hold up the grant of outline permission, subject to appropriate conditions. I see no reason to disagree.

⁷ I note that the Authority reaffirmed its position in a letter dated 15 July 2014

46. The Ecological Survey identifies some potential wildlife habitats, possibly including bats, concentrated mainly on the site's north western boundary, around the watercourse and its banks. There seems no reason why this area cannot be adequately protected at the reserved matters stage. The illustrative plan proposes open space along this edge, and this can be adequately secured by condition.
47. The Old Toll House, on the site's north-eastern boundary, is a Grade II listed building. However, in so far as the building's significance derives in part from its setting, I agree that this relates mainly to its roadside location and the relationship to the historic turnpike road between Ashbourne and Derby. The property has its own substantial garden, which provides for ample separation between the house itself and the development now proposed. There is also more than adequate space within the appeal site for additional screen planting if required. I therefore see no reason why the building's setting should be adversely affected.
48. The site is overlooked by other existing residential properties on two sides, along Old Derby Road and in the Willow Meadow Road estate. I appreciate that some property owners in these two areas would lose their present open views across the site. I have every sympathy for the loss of amenity that they would experience. However, this is not a compelling consideration compared to unmet housing needs. Issues relating to privacy, overshadowing, or noise could all be adequately addressed at the reserved matters stage. There is therefore no reason why any adjoining occupiers should suffer an unacceptable impact on their living conditions.
49. Although the appeal site is some distance from Ashbourne town centre, and journeys on foot or by bicycle would involve a steep hill, these factors do not mean that the development would not be sustainable. The site is directly adjacent to the town. Ashbourne has a good range of facilities, and is one of the district's main settlements. Sustainability involves a balanced judgement relating to a wide range of economic, social and environmental considerations.
50. I fully appreciate the importance that the Localism Act gives to the empowerment of existing communities, and this is also acknowledged in the NPPF and in relevant Ministerial statements. But in the present case, the proposed neighbourhood plan for Ashbourne has not yet reached the stage where it can be given any weight in planning decisions.
51. I note that the Town Council raises concerns of a procedural nature regarding the Corporate Committee's decision in September 2014, when the original Planning Committee decision on the application was reversed. But the question of whether the Council's own internal procedures were correctly followed is not for this appeal, as I can only consider the planning merits.

The Section 106 Agreement

52. The Section 106 agreement provides for the education contributions referred to above, plus provisions relating to affordable housing, greenways and sustainable travel. The NPPF paragraph 204 and the relevant Regulations⁸ require that these obligations must be necessary to make the development

⁸ The Community Infrastructure Levy Regulations 2010

acceptable in planning terms, and directly related to the proposed development, and fairly and reasonably related in scale and kind.

53. With regard to the affordable housing, the provisions are based on a notional level of 45% overall, of which half would be directly provided on site, and the remainder via a contribution to off-site provision. At the inquiry, the Council confirmed that this is their preferred method, so as to enable the affordable housing to be dispersed amongst some of the smaller villages. I also note that these provisions accord with the Council's supplementary guidance.
54. Regarding greenways, the agreement requires on-site provision to be made in accordance with the indicative details on the master plan, and a more detailed scheme to be approved later, plus a maintenance sum; and an off-site contribution of around £63,000. This would allow the upgrading of the Centenary Way's existing bridge across the stream, connecting to Chestnut Drive. This approach seems to me to accord with the intentions of Local Plan Policy CS8, relating to the provision of community infrastructure.
55. The sustainable travel provisions include two contributions of £5,000 each, one as a monitoring fee relating to the Travel Plan, and the other for measures to promote sustainable transport to schools. These contributions accord with the approach in Local Plan Policy TR2, which provides for legal obligations where necessary, to secure the implementation of Travel Plans.
56. The education contributions have been calculated using formulae provided nationally by the Department for Education. As above, these seem to me to accord with Policy CS8.
57. For these reasons, and those discussed earlier in this decision, I find that the S.106 agreement's obligations are all necessary to make the development acceptable in planning terms. They are also reasonable in scale and kind, and directly related to the proposed development. They therefore meet the relevant legal and policy tests for planning obligations.

Conditions

58. The NPPF paragraph 206 sets out the relevant tests for planning conditions. These include that conditions should be necessary and reasonable. After consideration of the conditions proposed by the Council, those that I consider to meet the tests are set out in the attached Schedule.
59. Conditions 1.1 – 1.3 set out the requirements as to reserved matters and time limits. These are needed to comply with the statutory provisions for outline permissions.
60. Condition 2.1 sets out the matters to be addressed in a future landscaping scheme, and ensures its implementation. Condition 2.2 provides for its future maintenance. Conditions 3.1 – 3.4 require the retention and protection of existing trees and hedges, subject to a scheme to be agreed. These conditions are necessary to ensure a good standard of development, and also to protect existing landscape features and wildlife habitats.
61. Condition 4.1 requires the provision of open space and play space, in accordance with details to be agreed. This is necessary to create a satisfactory residential environment for future occupiers.

62. Conditions 5.1 - 5.5 require the provision of various on-site and off-site highway works, including those discussed above. These are needed for reasons of highway safety. Condition 6.1 secures the implementation of the submitted Travel Plan, in the interests of promoting sustainable travel patterns and transport choices.
63. Conditions 7.1 – 7.4 secure the provision of adequate surface and foul water drainage systems, in order to ensure an appropriate standard of development and minimise flood risk. Conditions 8.1 – 8.5 require the provision of suitable noise attenuation measures where necessary, to ensure a satisfactory residential environment.
64. The suggested conditions relating to materials and parking are unnecessary, as these can be covered in the reserved matters required under Condition 1. Street lighting is covered elsewhere, in Condition 5.5. The proposed condition to close all existing accesses is not necessary, as there is only one, and that would have to be removed to construct the proposed new junction in accordance with condition 5.1. A restriction on any other new accesses is unnecessary too, because a further planning permission would be required. The proposed conditions relating to nesting birds and contamination are not needed, because these matters are controllable through other legislation; and because there is no evidence that any contamination is likely. With regard to the proposed requirement for a construction method statement, vehicle routing on the public highway is outside planning control, the control of dust and mud are subject to other legal requirements, and the site is large enough to accommodate site huts, construction vehicles and storage without controls through planning conditions.

Conclusions

65. The proposed development would result in a loss of open countryside, and some erosion of the town's landscape setting. In these respects it would conflict with Local Plan Policies SF4 and NBE8. But in view of the lack of a 5-year housing land supply, Policy SF4 is out of date, and consequently the loss of countryside on its own carries little weight. Whilst I do not accept the appellants' argument that Policy NBE8 is out of date too, the harm to the landscape would be relatively minor, for the reasons that I have given above. No other harm has been demonstrated. And, for the reasons already stated, I am satisfied that the proposed highway works would provide adequate mitigation for the likely impacts on traffic and road safety.
66. Against this, the proposed development would provide up to 200 dwellings, in an area where, despite other committed and proposed developments, the supply of housing land remains below the level required to meet the objectively assessed need. In particular, it would make a very substantial contribution to the supply of housing in the affordable sector. In the light of the NPPF's relevant housing policies, these are important benefits, to which I attach substantial weight. The development would also have significant economic benefits, which are a material planning consideration.
67. Together, it seems to me that these benefits outweigh the relatively minor harm that has been identified. And furthermore, even if a different view were taken on that particular conclusion, it seems to me that on any reasonable

basis, the harm could not be held to significantly and demonstrably outweigh the benefits.

68. In terms of sustainability, the proposed development's social and economic impacts would clearly be beneficial. The harm to the landscape would be capable of being offset by the creation of a high-quality residential environment with good living conditions. The environmental effects would thus be neutral. Overall, I conclude that the proposed scheme would meet the NPPF's aspirations for sustainable development.
69. I have taken account of all the other matters raised, but none outweighs these conclusions.
70. The appeal is therefore allowed.

John Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions (numbered 1.1 – 8.5):

1) *Reserved matters and time limits*

1.1 No development shall be commenced until details of the appearance, landscaping, layout, and scale (hereinafter called "the *reserved matters*") of the proposed development have been submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the details thus approved.

1.2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

1.3 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

2) *Landscaping works*

2.1 The landscaping works to be approved under Condition 1 shall include details of all planting and seeding, the surfacing of all hard surfaced areas, all boundary treatments, all re-grading or re-contouring of the land, and any signage and street furniture. The landscaping works thus approved shall be carried out in accordance with these approved details, and in accordance with a phased programme to be submitted to and approved in writing by the local planning authority.

2.2 All landscaped areas shall be maintained in accordance with a landscape management plan to be submitted to the local planning authority and approved in writing. Any tree or plant forming part of the approved landscaping scheme which dies, or becomes seriously damaged or diseased, or is removed for any reason, within a period of 5 years after planting, shall be replaced during the next planting season with others of similar size and species.

3) *Retention of trees and hedgerows*

3.1 No development shall take place until a tree and hedgerow retention scheme has been submitted to the local planning authority and approved in writing. The scheme shall specify which of the existing trees and hedgerows on the site are to be retained, and shall contain details of proposed measures for the protection and retention of those trees and hedgerows during construction.

3.2 These details shall include protective fencing, and such fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site, and shall remain in place until the latter have been removed from the site and the development has been completed. Nothing shall be stored or placed in any area fenced in accordance with this condition, and the ground levels within these areas shall not be altered, nor shall any excavation be made, except with the written consent of the local planning authority.

3.3 No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned, other than in accordance with the approved details. Any works which may be thus approved shall be carried out in accordance with BS 5837.

3.4 If any retained tree or hedgerow is removed, uprooted or destroyed or dies, within a period of 5 years from the date of completion of the development, replacement planting shall be carried out in accordance with details to be approved in writing by the local planning authority.

4) *Open space and play areas*

4.1 No development shall be commenced until an open space and play areas scheme has been submitted to the local planning authority and approved in writing. The scheme shall make provision for public open space and children's play, in accordance with Policy L6 of the Derbyshire Dales Local Plan (November 2005), located broadly as shown on the submitted Master Plan (plan ref. INCLA-NO213). The scheme shall also include a phased programme for the laying out and bring into use of all the proposed open space and play areas, and details of the arrangements for their future management and maintenance. The open spaces and play areas shall thereafter be implemented, managed and maintained in accordance with the details thus approved.

5) *Access and highway works*

5.1 The access to the site, and proposed footways to Old Derby Road, shall be laid out as shown on the submitted plan, Drawing No. F13148/03 (Revision A). No other development shall be carried out until the first 15m of the access road, and the whole of the associated footways, have been constructed to at least binder course level, and a timetable for the full completion of these works has been submitted to the local planning authority and approved in writing. These works shall thereafter be completed in accordance with the timetable thus approved.

5.2 No development, other than works required for the construction of the site access under Condition 5.1, shall be commenced until visibility splays of 2.4m x 43m in both directions have been created at the junction with Old Derby Road, in accordance with Drawing No. F13148/03 (Revision A). Thereafter, clear visibility shall be maintained within these splay areas, above a height of 600mm from ground level.

5.3 No more than 10 of the proposed dwellings shall be occupied until the Old Derby Road/Derby Road junction has been altered, in accordance with a detailed junction improvement scheme to be submitted to the local planning authority and approved in writing. The detailed scheme shall be broadly in accordance with the relevant details included in Drawing No. F13148/03 (Revision A).

5.4 No more than 30 of the proposed dwellings shall be occupied until the Derby Road/Sturston Road junction has been improved, in accordance with a detailed junction improvement scheme to be submitted to the local planning authority and approved in writing. The detailed scheme shall be broadly in accordance with the relevant details included in Drawing No. F13148/04.

5.5 The layout details to be submitted under Condition 1 above shall include details of all necessary on-site highway infrastructure, including access roads, turning areas, footways, street lighting and highway drainage, together with a timetable for the implementation of these works. No dwelling shall be occupied until the highway infrastructure serving that unit has been provided, in accordance with the approved details, and the relevant roads and footways finished to at least binder course level. These works shall thereafter be fully completed in accordance with the approved timetable.

6) *Travel Plan*

6.1 None of the proposed dwellings shall be occupied until the submitted Travel Plan (by Bancroft Consulting, dated January 2013) has been brought into effect, in accordance with a timetable to be submitted to the local planning authority and approved in writing. The Travel Plan shall thereafter be implemented in accordance with the approved details.

7) *Drainage works*

7.1 No development shall be commenced until a detailed scheme of foul and surface water drainage has been approved in writing by the local planning authority. The scheme shall provide for the attenuation of surface water run-off, and the disposal of

foul sewage to the public sewer network, in accordance with the general principles outlined in the submitted 'Level 2 Flood Risk Assessment' by Wallingford Hydrosolutions Ltd, dated December 2013.

7.2 The drainage scheme shall also include an assessment of the flood risks arising from the existing watercourse adjacent to the site, and any necessary measures to protect future occupiers and users of the development from any such risks.

7.3 In addition, the scheme shall also include details of how the proposed foul and surface water drainage systems will be managed and maintained throughout the lifetime of the development.

7.4 No dwelling shall be occupied until the foul and surface water drainage works to serve that dwelling have been installed and brought into use, in accordance with the details thus approved. Thereafter, the drainage systems shall be managed and maintained in accordance with the approved arrangements.

8) *Noise attenuation*

8.1 No development shall be commenced until a noise attenuation scheme has been submitted to the local planning authority and approved in writing. The scheme shall define in detail those areas of the site where attenuation is required, based on the indicative noise contours shown in the submitted Ambient Noise Assessment report by Philip Dunbavin Associates, dated November 2013.

8.2 Within the areas thus defined, the scheme shall contain details of measures, including glazing and ventilation systems and acoustic barriers, calculated to achieve the following internal and external noise levels:

Living rooms: not exceeding 35dB L_{Aeq}

Bedrooms: not exceeding 30dB L_{Aeq} / 45dB L_{Amax}

Gardens, amenity areas, play areas and open space: not exceeding 55dB L_{Aeq} .

8.3 The scheme shall also set out the arrangements for the on-going maintenance of all acoustic fencing or other acoustic barriers (including cyclical replacement where necessary), so as to ensure continuing protection to occupiers and users throughout the life of the development.

8.4 No dwelling shall be occupied unless the noise attenuation measures relevant to that dwelling, as specified in the approved scheme, have been installed or erected.

8.5 Thereafter, all acoustic fencing and other barriers shall be retained and maintained in accordance with the approved scheme..

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Brett Wilson, of Counsel Instructed by the Solicitor to the Council

He called:

Mr Paul Wilson, MCD Corporate Director for Planning Services
DipTP DipMgmt MRTPI

FOR THE APPELLANT:

Mr Jeremy Cahill, QC Instructed by Mr Tom Collins, Fisher German LLP

He called:

Mr Anthony Bateman, Pegasus Group
BA(Hons)TP MRICS
MRTPI MCMi MIOd FRSA

OTHER INTERESTED PERSONS WHO SPOKE AT THE INQUIRY:

Mrs Cherrie Broadhurst	Resident of Wyaston Road
Rev. Mark Broadhurst	Resident of Wyaston Road
Mr Alan Rogers	Resident of Old Derby Road
Mr Charles Swaby	Resident of Osmaston

DOCUMENTS

- 1 Statement of Common Ground, dated September 2014
- 2 Letter from Mrs S Maskrey, resident of Willow Meadow Road, dated 24 October 2014
- 3 Letter from Mrs Broadhurst, dated 30 October 2014 (enclosing copies of her letters relating to the Willow Meadow Farm scheme)
- 4 Letter from the Council, dated 30 October 2014, responding to the Inspector's pre-inquiry note and enclosing Docs Nos. 5-11:
- 5 Local Plan proposals map, as adopted 2005
- 6 Map of housing sites in Ashbourne, recently permitted or under consideration
- 7 Ordnance survey extract showing Peak District National Park boundary in relation to Ashbourne
- 8 Report to Corporate committee, 18 Sept 2014 re: reconsideration of decision on the appeal application
- 9 Minutes of the above
- 10 Report to council meeting, re: withdrawal of the draft Local Plan
- 11 Minutes of the above
- 12 Letter from Cllr Ian Bates, on behalf of Ashbourne Town Council, dated 7 November 2014
- 13 Email dated 10 November 2014 from Mr Stuart Green, resident of Old Derby Road, enclosing spreadsheet of traffic survey data
- 14 Opening submissions by Mr Cahill
- 15 Addendum to Mr Bateman's Appendix 25: updated housing supply tables
- 16 Report to Local Plan advisory Committee, 28 November 2012, re: draft local plan consultation
- 17 Report to Southern Planning Committee, October 2014, re: Ashbourne Airfield planning application
- 18 Report to Committee, 11 November 2014, re: Leys Farm planning application
- 19 Landscape Design associates' report on the appeal proposal, dated July 2014
- 20 Technical note by Bancroft Consultants, in response to Mr Green's traffic survey data
- 21 Drawing No F13148/04: proposed junction improvement, Derby Road/Sturston Road
- 22 Rev. Broadhurst's speaking notes, with 'Planning Resource' item re appeal decision in Wiltshire
- 23 Council's list of proposed conditions
- 24 Executed Section 106 agreement