



Appeal Decision

Hearing held on 4 September 2012

Site visit made on 4 September 2012

by Brian Cook BA(Hons) DipTP MRTPI

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

Decision date: 3 October 2012

Appeal Ref: APP/F0114/A/12/2174093

Land rear of Holly Farm, Brookside Drive, Farmborough BA2 0AX

- 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 Blue Cedar Homes against the decision of Bath & North East Somerset Council.
 - The application Ref 11/02432/OUT, dated 23 May 2011, was refused by notice dated 20 December 2011.
 - The development proposed is residential development comprising 38 dwellings with associated access, car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for residential development comprising 38 dwellings with associated access, car parking and landscaping at Land rear of Holly Farm, Brookside Drive, Farmborough BA2 0AX in accordance with the terms of the application, Ref 11/02432/OUT, dated 23 May 2011, and the application plans submitted with it subject to the conditions set out in the Schedule to this decision.

Application for costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Procedural matters

3. The application is made in outline with all matters reserved for future determination except for access. This is shown on Figure 3.1 included within the Transport Statement dated May 2011 and submitted as part of the application package. It was confirmed at the Hearing that this drawing and the undated and unnumbered plan showing the application site edged red were the only plans that I was being asked to approve; all others were submitted for illustrative purposes only.
4. Pursuant to s106 of the principal Act a Unilateral Undertaking (UU) dated 11 July 2012 has been submitted by the appellant and is complete in all respects. Under its terms all the obligations except that relating to parks and open spaces take effect as set out in section 3.1 of the document. However, as required by Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended (CIL), I consider later the extent to which each meets the tests set out therein and therefore the weight that I should attribute to each in

coming to my decision. In this regard, the Council conceded at the Hearing that it would be providing no justification for the parks and open space contribution initially sought. Mr Boyle confirmed for the appellant that in these circumstances there would be no liability for any payment in this regard under the terms of the UU.

Preliminary matters

5. The Bath and North East Somerset Draft Core Strategy (CS) is currently being examined by my colleague Simon Emerson as part of the process towards adoption. On 21 June 2012 he issued his 'preliminary conclusions on strategic matters and way forward' document. In paragraph 6 he identifies two options for the Council. One is to seek a further suspension of the examination, the second is to withdraw the CS and undertake the further work required as part of an integrated Local Plan which incorporates site allocations. The Council has yet to decide on its course of action in response to this document. However, paragraphs 7 to 12 give, in my opinion, a fairly clear steer in that they identify the extensive evidential and procedural obstacles to be overcome in progressing the submitted CS. There is no prospect of the CS being adopted in the near future and the form in which it might be is equally unclear. Having regard to paragraph 216 of the National Planning Policy Framework (NPPF) I therefore give the CS very little weight in determining this appeal.
6. In the Annex to the above document Mr Emerson sets out a comprehensive and very critical examination of the Council's entire approach to both establishing its overall housing requirement and its assessment of housing supply. As a result the Council accepted in an email to the appellant dated 30 July 2012 that in the context of the NPPF, the Council could not demonstrate a five-year supply of deliverable housing sites and that for the purposes of paragraph 47 of the NPPF the Council was a '20%' authority. In these circumstances the actual scale of what the Council now accepts is a serious shortfall in the supply of housing land does not need to be established with any precision. The fact of it is a material consideration to which I give very substantial weight in reaching my decision.
7. While the Bath & North East Somerset Local Plan (including minerals and waste policies) (LP) was adopted in October 2007, this was under the procedures in place before the Planning and Compulsory Purchase Act 2004 came into effect. It was agreed that in deciding the weight that should be given to the policies of the NPPF where the LP was not consistent with them it was the advice in paragraph 215 of the NPPF that I should follow.
8. Finally, on 6 June 2012 the Council resolved to grant planning permission for 'residential development comprising 35 dwellings with associated access, parking and landscaping (resubmission)' (ref:12/00722/OUT) (the 2012 proposal). Again, all matters apart from access are reserved for future determination so the only material difference between that proposal and the appeal development is the small reduction in the number of dwellings planned. The permission would be subject to conditions following the completion of a planning agreement under s106 of the Act and a reference to the Secretary of State of what is a departure application. I understand that there will be no intervention by the Secretary of State. The only reason that permission has not yet been issued is because the Council is insisting on a clause in the agreement to the effect that development cannot commence until there is a village shop trading. The appellant's position is that this is an unlawful

requirement. Since there is no implementable planning permission the 2012 proposal does not represent a fall back position. Nevertheless, the Council's decision is a material consideration to which I attribute very substantial weight in determining this appeal.

The principle of development at the appeal site and prematurity

Principle

9. Farmborough is surrounded by but not within the Green Belt. The appeal site is identified in the LP as being subject to saved LP policy GB.4. This policy safeguards land between the existing limits of development and the Green Belt during the period of the LP to meet the demands for development beyond 2011. In doing so the policy makes it clear that the principle of development at the appeal site is acceptable. This view is reinforced by the wording of LP paragraph C1.44 which says 'This land is safeguarded in order to provide a longer term opportunity in a village that is tightly constrained by the Green Belt'.
10. The site is also included within the Council's Strategic Housing Land Availability Assessment (SHLAA) as providing some 35 dwellings in the first five year period of the trajectory. This suggests that there is no issue with the principle of development at the site.
11. Finally, the decision in respect of the 2012 proposal settles any doubt that development of the site for housing comprising 35 dwellings is acceptable in principle.

Prematurity

12. Paragraphs B5 and B6 of *Planning Policy Guidance: Green Belts* (PPG2) set out the approach to be taken in development control policies towards safeguarded land. Included was the requirement for policies to provide that planning permission for the permanent development of safeguarded land should only be granted following a local plan review which proposes the development of particular areas of safeguarded land.
13. The position of the Council and local residents is that the development would be premature pending the consideration of the future of the site through the preparation of the Place-making Plan. As I understand it the Council's position is that the site should be treated as Green Belt pending this review and that this is what the final sentence of saved LP policy GB.4 means.
14. In my view this is not what the policy says and in the light of a recent judgement¹ that I referred to the parties it is important to be clear on this. Neither the policy nor the supporting text ties the release of safeguarded land to a review of the development plan. Moreover, the cross reference to saved LP policy GB.1 in the final sentence is actually difficult to understand since LP policy GB.1 is the key Green Belt policy, the wording of which follows closely that in paragraphs 3.2 and 3.4 of PPG2 and is repeated in all material respects in section 9 of the NPPF which replaces it. The 'very special circumstances' that the policy requires an applicant to show are the result of a balancing exercise where the harm to the Green Belt from inappropriate development and any other harm is weighed against other considerations to judge whether

¹ Tesco's Stores Limited v Dundee City Council [2012] UKSC 13

the very special circumstances necessary to justify inappropriate development in Green Belt exist. Since by definition a safeguarded site is not in the Green Belt there can be no harm to the Green Belt by reason of inappropriateness or any other reason. It is not clear therefore how an applicant could ever demonstrate the 'very special circumstances' required of LP policy GB.4 by virtue of the cross reference to LP policy GB.1.

15. Although saved by a direction issued by the Secretary of State on 15 October 2010 there is a reasonable argument that given the very specific wording of LP policy GB.4 either it no longer applies or, now that the period for which the site was safeguarded for development (beyond 2011) has arrived, the only coherent test for its release has been passed. I therefore conclude that on the correct interpretation of the wording of LP policy GB.4 the development proposed would not be premature.

Main Issues

16. Paragraph 49 of the NPPF says that where, as in this case, the Council cannot show a five-year supply of deliverable housing sites the relevant housing supply policies should not be considered up-to-date. Paragraph 14 says that in such circumstances planning permission should be granted for sustainable development (which is defined in paragraph 6 of the NPPF) unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In the light of that, I consider the main issues to be:
 - (a) Whether the appeal site would represent a sustainable location for the development proposed;
 - (b) The effect that the development would have on the safety of users of the highway; and
 - (c) The effect that the development would have on the character and appearance of the area with regard to the density of development proposed.

Reasons

Whether the appeal site would represent a sustainable location for the development proposed

17. The wording of this issue deliberately follows that of the Council in its second reason for refusal. The Council does not assert that the proposal itself would amount to unsustainable development but contends that the appeal site would be an unsustainable location. Given the presumption in the NPPF in favour of sustainable development this is an important distinction. The Council holds this view because the appeal site is outside the Housing Development Boundary (HDB). In its statement on this matter it added that the lack of a guaranteed village shop was material to its decision and at the Hearing the Council confirmed that 'guaranteed' meant trading. While it might be possible for the appellant to enable the construction of a shop unit either on the appeal site or on other land within the village, its functioning as a viable commercial enterprise would be entirely outside the appellant's control. This is therefore a wholly unreasonable requirement to which I give no further consideration.
18. Farmborough has a limited range of services and, in particular, the absence of a convenience shop is likely to generate trips out of the village. It seems to me that, as a highway authority, the Council considers Farmborough to be an

unsustainable location by definition for development that is likely to increase the number of journeys made by private vehicle. The scale of the development proposed is therefore not material to this 'in principle' position but there is a recognition that, for other planning reasons, the HDB has been defined with a presumption in favour of residential development within it.

19. This 'in principle' position of the highway authority is difficult to reconcile with saved LP policy SC.1, which classifies Farmborough as a R.1 village. The supporting text clearly refers to the concept of settlement clusters where a range of services may be shared and specifically identifies Farmborough as a village that contributes to the provision of services for village clusters. This seems to me consistent with what is said in paragraph 55 of the NPPF. The LP therefore assumes a certain amount of travel between places to access the full range of services. I accept that submitted CS policy RA1 promotes an approach closer to that articulated in the reason for refusal but, even though the Council argued at the Hearing that, with the alterations it had already proposed, Mr Emerson had found this approach to be acceptable, for the reasons given above (paragraph 5) I give very little weight to the CS.
20. It is even more difficult to reconcile with the Council's decision on the 2012 proposal. Within the report to the Development Control Committee on that application is the officer observation that (in the context of a discussion about housing supply) 'the Local Plan process established that (the appeal site) was the most sustainable site for development at Farmborough'. Compared with the development that the Council found acceptable the appeal proposal would generate, on the appellant's evidence at the Hearing, at most two additional trips at the peak travel period. This is not, in my judgement, a material difference.
21. The only evidence available to explain why the Council may have taken the view that it did on the 2012 proposal was that the provision of the village shop could be secured. I am not aware of the advice given to the Development Control Committee on this but I note that the minute includes a comment to the effect that after the meeting it became apparent that the provision of a shop could not be dealt with by condition and that it would need to be secured by way of a s106 agreement. For the reasons already set out (paragraph 8 above) this seems very unlikely to be achieved. Furthermore, the evidence given by local residents is that there is a significant difference of view between the Farmborough Community Shop Steering Committee and the Memorial Hall Committee as to whether the Hall site is a suitable location for a shop (Document 2). No other location was suggested in evidence.
22. On this issue the Council did not identify any conflict with the development plan but expressed the view that the proposal would be contrary to the aims of Planning Policy Guidance 13 *Transport*. This has been replaced, principally by section 4 of the NPPF and I see no conflict with the approach set out in paragraph 34 in particular or the policies elsewhere in the NPPF. Furthermore, I consider the proposal would be consistent with the objectives of saved LP policy SC.1 in this regard.

The effect that the development would have on the safety of users of the highway

23. It is common ground between the main parties that the proposed junction arrangement and associated visibility splays are appropriate for the form of

development proposed and that this can be secured by a condition. This issue therefore turns on the effect on parking on the surrounding roads, mainly Brookside Drive and The Street, and the use of the junction between the A39 and The Street. It should be noted that the professional advice in the report to the Development Control Committee did not raise a concern on either issue and there is no evidence that additional or contrary advice was given at the meeting.

Parking on the surrounding roads

24. On one corner of The Street and Brookside Drive is the village primary school. Brookside Drive is a relatively modern road of appropriate width but The Street is a much older highway which is quite narrow in places. The bus serving the village travels along it. Generally, there are no parking restrictions along either highway save for 'School Keep Clear' markings around the Brookside Drive/The Street junction. As with most similar situations parking spaces are at a premium at the start and finish of the school day but at other periods the extent of on-street parking varies.
25. Local residents gave very clear and in some cases passionate evidence about current conditions. They fear that the increase in traffic will exacerbate an already hazardous situation associated with the congestion caused by parked vehicles and the blocking of the roads by delivery vehicles and school transport. In particular they fear the danger to the school children that construction traffic will pose.
26. Although it may well be short term in nature, traffic associated with the development of the site is a concern. However, this is a matter that can be addressed by the Council's suggested condition 9 and any method statement approved could include restrictions on the times that delivery and other construction related vehicles can access the site so as to avoid conflict with school traffic if that was deemed appropriate.
27. I understand that both The Street and Brookside Drive are subject to an advisory 20 mph restriction in the vicinity of the school and note that parking in the manner shown in the photographs submitted by local residents in representations to the Council narrows the width of the highway to such an extent that there is likely to be a reduction in vehicle speeds as a result. However, these are the existing conditions and the issue for my consideration is whether the development itself would materially change those conditions to the extent that permission should be refused.
28. In the report to the Development Control Committee on the 2012 proposal the officers note the highway reasons for refusal of the appeal development. On this matter the advice of the officers is that the control of parking is within the gift of the Council if it was considered to cause highway safety problems and that this would not be a legitimate reason to object to the development. Insofar as there was a resolution to approve the application, this advice must have been accepted.
29. The question for this appeal then becomes 'why would an additional three dwellings materially alter the circumstances to the extent that permission for the appeal proposal should be withheld on this ground?' I have no objective evidence before me as to why the Council came to the conclusion that it did on this matter and therefore have no evidential basis to conclude that it should be.

The A39/The Street junction

30. The A39 passes generally to the west/north west of the village. Although there is some frontage development the main part of the village lies at a lower level than the A39 which might be seen by some users as a village bypass notwithstanding the 30 mph speed limit over much of its length. The geometry of the A39/The Street junction is such that vehicles joining the A39 do so from a level slightly lower than the main highway. In addition the angle is such that when exiting The Street, visibility to the right is restricted by the boundary planting of the corner property. Having made both the right turn out of this junction and the left turn into it I can appreciate why local residents consider that it has to be negotiated with care. In particular, it is difficult to understand why the double yellow lines on The Street do not extend to the entrance of the first property to prevent vehicles waiting on the junction since this compromises the available road space for turning.
31. However, I also note that the junction is at a low point on the A39 and that the junction markings are actually slightly forward onto the highway. Given that the A39 is relatively straight at this point drivers in both directions have a very clear view from height and over a very considerable distance of both the junction and any vehicles emerging from it. So, while the visibility to the right for emerging traffic may not be ideal, the visibility for the traffic being joined is very good.
32. Although local residents have provided evidence of some unrecorded incidents, it is common ground between the main parties that this junction is not a concern to the highway authority in respect of either its operational capacity or its safety record. The officers' report to the Development Control Committee makes no reference at all to this junction. As with the previous sub-issue I simply have no evidence as to why the Committee took a different view to the officers on the appeal proposal or how the reduction of three dwellings in the 2012 proposal led them to conclude that this would have a materially different effect such that permission could be granted.

Conclusion on this issue

33. On the evidence before me I have no reason to conclude that the appeal proposal would be contrary to saved LP policy T24 which addresses issues of highway safety.

The effect that the development would have on the character and appearance of the area with regard to the density of development proposed

34. Within Farmborough there is a very wide range of building styles and ages reflecting its development over time. Much of the newer development is in the form of cul-de-sac developments off the main highways and from my observation the density of development varies considerably. Brookside Drive is such a development and the further cul-de-sac development proposed would not be out of keeping with the prevailing character of the area.
35. The appeal site itself is an area of open ground bounded by hedgerows that contribute to both the character and local scale biodiversity. Since the site is safeguarded for development and the principle of residential development has been accepted its character will change markedly at some point. Paragraph 47 of the NPPF requires local planning authorities to set out their own approach to

housing density to reflect local circumstances and I believe that LP policy HG.7, which was prepared in a different national planning policy context, should be read in this light. However, paragraph 58 of the NPPF also requires planning decisions to ensure that, among other things, developments optimise the potential of a site to accommodate development.

36. The appeal proposal responds to these matters and includes illustrative plans showing how 38 dwellings might be laid out. The reserved matters proposals would have to show that this number of dwellings could be accommodated without compromising the living conditions of the occupiers of adjoining properties, by providing appropriate circulation and parking space and by providing adequate private amenity space. In this particular respect it seems unlikely to me that the recommendations of the Ecological Appraisal-Final Report dated 9 June 2010 could be achieved if the boundary hedgerows are incorporated into the private gardens rather than being part of the structural landscaping.
37. However, all these are matters reserved for future determination and I have no evidence from the Council to show why it has concluded that, as a matter of principle, 38 dwellings represents an unacceptably cramped development of the site. The development proposed would not therefore conflict with saved LP design policies D.2 and D.4 or saved LP policy T26 which controls the level of on-site servicing and parking.

Other matters

38. It would not be lawful for me to take any planning obligation into account in reaching my decision unless it meets all of the following tests:
 - (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development.
39. LP policy IMP.1 sets out the policy basis for seeking planning obligations. Document 3 was adopted in July 2009 but is envisaged as a living document updated as necessary. It sets out when the need for an obligation would be triggered, how the amount would be calculated and a general indication of where and on what the funds available under the obligation would be spent. Following the concession of the Council with regard to the parks and open space contribution there are four obligations that I need to consider.
40. Turning first to affordable housing, LP policy HG.8 states that the Council will seek to secure the provision of 35% affordable housing. Although the NPPF does not mention a particular percentage figure, in the light of Mr Emerson's conclusion that the overall provision of housing in the submitted CS is less than affordable needs alone, I see no reason why that level of provision would not meet the three tests in this case. The obligation provides for 13 affordable dwellings and I have no evidence to suggest that the detail in Schedule 2 of the UU is unacceptable to the Council. I believe the obligation meets the CIL tests set out.
41. The contribution towards youth services is calculated on the basis of the number of 13 to 19 year olds likely to occupy the development and is therefore related to properties with two or more bedrooms. Document 3 states that existing provision is sufficient only to meet the current population and there is

no evidence to suggest that this situation has changed since the SPD was adopted. The development would therefore generate a demand for services which should be met. I have no information about any particular facility that would benefit from the financial contribution offered but note that mobile provision and detached youth workers are included in the list of services that might be provided. On that basis I believe the obligation meets the CIL tests set out.

42. LP policy T.24(viii) seeks developer contributions to 'any improvements to the transport system which are required to render the development proposal acceptable...'. The explanatory text (D12.2 especially) is aspirational and invites developers to contribute to the Council's overall transportation objectives. I have little doubt that the highway contribution will assist the implementation and provision of schemes and services. However, for the reasons set out above I have concluded that the appeal site would not be an unsustainable location and that the development would not compromise highway safety. As such there would be no conflict with LP policy T24 and, in my view, the highway contribution would not therefore meet the first test of CIL Regulation 122.
43. The Council's requirement for the developer to provide a village shop derives from a particular interpretation of CS policy RA1 which, for the reasons set out, I give very little weight. The proposal would not conflict with LP policy SC.1 and the contribution towards the village shop would not meet any of the CIL Regulation 122 tests.
44. In summary therefore, having regard to the CIL Regulation 122 tests I have taken into account only the affordable housing and youth services obligations in coming to my decision.
45. Local residents have raised a significant number of concerns. Those which are planning matters include those relating to the potential for increased flooding in the area, the ability of the drainage scheme to be accommodated within the site, noise and disturbance during the construction phase, the effect on biodiversity, the effect on the public rights of way across the site and the effect on the living conditions of the occupiers of adjoining properties with regard to loss of privacy and noise and disturbance.
46. In all cases these matters will either be resolved through the submission of the reserved matter details or have been assessed by the relevant bodies and found not to be a reason for objection subject in many cases to the imposition of appropriate conditions.

Conditions

47. I have considered the conditions suggested by the Council in the light of the advice set out in Circular 11/95: *The Use of Conditions in Planning Permissions*. These were discussed at the Hearing and numbered references below are to those in the Council's suggested list. Where necessary I have amended the wording for clarity and/or to accord with the Circular advice.
48. I shall alter slightly conditions 1 and 2 and add another to define what the reserved matters are. The Council accepted that condition 3 was not necessary as other legislation prevents the obstruction of public rights of way. Conditions 4 (keeping the visibility splay at the approved junction access free of obstruction), 5 (surface water drainage scheme) and 6 (finished floor levels)

are necessary for the reasons set out by the Council and explained in my decision.

49. I agree that the boundary hedgerows are important features that should be retained but the mechanism for this is either or both the management scheme required under suggested condition 8 or as part of the landscaping schemes that will be submitted as part of the reserved matters. In this context suggested conditions 17 and 18 are not required at this stage although the protective fencing condition (19) is. Condition 7 is therefore not necessary.
50. I have already noted (paragraph 26) that Condition 9 is important. Condition 10 (materials to be used in the external surfaces of the buildings) must be unnecessary. The development cannot commence until the reserved matters have been approved and appearance is a reserved matter.
51. Conditions 11 to 14 deal with ground contamination. This was the subject of detailed study by Core Geotechnics Limited with quite clear conclusions and recommendations. The Council's Environmental Health Officer notes the report and does not criticise the methodology used or the findings in any other respect. However, suggested condition 11 would seem to require the same study to be repeated with conditions 12 and 13 flowing from any findings. I can see no justification for these conditions. I shall however impose condition 14, suitably worded, since this deals with any unforeseen contamination issues identified during development.
52. Condition 15 covers matters that can be dealt with under condition 9 and is therefore unnecessary. Condition 16 seeks the removal of permitted development rights under, in effect, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995, as amended. Through discussion it emerged that the reason was actually to prevent the over development of the site rather than the amenities of the surrounding area as stated. In that regard it was agreed that if it was to be imposed it should be extended to cover outbuildings too. However, paragraph 87 of Circular 11/95 is very clear that such conditions are unreasonable unless there is very clear evidence that they would serve a clear planning purpose. In my view there is not, particularly as layout and appearance are reserved matters and I shall not therefore impose this condition.
53. Condition 20 is needed but I shall vary the wording. In order to set the parameters for the reserved matters application(s) I believe it is necessary to establish by condition both the number of dwellings permitted and their general scale. Following the discussion I believe 'not more than 38' to be appropriate. I shall set the scale similarly with regard to the illustrative height plan submitted. It was also agreed that the watching brief condition requested by the Council's archaeologist should be imposed.
54. The application proposes that some of the dwellings that would be provided would be for retired persons. However, there is nothing in the UU that secures this and the need for a condition was discussed. I accept that the tenure and housing mix has had some influence on the obligation calculations but I have no evidence that reducing the retirement element would have a material effect. I was not directed to any development plan policy that required retirement homes to be provided or alerted to any conflict on other matters, such as highway safety, if they were not. Having regard therefore to the tests set out in the Circular I do not, on balance, feel that such a condition is necessary.

Conclusions

55. The introduction to the main issues (paragraph 16) set out the circumstances in which in this case planning permission may not be granted for sustainable development. For the reasons given above I conclude that those circumstances have not been demonstrated by the evidence. The appeal should therefore be allowed.

Brian Cook

Inspector

Richborough Estates

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 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.
- 4) Approval of the reserved matters shall ensure that no more than 38 dwellings shall be erected on the site.
- 5) Approval of the reserved matters shall ensure that no dwelling exceeds the two-storey height indicated on illustrative drawing 08.075.11, the Sketch Layout-Heights Plan.
- 6) Approval of the reserved matters shall ensure that the finished floor levels of all dwellings shall be set no lower than 300mm above the surrounding ground level.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: the undated and unnumbered drawing showing the site edged red and Figure 3.1 within the Transport Statement dated May 2011 but only in respect of those matters not reserved for later approval.
- 8) Before the access hereby approved is first brought into use the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access onto Brookside Drive and points on the carriageway edge 17m to the south and 43m to the north of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 150mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.
- 9) No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The drainage works shall be implemented in accordance with details and timetable that have been approved.
- 10) No development shall take place until a Wildlife Management and Enhancement Scheme has been submitted to and approved in writing by the local planning authority. The Scheme shall be in accordance with the submitted proposals including the letter dated 27 July 2011 from Malford Environmental Practice and shall include:
 - i) wildlife-friendly habitat management practices that shall be implemented for all native hedgerows, pond and all other wildlife habitat to include frequency, timing, locations and methods;
 - ii) the information that will be included within the homebuyers welcome pack about ecology;

- iii) details of precautionary measures and appropriate timing of works shall be incorporated into the scheme for the protection of wildlife;
- iv) details of new planting, bat and bird boxes;
- v) details of all enhancements proposed.

All works shall be carried in accordance with the approved Scheme prior to the occupation of any dwelling hereby permitted.

- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) access for construction vehicles;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vi) wheel washing facilities;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 12) No development including site works or clearance shall take place until protective fences which conform to British Standard 5837:2005 have been erected around any existing trees and hedgerows and other existing or proposed areas of landscaping in positions shown in details that have been submitted to and approved in writing by the local planning authority. Until the development has been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching with the existing ground levels maintained. There shall be no entry to the protected areas except for approved arboricultural or landscape works.
- 13) No development shall take place within the application site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The approved scheme shall provide for a controlled watching brief during ground works with provision for excavation of any significant deposits or features encountered and shall be carried out by a competent person and completed in accordance with the approved scheme of investigation.
- 14) The development shall be carried out in accordance with the recommendations and control measures set out in the ground investigation report dated 16 February 2011 and prepared by Core Geotechnics Limited. If, during the course of development, any contamination is found which has not been identified in the ground investigation report dated 16 February 2011 and prepared by Core Geotechnics Limited, additional measures for the remediation of this

source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Christopher Boyle of Counsel

Desmond Dunlop

D2 Planning Limited

Phil Tilley

Transport Planning Associates

FOR THE LOCAL PLANNING AUTHORITY:

Tessa Hampden

Planning Case Officer

Amanda Hall

Highways Officer

Richard Dayone

Policy Planning Officer

Andrew Peglar

Senior Planning Officer

INTERESTED PERSONS:

John Clay

Local resident representing other local residents

Christopher Thomas

Representing Farmborough Parish Council

DOCUMENTS

- 1 Emails dated 24 July 2012 and 3 September 2012 relating to the village shop submitted by the appellant
- 2 Community Shop Update June/July 2012 submitted by Mr Clay
- 3 Planning Obligations Supplementary Planning Document (SPD) submitted by the Council