



---

## Appeal Decision

Site visit made on 4 February 2015

**by Karen L Ridge LLB (Hons) MTPL**

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

**Decision date: 12 June 2015**

---

**Appeal Ref: APP/J1860/A/14/2217413**

**Land off Marlbank Road, Welland, Worcestershire**

- 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 Mrs Debbie Brooks against the decision of Malvern Hills District Council.
  - The application Ref. 13/01388/FUL, dated 25 October 2013, was refused by notice dated 9 April 2014.
  - The development proposed is the erection of 24 dwellings, including 12 market and 12 affordable homes on land off Marlbank Road, Welland, Worcestershire.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 24 dwellings, including 12 market and 12 affordable homes on land off Marlbank Road, Welland, Worcestershire in accordance with the planning application Ref. 13/01388/FUL, dated 25 October 2013 and subject to the conditions in the schedule at the end of this decision.

### Preliminary matters

2. A unilateral undertaking made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal (hereafter referred to as the Unilateral Undertaking). The Unilateral Undertaking secures the on-site provision of 12 affordable homes and the provision of open space on-site. In addition it contains a mechanism for payments in relation to the Worcester Transport Strategy, an education contribution and a recreation contribution.
3. Following the site visit I requested that further representations be sought from the parties in relation to the implications of regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010. I have received those representations and have had regard to them in my determination.

### Main issues

4. The appeal site is located within the Malvern Hills Area of Outstanding Natural Beauty (AONB) and the main issues are as follows:
  - (i) whether or not the proposed housing would be in an acceptable location having regard to development plan and national policies and other material considerations; and

- (ii) whether or not provision is required in relation to education facilities, open space, sport and recreation provision, sustainable transport and management and maintenance of the open space.

## Reasons

### The first main issue: the location of development

5. The appeal site is located in the open countryside but adjacent to the settlement boundary of Welland and in the AONB. The appeal scheme is a mixed one, in that it comprises 12 affordable homes and 12 open market homes. The proposal has been put forward on the basis that the market housing will subsidise the affordable housing on the site and therefore the scheme falls to be considered as a Rural Exceptions Site. As such there are a number of policy tests which are relevant to the proposal.
6. The development plan for the area containing the appeal site includes saved policies from the Malvern Hills District Local Plan (LP). In addition there is an emerging South Worcestershire Development Plan (SWDP) which has been considered at Stage 1 of an examination process. The National Planning Policy Framework (the Framework) is, of course, a material consideration of significant weight.  
*Five year housing land supply*
7. The Framework seeks to boost significantly the supply of housing and states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years supply of housing against their housing requirements (the 5-year HLS). Paragraph 49 of the Framework provides that housing proposals should be considered in the context of the presumption in favour of sustainable development.
8. The Framework further states that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites. It is accepted by the Council that it does not have a 5-year HLS. The Council have previously indicated that the current supply of housing land stands at around 3.36 years but the appellants believe that the position is worse than this. It is sufficient to note that the Council does not have a 5-year HLS and this weighs in favour of the proposal. It also follows that relevant development plan policies for the supply of housing should not be considered up-to-date.
9. In rural settlements LP policy DS11 seeks to direct new development to meet local needs to category 1 and then category 2 settlements. LP policy DS12 restricts new housing within category 1 settlements to certain categories which include affordable housing (in accordance with policy CN3) either within or adjacent to the settlement boundary. LP policy DS14 seeks to limit housing in the open countryside other than in specified circumstances, which includes affordable housing on an exception site. LP saved policy CN3 specifically deals with housing on rural exception sites.
10. Given the lack of a 5-year HLS, to the extent that the above LP plan policies are concerned with the supply of housing, they fall within the scope of paragraph 49 of the Framework and should be treated as being out of date.

*Rural exception sites*

11. The proposal will be in conformity with LP policies DS12 and DS14 if it can be shown to fall within the terms set out for rural exception sites in policy CN3.
12. Policy CN3 provides that, in exceptional cases, affordable housing development may come forward on sites which would not otherwise be released provided that a local need is proven, the site is within or adjacent to a category 1-3 settlement and that arrangements are in place to secure the affordable housing elements. The second and third requirements are not at issue between the parties. The question of whether or not there is a current unmet local need for affordable housing is a live issue between the parties.
13. Policy SWDP16 of the emerging plan deals with rural exception sites and sets out a number of criteria to be applied. It provides that in exceptional circumstances affordable housing development will be permitted on small sites, beyond, but adjacent to, development boundaries to meet identified needs. If viability is affected then the policy is permissive of cross-subsidy from market housing. In all cases the following will need to be proven: a local unmet need; the lack of suitable, available other sites within the settlement boundary; the site will need to be 'reasonably sustainable' and arrangements will need to be in place to secure the affordable housing provision. In view of its progression I attach moderate weight to this policy.
14. Paragraph 54 of the Framework also concerns rural exception sites and states that consideration should be given to the question of allowing some market housing which would facilitate affordable housing provision. To the extent that policy CN3 is at variance with this more recent national policy in terms of the issue of cross-subsidy, I attach more weight to the provisions of the Framework which allows affordable housing to be subsidised by market housing. I further note that the Council accept the appellant's evidence that the market housing is required in this scheme to subsidise the affordable housing element.

*Policy CN3: is there a local need?*

15. A local survey of housing needs was carried out for the appellant. This indicated a need for 12 affordable units within Welland and the appellant has produced the Unilateral Undertaking which would secure the affordable housing provision. Whilst the Parish Council and others have questioned the findings of the survey, it was carried out a reputable organisation and the Council's Housing Outcomes Manager was content that it provided evidence of the local housing need at the time the Council determined the application.
16. The survey is consistent with the overall borough wide requirement for affordable housing and I have no reason to doubt its findings. The Worcestershire SHMA of February 2012 identified a requirement for an additional 127 units of social rented housing and 4 intermediate housing units on an annual basis for 5 years.
17. In the meantime however there have been other developments which have come forward in Welland. In particular reserved matters approval has now been secured in relation to an outline planning permission for 30 dwellings on land at Drake Street. This proposal will result in the provision of 12 affordable homes, of which 80% will be social rented properties and 20% will be shared ownership properties. The appellant contends that the mix and type of the properties does not match the requirements outlined in the needs survey. In

any event they point out that the Council's Housing Officer has previously stated that the local need was likely to be greater than the 12 dwellings identified in the survey.

18. In addition there is also a planning permission for up to 50 homes on land at Lawn Farm, Drake Street which was granted on appeal<sup>1</sup>. This scheme appears to include provision for 40% of the houses to be affordable homes. If both of the above schemes are built out, then affordable housing in the order of 32 additional homes would result. Given that both applications have been progressed by the respective developers there appears to be nothing to indicate that these developments will not come forward. As such it would appear that the local need for affordable housing, as evidenced by the appellant's survey, would be more than met. Therefore the requirements of policy CN3 and the LP policies referencing CN3, as well as emerging policy SWDP 16, have not been met.
19. That is not the end of the story however. I have found that policies CN3, DS12 and DS14 are policies which are concerned with the supply of housing and pursuant to paragraph 49 of the Framework they should not be considered up-to-date. Therefore the harm in relation to policy objectives designed to restrict development in the open countryside is reduced by virtue of this factor.

*The AONB*

20. In terms of the AONB classification, the site is some 200 metres within the eastern boundary of the AONB. The Framework requires that great weight is given to conserving landscape and scenic beauty in AONBs and that permission for 'major developments' in these areas should be refused other than in exceptional circumstances and where it can be demonstrated that they are in the public interest. There is a dispute between the parties as to whether or not the proposal constitutes 'major development' which I shall first resolve before going on to consider the effect of the scheme on the landscape and scenic beauty of the AONB.

*'Major Development'*

21. I am assisted in this regard by Counsels Opinions provided by both parties and by another appeal decision relating to land at Highfield Farm, Tetbury<sup>2</sup>. There is no definition of 'major development' within the Framework. It is established legal principle that the question of whether a development constitutes 'major development' in the AONB is a matter of planning judgment for the decision maker. I must therefore make my own assessment, on the basis of the particular facts and circumstances of this case.
22. The proposal would result in the introduction of 24 new houses on the edge of the village boundary. The site is nestled between existing development and it is close to the crossroads in the village, in the foothills of the AONB. Having regard to the existing size of the village and the scale of the proposed development, as well as its location within the village and its location in the AONB, I conclude that this would not constitute major development when looked at either in the context of the village or in the context of the wider AONB. It is not therefore necessary for the appellant to demonstrate exceptional circumstances and public interest.

---

<sup>1</sup> Appeal decision reference APP/J1860/A/13/2197037 dated 20 January 2014.

<sup>2</sup> Appeal reference: APP/F1640/A/11/2165778

23. However, it remains important to assess the effect of the housing on the landscape and scenic beauty of the AONB and to give great weight to its conservation in accordance with paragraph 115 of the Framework. In addition, emerging policy SWDP 23 seeks to protect the natural beauty of the AONB. It confirms that development within or affecting the setting of the AONB which would adversely affect its natural beauty will not be permitted and that development must complement and enhance the special qualities of the landscape.
24. Emerging policy SWDP 25 is a more general policy directed at ensuring that development proposals take full account of landscape character and seeks to ensure that development integrates into the landscape setting. Similarly, saved LP policies DS2, DS3 and QL1 all confirm that development should relate well to its setting.
25. The Malvern Hills AONB Management Plan also seeks to conserve and enhance the natural landscape, including distinctive landscape elements and features and the historic and cultural environment. It confirms that the site is in an area referred to as the Enclosed Commons landscape type which is characterised by gently rolling land, with structured fields patterns and an open landscape, with views through scattered hedgerow trees.
26. As a settlement straddling the AONB boundary, the village of Welland makes a contribution to the historic character of the AONB and provides local distinctiveness. Whilst the site is located outside the settlement boundary, it is bounded by development on its western boundary and it sits adjacent to the road on its short southern boundary. It is framed on its eastern boundary by an established hedgerow and development beyond, including Welland Pavillion and a playing field. Some of the surrounding development is distinctly modern and the built development within Welland comprises a mix of older and newer building styles.
27. The site is low lying with a gentle slope up from the highway into the site. It is an agricultural green field forming an integral part of the foothills of the Malvern Hills. As such it makes a contribution to the setting and natural beauty of the AONB. In its wider context the site sits on the eastern side of the Malvern Hills at the edge of the flatter lands as they transition into the steeper slopes of the hills. It is close to the junction of a main road running north to south and its junction with the A4104 which runs past the site towards the hills.
28. Landscape effects: Whilst the houses would be modern with red multi brick and grey tiles, the layout is such that the houses would form a loose arrangement within the site. The development would result in the loss of a greenfield site but it would not cause material disruption to the geometric field patterns. Its position on lower land and the loose arrangement of dwellings would also result in the development mimicking the open character of the area. Overall I conclude that there would be limited harm to landscape character in this part of the AONB.
29. In terms of its effect upon the character of the settlement, it would extend the built development. However, I consider that the houses, in terms of their form and location, would not be out of kilter with the prevailing form of development in the village. The new houses would be assimilated to a reasonable degree within the village and would read as a logical extension of the existing built up

- area. The development would have a limited effect upon the character of the village.
30. The two developments on Drake Street have already been approved and as I have already said, there is no reason to suppose that they will not proceed. These developments are outside the AONB boundary and to the east of the B4208. They will result in the loss of agricultural land and an extension of the village to the east. Whilst development of the appeal site would add to the built development in the village, it would not generally be seen in the context of the other two sites. The village would retain its character as that of a scattered village within and on the outskirts of the AONB.
31. Visual effects: the site is low lying in terms of its position relative to the two roads. This location of the site and the existing and proposed hedgerow planting would serve to limit the visual effects of the development. I note that some of the existing planting may be outside the site and some may even be at the end of its lifespan. However an appropriate landscaping scheme would do much to supplement existing planting and to soften the effect of built development.
32. The houses would be visible from the area immediately surrounding the site and from the A 4104 highway. It would also be visible from the green adjacent to the A 4104 spur and from a short section of the B4208. Local residents would have limited views of the development which would be assimilated into the existing village.
33. Tourists and others passing through the settlement would be conscious of the houses for a limited amount of time and the houses would be viewed in the context of the wider settlement and adjoining development. In longer distance views, the site may be seen as part of the wider landscape from higher vantage points further inside the AONB but it would be seen as a modest extension to the existing built development. In addition suitable landscaping and boundary treatments would further soften the development. For these reasons I conclude that the development would have a limited visual effect.
34. Overall I conclude that the effect of the proposal on the landscape and scenic beauty of the AONB would be limited. As such it would be contrary to policy objectives which seek to conserve the natural landscape and beauty of the AONB and to which I must attribute great weight.

*Other material considerations relating to the location of development*

35. The appellant relies on a number of factors in support of the contention that there are reasons to justify the proposal. One of the factors is the lack of a 5-year HLS. Reliance is also placed on the general need for affordable housing and on the presumption in favour of sustainable development.
36. At this point I further note that LP policies CN3, DS 11 and DS12 are all concerned with the supply of housing. I have already found that greater weight should be given to the national policy in relation to the issue of cross-subsidy but I also record that the lack of a 5-year HLS means that these policies should be treated as out of date. To the extent that the proposal is not in conformity with certain aspects of these particular policies, this factor further reduces the harm to be afforded to this lack of conformity.
37. General requirement for affordable housing: LP policy CN2 requires an affordable housing component of up to 50% of the dwellings on housing sites in

rural areas comprising five dwellings or more. Based upon more recent viability evidence, this requirement has been adjusted to 40% requirement in the emerging SWDP policy SWDP 15. In any event the proposal makes a 50% level of provision of affordable housing in conformity with local policy. Whilst I have found that the local needs would appear to have been satisfied, the borough wide need remains and this site would make a valuable contribution to that need.

38. The presumption in favour of sustainable development: The Framework seeks to promote sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of local communities. It goes on to confirm that there are three dimensions to sustainable development: economic, social and environmental.
39. In terms of economic considerations, the proposal would result in the provision of construction work and would bring additional occupants to the rural area to support services in the local villages. There would also be social benefits with the provision of affordable housing in a district which is in need of such provision. It would also contribute market housing in a district where there is a serious shortfall. In addition the housing would contribute towards the vitality and viability of services in the settlement.
40. The Council confirms that Welland is considered to be a sustainable settlement, having relatively good public transport links and a reasonable level of public services. The site is located close to amenities and within a short distance of the village centre. The proposal would also result in the provision of market housing, as well as affordable housing, in an accessible location, adjacent to a settlement.
41. In terms of environmental factors, the proposal would result in the loss of a greenfield site, in the open countryside in an area designated as AONB. I have set out the limited harm to landscape character and to the AONB. I shall return to all of these matters in my overall conclusions.

**The second main issue: education and recreation contributions and other contributions**

42. The Framework sets out policy tests for planning obligations; obligations must be necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. The same tests are enshrined in the statutory tests set out in the regulation 122 of the CIL regulations.
43. Saved LP policy DS18 entitled 'Planning Obligations' confirms that development proposals will only be permitted where, in the absence of services and infrastructure to meet the needs of the development, provision is secured. The requirement for affordable housing is detailed in LP policy CN2 set out above. LP policy CN12 sets out detailed requirements for the provision of public open space. A series of Supplementary Planning Guidance and Documents<sup>3</sup> provide further detailed guidance on requirements for education, open space and recreation provision.

---

<sup>3</sup> Open Space Supplementary Planning Document (SPD) August 2008  
Affordable Housing in Malvern Hills Supplementary Planning Guidance June 2004 (SPG)  
Malvern Hills District Council Education Contributions Supplementary Planning Document

44. In its committee report the Council confirm that an open book assessment had been undertaken to ascertain the level of financial contributions which the development could make before viability was affected. The report confirmed that in light of the viability appraisal, officers had accepted that a reduced level of contributions was appropriate. The report records that the level was reduced from £378,032 to £118,484.
45. The Unilateral Undertaking secures the on-site provision of 12 affordable homes and on-site open space. In addition it contains a mechanism for the payment of £9,935.21 towards the Worcester Transport Strategy Contribution; an education contribution of £41,624 and a recreation contribution of £66,916.00. The education and recreation contributions are fixed at those sums if the development is completed within 24 months of the date of permission. If not completed within this time there is a mechanism for the submission of a viability assessment and recalculation of the figures.
46. The Council's appeal statement states that the proposal would be unacceptable in the absence of a unilateral or bilateral agreement to secure the infrastructure measures. It further confirms that reduced sums in relation to open space and education contributions were deemed to be acceptable by officers on the basis of the submitted viability evidence. However the Council contend that the deficit in terms of the open space and education contributions was only justified on the basis that the affordable housing component could not be delivered by any other means. Given the recent planning permissions granted in relation to the Drake Street case, the Council argues that this is not the case any longer.
47. In its committee report the point was made that this proposal must be determined on its own merits and that it is not a case of seeing if there are any other more suitable sites to meet the affordable housing need. This appeal is not a comparative exercise but rather an assessment as to whether or not the proposal is acceptable having regard to development plan policies and all other material considerations. Given that the Council have already accepted the viability evidence and accepted that the development could not sustain higher levels of contributions I shall accept this position. I do however have to bear in mind that the proposal would not meet the full costs of its effects upon education and open space facilities in the area and this weighs in the balance against it.
48. One final issue between the parties relates to a restriction on the Trustees liability within the Unilateral Undertaking. In this case the clause was inserted because the trustees are professional trustees and it was done at the request of the owner of the land in order to limit the personal exposure of the trustees. I note that this situation is analogous to the director of a company which had entered into such an agreement would not be personally liable. In any event I note that the financial payments are to be made on or before the occupation of the eighth dwelling which should provide a sufficient safeguard in terms of payment of the monies. The affordable housing and public open space is on-site. I agree that the clause is reasonable in this instance.
49. I shall now turn to examine whether the contributions meet the policy and statutory tests. The affordable housing requirement and on-site open space requirements are set out in the Council's LP policies and the proposal is in conformity with these. As such I am satisfied that these elements pass the tests set out in the Framework.



50. On the information available and having regard to the Worcester Transport Strategy (WTS) contribution I am satisfied that the contribution is necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. As such it passes the tests set out in the Framework as well as regulation 122 of the CIL regulations. However, in its most recent representation the Council confirms that the WTS is an umbrella strategy and that there have been more than 5 obligations securing funding for the WTS since 6 April 2010. Whilst the Council endeavours to particularise the contribution in this appeal to refer to improvements to a particular section of the Worcester Southern Link Road, the request was for contributions to the WTS and that is what is specified in the Unilateral Undertaking.
51. Given that more than 5 obligations have been entered into since the operative date, regulation 123 of the CIL Regulations provides that such a contribution can no longer constitute a reason for granting planning permission. I cannot therefore give it any weight in my decision making.
52. The education contribution relates to Welland Primary School and Hanley Castle High School. Again, having regard to the evidence and the Council's SPD on Education Contributions I am satisfied that the contribution meets the Framework and statutory tests. However, the Council confirms that there have been only two pooled contributions in relation to the primary school but 7 pooled contributions in relation to the High School. Therefore, in accordance with regulation 123, I can only give weight to that element of the education contribution which relates to the Primary School and must disregard the element in relation to the High School.
53. The recreation contribution was requested towards supporting indoor and outdoor sports facilities at The Hill Centre given that it was considered that the development would place additional pressures on these facilities. Again given the evidence at application stage and the Council's SPD on Open space I am satisfied that the contribution meets the tests in the Framework and regulation 122. The Council has confirmed that only two agreements are in place regarding The Hill Centre, although I note they have been requested in other consultation responses. As such I am satisfied that it would be acceptable to take the recreation contribution into account in my decision making.
54. Having regard to the question of viability I am satisfied that the proposal makes sufficient provision in relation to affordable housing, open space and recreation matters. I cannot take the WTS contribution into account and must also disregard that part of the education contribution which relates to the High School. Due to the reduced contributions I bear in mind that the contributions made would only address part of the effects of development on local infrastructure and facilities in terms of education and open space.

### **Other matters**

55. The Parish Council has objected to the proposal citing a number of concerns, some of which I have already addressed. A further concern related to the risk of flooding on the site and the capacity of the foul drainage system. A Flood Risk Assessment and Drainage Strategy accompanied the application and set out measures to address such concerns. It is proposed that a sustainable drainage system is used together with tanked storage to accept surface water runoff from the site access roads. There have been no objections from the

relevant statutory consultees and, subject to conditions to secure appropriate measures, I conclude that these matters could be acceptably addressed.

56. In terms of the proposed access to the site, there is clear visibility on either side of the access. A Transport Statement was submitted with the application, setting out the trip rate of the development. I have no reason to believe that the likely vehicular movements associated with the development could not be safely accommodated on the local road network. There is no objection from the Highways Authority and no other substantive evidence before me to suggest that the access is unacceptable.
57. Concerns about noise and disturbance during the construction period could be addressed by the imposition of a condition controlling the hours of working. I have also seen concerns from adjoining residents about the effect of the proposed houses on their living conditions in terms of overlooking and privacy. I am satisfied that there would be sufficient separation distance between the houses and existing properties so as to not materially harm the living conditions of current occupiers.

### **Overall conclusions**

58. Taking all of the above matters into account I conclude that, on balance, the proposal would represent sustainable development. As such the presumption in favour of sustainable development set out in paragraph 14 of the Framework comes into play. This provides that where relevant policies are out of date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework policies as a whole OR where specific policies (such as AONB policies) indicate that development should be restricted.
59. The overall benefits of the proposed development in terms of the provision of both affordable housing and market housing in the face of a district wide need and a series shortfall in housing decisively outweigh the conflict with development plan policies and all other material considerations, including the limited harm that would be caused to the AONB, the introduction of new dwellings in the open countryside and the reduced contributions to existing facilities and services. It follows that the appeal should be allowed.

### **Conditions**

60. The Council has suggested conditions which I have considered in light of the National Planning Practice Guidance. I am revised some of the conditions in the interests of clarity and enforceability. (The numbers in brackets refer to the conditions as numbered on the Council's committee report.)
61. In the interests of good planning it is necessary to impose conditions setting out time limits for development (1) and to relate development to the submitted plans (2). It is necessary to control matters during the construction and demolition periods and the hours of operation (3 and 22). I have reduced the hours of construction to protect the living conditions of adjoining residents.
62. It is necessary to control the finished floor levels (4) and the external materials of the houses (5) as well as landscaping of the site (6) and protection of trees on the site during construction works and for a period of 5 years (7, 12 and 13). I have removed the reference in condition (6) to tree branches on adjacent land since this will be outside the control of the appellant. Due to the

location within the AONB it is important to control boundary treatment both within and on the edge of the site (8) as well as hard surfacing (11).

63. I shall also impose conditions relating to remediation and requiring a drainage scheme to be approved in the interests of a satisfactory development (9 and 10). I agree that it is necessary to seek measures to improve biodiversity (14). In the interests of highway safety it is necessary to secure visibility splays at the access to the site and to make sure that parking areas are available (15 and 16) and to secure internal highway and drainage works (19 and 20). Given that these are individual houses, many of which have integral garages I do not consider it necessary to require secure cycle parking facilities to be provided (17).
64. A grampian condition needs to be imposed to secure off-site highway works which are necessary to improve pedestrian and highway safety (18). To promote sustainable travel it is necessary to require a travel plan (21). To promote home working I shall impose a condition relating to the provision of broadband facilities and to improve air quality I shall require details of sustainability measures (23 and 24).

*Karen L Ridge*

INSPECTOR

Richborough Estates

## SCHEDULE OF CONDITIONS ATTACHED TO PLANNING PERMISSION

- 1) The development hereby approved shall commence within three years from the date of this decision.
- 2) The development hereby approved shall be carried out in total accordance with the following plans:
  - Site layout plan- D01 revision W
  - Elevations, section and floor plans- House Type A- plan D03 revision D
  - Elevations and floor plans- House Type G- plan D05 revision F
  - Elevations and floor plans- House Type H- plan D06 revision E
  - Elevations and floor plans- House Type K- plan D10 revision E
  - Elevations and floor plans- House Type L and L1- plan D11 revision D
  - Elevations and floor plans- House Type N- plan D12 revision C
  - Elevations and floor plans- House Type N1- plan D13 revision C
  - Topographical survey- plan D50
  - Preliminary drainage scheme- plan C01 revision B
  - Street elevations and site plan – D20
- 3) No construction/demolition or ground works or deliveries associated with the development shall take place outside the following hours: 0730 to 1800 hours on Mondays to Fridays and 0900 to 1400 hours on Saturdays. There shall be no such work on Sundays or Public or Bank Holidays.
- 4) Prior to the commencement of the development hereby approved, a detailed plan showing the levels of the existing site and the precise floor slab levels of each new dwelling, relative to existing development outside the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) Notwithstanding details shown on the approved plans, prior to the commencement of development samples and trade descriptions of the external materials of be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 6) No development shall commence until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of the following:
  - all existing trees and hedgerows on site (including details of location, canopy spread, species and proposed pruning/felling and changes in ground levels);
  - a plan showing the layout of proposed tree, hedge, shrub planting as well as grassed areas;

- a proposed planting schedule including details of species, sizes, numbers and densities
- a written specification setting out cultivation and other operations associated with plant and grass establishment and a schedule of maintenance for a period of 5 years from the date of planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation of the development, whichever is the sooner.

If within a period of 5 years from the date of the planting of any tree or plant planted pursuant to the landscaping scheme, that tree or plant is removed, uprooted, or destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

- 7) All existing trees and hedges on site (other than those indicated on the approved plan as to be removed) shall be retained and shall not be felled or pruned or otherwise removed within a period of five years from the completion of development without the prior written consent of the Local Planning Authority.

Prior to any works of construction or demolition or the brining on site of materials temporary fencing shall be erected for the protection of all retained trees and hedgerows and such fencing shall be retained throughout the period of construction. It shall be erected to a minimum height of 1.2 metres, below the outermost limit of the branch spread or at a distance equal to half the height of the protected tree, whichever is further from the tree. Nothing shall be stored within the area protected by the fencing and ground levels within this area shall not be altered. There shall be no burning of materials within 10 metres of the extent of the canopy of any retained tree/hedge. All works shall be carried out in accordance with BS 5837:2005 *Trees in Relation to Construction- Recommendations*.

If any retained tree or hedge is removed, uprooted or destroyed or dies, replacement planting shall be carried out in the first available planting season of such species, sizes and numbers and in positions on site to replace that which has been lost.

- 8) Prior to the commencement of development details of all boundary treatments within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a plan (minimum scale 1:500) detailing the position of all proposed boundary treatments throughout the site. The approved boundary treatment shall be erected/planted before the development is first brought into use and permanently retained thereafter.

Notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification no boundary treatments shall be erected other than those already approved in writing by the Local Planning Authority in accordance with this condition.

- 9) No development shall be commenced until a drainage scheme for foul and surface water drainage of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon sustainable drainage principles and an assessment of the hydrological and hydrogeological conditions of the site and shall include timescales for the scheme's implementation, completion and future maintenance. The approved scheme shall thereafter be implemented in full and completed prior to any dwelling being first occupied. The completed approved foul and surface water drainage scheme shall thereafter be retained at all times in the future and managed and maintained in accordance with the approved scheme.
- 10) No development shall take place until the site has been subject to a preliminary risk assessment as to possible contamination in the form of a Phase 1 desk study. The risk assessment must be approved in writing by the Local Planning Authority before development commences.

In the event that an unacceptable risk is identified a detailed scheme for the investigation and recording of contamination of the land and risks to the development, its future uses and surrounding environment. A detailed written report on the findings, including proposals and a programme for the remediation of any contaminated shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the commencement of development any necessary remediation works shall be carried out and a validation report shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved proposals and programme. The remediation scheme must ensure that the site not qualify as contaminated land under Part 2A Environmental Protection Act 1990 in relation to its intended use.

If, during the course of development, further evidence of any type relating to other contamination is revealed, work at the location will cease until such contamination is investigated and remediation measures approved in writing by the Local Planning Authority have been carried out. Any further contamination will be reported to the Local Planning Authority in writing within 48 hours.

- 11) Prior to the commencement of development details of the materials to be used for all hard surfaced and turning areas within the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 12) Prior to the commencement of development a specification (including methodology and programme for implementation) for the enhancement of biodiversity within the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 13) Prior to the commencement of construction or other works, visibility splays shall be provided at the junction of the site entrance and the A4104 from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway, measured perpendicularly for a distance of 49 metres in a westerly direction and 41 metres in an easterly direction. Nothing shall be planted, erected and/or allowed to grow on the triangular splay so formed.

- 14) Prior to first occupation of any dwelling hereby approved, space shall be laid out within the curtilage of that dwelling for car parking and vehicular turning facilities to accord with the Council's standards to enable vehicles to park and turn so that they may enter and leave the development site in a forward gear. The parking and turning areas shall be properly consolidated, surfaced and drained in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. These areas shall not be used for any purpose other than the parking of vehicles.
- 15) No development shall take place until a scheme (including a timescale for implementation) for works required to widen the footway to the east of the site entrance and other associated works have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the improvement works have been completed in accordance with the approved details.
- 16) Development shall not commence until engineering details and specifications relating to the internal roads and highway drains and the roadworks to provide access from the nearest publicly maintained highway have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the works have been completed in accordance with the approved details.
- 17) The development hereby permitted shall not be occupied until Travel Plan documents have been submitted to, and approved in writing by, the Local Planning Authority. The Travel Plan shall promote sustainable forms of access to the site and will be implemented and updated in agreement with Worcestershire County Council's Travel Plan Co-ordinator. The Travel Plan will include provision for a Welcome Pack to all residents upon occupation together with a local walk and cycle map showing links to key services as well as the location of bus stops and bus timetables.
- 18) Prior to the commencement of any development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. Such a plan shall include details of the following:-
  - construction vehicle parking and workers parking
  - off-street parking provision for the delivery of plant and materials
  - wheel washing facilities
  - signage arrangements
  - compound locations including the location of site operative facilities
  - means to prevent mud being deposited on the highway

Development shall thereafter only be carried out in accordance with the approved CEMP, unless any variation to it is otherwise first agreed in writing by the Local Planning Authority.

- 19) Prior to the commencement of development hereby permitted, details of the proposed utilities connections to the dwellings to facilitate super-fast broadband connectivity shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 20) Prior to the commencement of development hereby permitted, details of sustainability measures (energy, waste, recycling and water management)

to be incorporated into the units shall be submitted to and approved in writing by the Local Planning Authority. The details shall include specification for Ultra-Low NO<sub>x</sub> boilers in each dwelling and electric vehicle charging points in 10% of the allocated parking spaces. Development shall be carried out in accordance with the approved details.

END OF CONDITIONS

Richborough Estates