



Appeal Decision

Inquiry held on 22-24 May 2012

Site visit made on 1 June 2012

by Susan Holland MA DipTP MRTPI

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

Decision date: 23 August 2012

Appeal Ref: APP/H1033/A/11/2159038

Land at Manchester Road/Crossings Road, Chapel-en-le-Frith, High Peak, Derbyshire SK23 9TP

- 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 Barratt Homes against the decision of High Peak Borough Council.
 - The application Ref HPK/2011/0282, dated 26 May 2011, was refused by notice dated 25 August 2011.
 - The development proposed is residential development.
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Procedural Matters

1. The application is in outline, but includes access and also landscaping specifically of the perimeter area of the site. All other matters, including landscaping within the main body of the site, are reserved for future determination. The submitted site layout is illustrative only, indicating a form of development of 105 dwellings.
2. After the date of the Council's decision, but several months before the Inquiry, a Design and Access Statement (DAS) Addendum, including a number of revised plans, was submitted as an appeal document. The DAS Addendum plans include an amended indicative site layout and a revised perimeter landscaping scheme. An updated flood risk assessment addressing Sustainable Urban Drainage (SUDS) issues is included in the DAS Addendum. Well in advance of the Inquiry, the Appellant carried out consultation on the revised plans and documents: with statutory consultees, with residents (in this case by leaflet) who commented on the planning application, via a website, and by making hard copies available for public view at various public locations. Though some objectors criticise the level of consultation, I consider that sufficient has been done to avoid the possibility of any prejudice to statutory bodies or to members of the public. This decision is therefore based upon the plans as amended. A comprehensive combined list of application plans including those which have been amended (as also contained in Document 2) is set out at Annex B to this decision.

Decision

3. I allow the appeal, and grant planning permission for residential development on land at Manchester Road/crossings Road, Chapel-en-le-Frith, High Peak, Derbyshire SK23 9TP in accordance with the terms of the application, Ref HPK/2011/0282, dated 26 May 2011, subject to the conditions set out in Annex A to this decision.

Main Issues

4. The main issues are the effects of the proposed development (a) upon the housing supply and (b) upon the character and appearance of the surrounding area.

Reasons

Background

5. The appeal site is formed from 2 open fields, bounded by hedges on all sides, aligned from north to south, and measuring about 3.6 hectares. To the west and north-west the appeal site adjoins open grazing land rising to Eccles Pike. To the south-west and north-east, residential properties lie immediately beyond the site: these extend along the B5470 Manchester Road and along Crossings Road, to which the site has a partial frontage at its north-eastern end. The principal access to the proposed development would be taken from Manchester Road, using vacant ground between the Police Station and the existing house at No.88a. The built-up area of Chapel-en-le-Frith is concentrated to the east and south of the site, with a ribbon of frontage development extending westwards along the Manchester Road.

Issue (a): Housing Supply

Local Plan Policy H1

6. The High Peak Borough Local Plan (LP) was adopted in March 2005. Housing policy of the Local Plan is based upon the then government guidance of PPG3 and upon the housing figures of the Derbyshire Structure Plan, and *seeks only to identify sufficient land to meet the housing requirements set by the Structure Plan*. There was at that time a *significant risk of house-building exceeding the Structure Plan provision ... in 2 out of 3 of the High Peak sub-areas* (including the Central area in which Chapel-en-le-Frith is located) (LP ¶7.12). LP Policy H1 *[gives] priority to the redevelopment of previously developed land in built up areas [and to] conversions and subdivision of existing urban buildings*. Accordingly, H1 states that *residential development on greenfield land (including renewals) will not be permitted* (subject to specific exceptions which do not include the appeal proposal) and states also that *where an adequate supply of housing exists within a sub-area to meet the Structure Plan housing provision, new residential development will only be permitted where it falls within one of the exceptional categories listed ... above*.
7. LP Policy H1 was saved by Secretary of State Direction in 2007. By this time government guidance on housing was contained in PPS3. Though agreeing to extend the saving of Policy H1, the Secretary of State in a letter dated 26 March 2008 to High Peak Borough Council expressed concern that *the approach to managing the supply of housing in Policy H1 is not consistent with the approach to managing and delivering a supply of land for housing as set out in PPS3*, and urged the Council to *prioritise the preparation of the Core Strategy DPD*. It has to be assumed that the level of restraint imposed by Policy H1 remained appropriate in the circumstances of housing land availability at that time.
8. The East Midlands Regional Spatial Strategy (RSS) was adopted in 2009. The RSS increased the housing requirement from 250 dwellings per annum (dpa) to 300 dpa, backdated to 2006. The Council's Interim Housing Policy Statement of 2009 states that *Policy H1 should now have regard to the RSS in place of the Structure Plan*, pending adoption of the Core Strategy, then expected for 2011.

The Secretary of State has signalled the intention to revoke RSS but the position at the time of writing is that RSS has not yet been revoked, and a Core Strategy has not been adopted (its preparation having now been abandoned).

The 5-year Housing Land Supply

9. The Council's Annual Monitoring Report (AMR) for 2010/2011 at p67 shows that housing delivery was below RSS target level in 2008, 2009, 2010, and 2011. In relation to the RSS housing requirement, the Council had, at the time of its consideration of the application the subject of the current appeal, a housing land supply of 4.25 years as at 27 May 2011; 2.25 years as at 15 August 2011; and 2.4 years as at December 2011. Clearly, these figures fall far short of a 5-year supply. At the Inquiry the Council's case was that it had a housing land supply of 5.9 years. However, this total includes sites without planning permission.
10. The most up-to-date planning policy document, the National Planning Policy Framework (the Framework), was issued in March 2012. The Framework at ¶47 requires that *local planning authorities should ... identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the Plan period) to ensure choice and competition in the market for land*. Footnote 11 to ¶47 explains that *to be considered deliverable, sites should be available now... and be achievable with a realistic prospect that housing will be delivered on the site within 5 years ...*. Footnote 11 states that *sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable...*. The inclusion of the phrase *until permission expires* strongly implies that a site which no longer has – or, significantly, has not yet received – planning permission for housing is not to be considered *deliverable* in the terms of the Framework.
11. Of the sites listed by the Council as contributing to its estimated 5.9yr supply of housing land, among the largest and most significant are the Federal Mogul site in Chapel-en-le-Frith and the Dorma site at Chinley. Both are brownfield sites. Neither as yet has received planning permission for housing. The Dorma industrial site is vacant and its former mill buildings have been demolished, but extensive areas of concrete slab remain to be removed.
12. At the Federal Mogul site there is an Interim Planning Statement which proposes housing on part of a site for mixed use, and optimism is expressed by planning consultants for Federal Mogul that *first housing completions could be as soon as late 2013*. However, the area proposed to be developed for housing is in current use for car parking and also includes an industrial building yet to be demolished; and moreover immediately adjoins a further industrial building which would remain and from which noticeable noise is currently emitted: a problem not yet confirmed as capable of satisfactory resolution. The concern expressed by the plant manager for Federal Mogul, that the prior development of the current appeal site might jeopardise the firm's own plans to use the proceeds from housing development on its site to secure investment in production facilities, is not supported by evidence, given the extent of the Borough's housing shortfall and the emphasis of the Framework on *boost[ing] significantly the supply of housing*.
13. Of the other sites, including some of those with planning permission, development of the Waterswallows site awaits delivery of a road, itself dependent upon the resolution of ownership problems. The Harpur Hill site has been marketed for

several years with no evident progress. The Hope Street site is subject to employment policies aimed at avoiding loss of employment land. The Bowers site is in active employment use and is crossed by a waterway with flood plain. Whilst complications in respect of any of the suggested sites might be capable of resolution so as to make them *deliverable* within 5 years in the terms of the Framework, it seems unlikely on the evidence that their problems could be resolved sufficiently and to the extent that collectively these suggested sites could amount to a 5-year-plus-5% supply of housing land *deliverable* in the terms of the Framework.

14. The Council's estimate of a 5.9-year housing land supply does not therefore accord with the provisions of the Framework, and moreover includes a windfall estimate which does not follow the Framework stipulation that an allowance for windfall sites in the 5-year supply *should not include residential gardens* and is consequently over-generous. Furthermore, the evidence for 2008-2011 taken from the AMR suggests a situation of *persistent under-delivery* in the terms of the Framework at ¶47, which states that in such a case *local planning authorities should increase the buffer [of 5%] to 20% (moved forward from later in the Plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land*. In these circumstances the housing land supply falls significantly short of what, under the Framework, is now required.

Affordable Housing

15. The evidence of the Council's AMR 2010-11 is that a total of 268 affordable homes have been delivered within the Borough (including Peak Park) in the past 7 years: during which time the annual need has varied between 443 and 591. The 2009 Chapel Housing Needs Survey identified 61 households in housing need in Chapel-en-le-Frith, and a further 87 households are registered as desiring affordable housing: 147 households in all. It has been several years since any new rented units were built. The Peaks and Plains Housing Trust, which supports the appeal proposal, doubts whether the delivery of sufficient affordable housing units could be achieved on the relevant brownfield sites, in the face of other costs – such as, on the ex-industrial sites, the remediation of contaminated land to enable residential use. In advance of specific proposals, accompanied by the necessary assessments and consultations, the levels of affordable housing that would be viable and deliverable on these ex-industrial sites have not yet been demonstrated.
16. The appeal scheme would make provision, via the submitted S106 agreement, for 30% of the total number of dwellings to be made available as affordable housing, in the proportion of 80% social rented housing, and 20% shared ownership. The affordable dwellings would include a variety of sizes: 25% would be 5-person, 3-bedroom houses; 37% would be 4-person, 2-bedroom houses; 19% 2-bedroom apartments and 19% 1-bedroom apartments. The mix is compatible with that identified by the 2009 Chapel Housing Needs Survey. In evidence to the Inquiry the shared ownership and rented elements of the appeal proposal were expressly welcomed by a young resident local mother, whose experience had been that the housing brought forward on brownfield sites was commonly too expensive for families to buy, and who also doubted, in common with the Housing Trust, that affordable homes could be brought forward on such sites.

The New Homes Bonus

17. The Appellant calculates that approval of the appeal proposals would result in around £900,000 of contributions to the local area through the Government's New Homes Bonus scheme: a factor which under S143 of Part 6 of the Localism Act 2011 is, as a *local finance consideration*, a material consideration in this appeal.

Prematurity and the Neighbourhood Plan

18. The Framework itself contains no reference to prematurity. However, the Government document 'The Planning System: General Principles' 2005 (which was not cancelled on issue of the Framework and remains extant) contains guidance on prematurity. The guidance of ¶17 of the General Principles document is that *it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted; but that it may be appropriate [to do so] where a proposed development is so substantial, or the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD.*
19. Relevant factors therefore include the stage reached by any currently emerging development plan, and the size and relative scale and significance of the proposed development. The question of relative scale and significance is to be judged in the context of the individual planning authority, its housing requirement, strategy and local circumstances: so that the examples of other cases (including the Romsey appeal decision to which the Council refers) are not of such relevance here as to be decisive. At 105 dwellings, the proposal would represent one-third of the total annual housing requirement of the RSS – that is, for 1 single year - for the Borough of High Peak. However, given the undershooting of housing targets in the recent past, the proposal would represent a lesser proportion of the cumulative outstanding requirement. Though the Local Plan divides the Borough into 3 sub-areas for housing purposes, the requirement itself spans the Borough as a whole. Using the figures of the (now abandoned) draft Core Strategy for the plan period, the proposal would represent 1.6% of the district total, and 8% of the 1,250 dwellings for the Central area. In these terms the scale of the proposed development would not be so substantial as to prejudice the emerging local plan (of which no draft was yet available to be offered in evidence to the Inquiry).
20. Objectors suggest that the appeal proposal represents *the thin end of the wedge*, and that the Appellant has the intention to develop other, additional greenfield sites on the edge of Chapel-en-le-Frith. However, any such proposals would have to be judged on their merits against the development plan and housing land availability situation prevailing at the time of the planning application; and in that context would have to take into account, at the time, the guidance in 'General Principles' relating to *cumulative effect*.
21. The 'General Principles' document at ¶18 states that *where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question.* In the current case, where the draft Core Strategy has been abandoned and there is as yet no emerging draft local plan, no justification for refusal on prematurity grounds can be drawn from 'General Principles'. It happens that Chapel-en-le-Frith represents a 'Pathfinder' with funding for the preparation of a neighbourhood

plan under the Localism Act 2011. The local community group 'Chapel Vision' is currently preparing a neighbourhood plan for Chapel-en-le-Frith, primarily (though not exclusively) on the basis of using brownfield sites, rather than greenfield sites beyond the existing urban edge as defined in the Local Plan, for housing. Chapel Vision opposes the appeal development. On the evidence it is clear that to grant planning permission for the appeal proposal would not accord with the current thinking behind the neighbourhood plan.

22. Nevertheless, the position is that a neighbourhood plan must have regard to national planning policy and must be in general conformity with strategic policies in the development plan for the local area. The Local Planning Authority remains responsible for preparing, in the light of the Framework, the new local plan which will govern the location of development. Any neighbourhood plan must be in general conformity with the new local plan, interpreting its policies on a neighbourhood basis.
23. In this case there is no Core Strategy, nor any up-to-date local planning policy, either adopted or in late-stage emerging draft form to which substantial weight could be given, setting either the requirement or the location strategy for housing within the Borough. It will be up to a new-style local plan to determine in the light of the Framework, as a matter of strategy and in the light of evidence concerning the housing requirement, to what extent and where it may be necessary to allocate greenfield land for housing development. Moreover, at the time of the Inquiry no draft neighbourhood plan was available in evidence. In the absence of an up-to-date higher-order development plan, very little weight can be given to the neighbourhood plan in the decision on the current appeal, disappointing as that may be for those members of the community whose efforts have been involved in its preparation to date.

Conclusion on Issue (a)

24. The level of restraint imposed by LP Policy H1 and its overwhelming emphasis upon brownfield sites are inconsistent with the provisions of the Framework. Though adopted in 2005, the Local Plan is not a 'new-style' development plan document (DPD) prepared in accordance with the Planning and Compulsory Purchase Act 2004. In these circumstances, LP Policy H1 is out of date, and very little weight can be given to it in the terms of ¶215 of the Framework. Such weight as can be attributed to Policy H1 derives only from its combination with the Interim Housing Policy Statement which adapts Policy H1 to the housing figures contained in RSS (itself only temporary pending revocation). In conclusion, the proposed development is necessary in order to satisfy the requirement of the Framework, in measures set out at ¶47 onwards, *to boost significantly the supply of housing and to ensure choice and competition in the market for land*, and to meet identified needs for affordable housing. In the light of prevailing planning policy and the balance of material considerations, the proposal would not therefore have a materially harmful effect upon the housing supply, and would be largely of benefit.

Issue (b): Character and Appearance

25. The appeal site occurs at the western end of the urban area, where built development gives way to open land. The 2 fields comprising the site are contained within the acute western angle formed by the junction of Crossings Road with Manchester Road. The southern field is bordered on 2 sides by frontage residential development. The northern field narrows towards the north, tapering along the line of a watercourse which forms its north-western boundary,

its short northern boundary adjoining the single dwelling 'Nearwell' which fronts Crossings Road. The overall shape of the appeal site represents a truncated triangle with a slight outward 'bulge' to the north-west. On the far side of Crossings Road and Manchester Road, the urban area of Chapel-en-le-Frith extends away to the south and east.

26. Together with the adjoining grassland to the west and north-west, the appeal site is included within the landscape character classification of 'settled valley pastures' as defined by the Derbyshire Landscape Character Assessment. The appeal site itself is no longer pastureland, having been ploughed some years ago for arable crops. As arable land, the site is not typical of the adjoining countryside, which features damp lowland pastures rising towards the north-west and culminating in the rocky outcrops of Eccles Pike. As a local landmark owned by the National Trust, Eccles Pike attracts many visitors via local lanes and footpaths. These, with increasing height, afford extensive views back towards Chapel-en-le-Frith, setting the town within a panoramic landscape. Much of the valley floor, the foothills rising from it, and the summit of Eccles Pike are collectively designated as a Special Landscape Area (SLA) in the High Peak Local Plan. The appeal site itself, though clearly once forming part of the valley-floor pastureland as revealed by damp-loving plants which persist within the headlands of the arable fields, is excluded from SLA designation.
27. Against this background and using conventional landscape methodology for the identification of visual receptors, their sensitivity to change and the magnitude of change to a view, the Parties disagree on the significance of the visual impacts consequent upon the appeal proposal. Nevertheless, whether the residential occupiers of existing ribbon developments on Crossings Road and Manchester Road are classified as receptors of *moderate sensitivity* or of *high sensitivity* on the basis of the existing views available to them and the consequent reduction in the scope of such views, it remains one of the *General Principles of the Planning System*, as set out at ¶29 of that document, that in relation to private interests *the basic question is not whether owners and occupiers of neighbouring properties would experience ... loss from a particular development but whether the proposal would unacceptably affect amenities and the existing use of land ... which ought to be protected in the public interest.*
28. Those views most available to the general public are to be seen from the lane and footpaths on the approaches to Eccles Pike, and from the summit. From the public footpath which contours round the hillside below the Pike and below the level of the lane, the effect of perspective is to limit the surface area of the appeal site which is visible, and the screening effect of existing trees and hedges is substantial. From the summit, however, the site is more clearly visible, and in full. Initially, the site would look raw under development and would stand out starkly and intrusively against the neighbouring green and open valley floor, to the point of material harm to the countryside. With time, the proposed perimeter landscaping would soften the edges of the site, and the proposed central area of planting would separate and so reduce the extent of the bare rooftops visible from above. The enlargement of the built-up area would be obvious: but the new built boundary would nevertheless be held well within the compass of the existing outermost edges of the settlement, and would not project beyond them.
29. In the existing view the item which most draws the eye is the new school building which serves Chapel-en-le-Frith and the surrounding area. This is light-coloured, massive and wide-spread. It represents a prominent and striking visual element, unavoidable in the southward panorama seen from Eccles Pike. In contrast, the

appeal proposal would be of a lower profile, edged and subdivided by landscaping and, with care in the use of materials (especially roofing materials), could be made to mesh almost seamlessly with the grain and roofscape of the existing urban area.

30. The proposed development would eliminate the tract of open land which currently separates the settlement edge from the SLA, allowing no space to act as a transitional spatial element in advance of the area designated for landscape value. The elimination of the foreground to the SLA through the reduction in the area designated as open countryside would be materially harmful in terms of LP Policy OC1: but the Special Landscape Area itself would remain in its entirety and there would be no harm in terms of LP Policy OC3. The intervention of the new development would have little or no effect upon the overall setting of Eccles Pike, which would be sufficiently widespread to ensure that the Pike itself and its surrounding landscape structure would remain visually independent of the development and of the urban area.

Conclusion on Issue (b)

31. In conclusion, the appeal proposal would in various ways outlined above, and initially, have an effect upon the character and appearance of the surrounding area which would be materially harmful and in conflict with LP Policy OC1. However, some elements of that harm would be temporary, and moderated through the imposition of conditions. On balance, the appeal proposal would not be harmful to the character of the area to the point at which the appeal proposal ought to be refused on that account: the harm being outweighed by the benefits to the housing supply which are considered under Issue (a) above.

S106 Agreement

32. A copy of an executed, signed and dated S106 Agreement was submitted in advance of the Inquiry. The Agreement would secure 30% affordable housing on the appeal site, comprising 80% social rented housing, and 20% shared ownership housing on the site overall, and a specified overall mix of dwelling types and sizes. Under Schedule 1 of the Agreement, the order of priority to be given to tenants of the social rented housing and to purchasers of the shared ownership housing would be firstly those already resident in the Chapel-en-le-Frith area for a minimum of 5 years, followed by those with a local connection or family association within the Chapel-en-le-Frith area, and thirdly applicants with employment in that area.
33. The Agreement provides for contributions to off-site highways works (£26,500) to be carried out in the vicinity of the appeal site, and to off-site children's play provision (£45,000) to be used in Chapel-en-le-Frith and the Central area of the Borough. The Agreement also provides for maintenance of the peripheral landscaping area and of the open space within the site, via maintenance schemes to be submitted to the Council and approved prior to the commencement of development.
34. The Agreement also provides for the phased payment to the Council of a Primary Care Facilities Contribution of £512.56 per dwelling (total £53,818.80) to assist with capacity issues at Thornbrook Surgery and at the Goyt Valley Medical Surgery, both in Chapel-en-le-Frith. The Appellant, though having provided a signed Agreement which incorporates the contribution, nevertheless questions its appropriateness in the absence of a Local Plan policy to require it. However, in this respect as in others (including housing supply), the old-style local plan may

also have become outdated. NHS Derbyshire has demonstrated firstly, that both surgeries, as at 1 April 2011, had patient lists significantly above the recommended list size, and that following the development the subject of this appeal the patient lists at both surgeries would increase appreciably; and, secondly, that Thornbrook Surgery currently has a significant shortfall in available space, leading to overcrowding.

35. It is clear that the appeal development would have a direct impact upon both surgeries: upon the need and demand for healthcare and upon the conditions under which healthcare is delivered. It is, of course, possible (as the Appellant suggests) that some future residents of the development would prefer to use a surgery elsewhere: perhaps nearer to a workplace. No evidence was available to the Inquiry to suggest a proportion of residents who might be expected to make that choice. In its absence, it is not unreasonable to assume that the majority of residents would elect to use one of the surgeries most local to Chapel.
36. The costs estimated by NHS Derbyshire are based upon the average cost of an average GP surgery with provision for dental and pharmacy services, and assume an average of 2.3 persons per household and an average of 1800 patients per full-time GP. NHS Derbyshire considers that the Contribution would be spent on extending existing premises to provide consulting rooms for any additional GPs required to deal with the increased number of patients (estimated at 241 persons overall), or to remodel existing premises to give more privacy and so make better use of existing space.
37. In these circumstances, the S106 contributions including the Primary Care Facilities Contribution meet the tests of the Framework at ¶204 (and of S122 of the Community Infrastructure Levy Regulations 2010), that they should 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.*

Conditions

38. In addition to the standard conditions (Nos. 1-3) on time and the submission of details, it is necessary to impose further conditions. Conditions Nos. 4-9 are necessary in the interests of highway safety and convenience. Condition 10 is necessary in order to ensure satisfactory drainage. Conditions Nos. 11-16 are necessary to ensure satisfactory landscaping of the site in the interests of visual amenity. Condition No.17 is necessary in the interests of nature conservation. Conditions Nos.18-20 imposed in order to achieve a satisfactory noise environment during the development of the site, and Conditions Nos.21-23 to ensure adequate remediation of land in the event of the discovery of contamination, are necessary in the interests of residential amenity. The conditions are set out in Annex A to this decision.

Overall Conclusion

39. On the basis of the main planning issues and all material considerations, the overall conclusion, on balance, is that this appeal should be allowed.

S Holland

INSPECTOR

ANNEX A: CONDITIONS

- 1) Details of the layout, scale, appearance, and landscaping (excluding the perimeter landscaping), (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 before the expiration of 3 years from the date of this permission.
- 3) The development hereby approved shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) Before any other operations are commenced (excluding site clearance), space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles and the parking and manoeuvring of site operatives' and visitors' vehicles. The space to be provided shall be laid out and constructed in accordance with detailed designs which shall have been submitted to and approved in writing by the local planning authority; and shall be retained throughout the contract period in accordance with the approved designs and free from any impediment to its designated use.
- 5) Before any other operations are commenced (including those to be carried out under Condition 6 below), the existing vehicular access to No.88a Manchester Road shall be modified in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
- 6) Before any other operations are commenced (with the exception of those to be carried out under Condition 5 above), a new estate street junction shall be formed to Manchester Road in accordance with Plan Ref.SCP/10294/F01 Revision C, laid out, constructed to base level and provided with 2.4m x 54m and 2.4m x 57m visibility splays to the east and west respectively, the area in advance of the sightlines being levelled, constructed as footway, and not to be included in any other plot or subdivision of the site.
- 7) Before any other operations are commenced (with the exception of those to be carried out under Conditions 5 and 6 above), a new vehicle access shall be formed to Crossings Road in accordance with application drawing SCP/10294/F02 and shall be located, designed, laid out, constructed and provided with 2.4m x 51m and 2.4m x 45m visibility splays to the north and south respectively. The area in advance of the sightlines shall be retained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining carriageway channel level.
- 8) No development shall commence until details of the footway on Crossings Road fronting the application site, to include its modification/widening, have been submitted to and approved in writing by the local planning authority. The footway shall be constructed in accordance with the approved details prior to the first occupation of any dwelling on the site.

- 9) No development shall commence until details of the new estate streets within the application site have been submitted to and approved in writing by the local planning authority. The details shall include the layout and construction of the streets to the County Council's current criteria for adoption, and the programme for their construction. The streets shall be constructed to adoptable standards in accordance with the approved details.
- 10) No development shall commence until a scheme to limit the surface water runoff generated by the development and to manage the risk of flooding from overland flow of surface water has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
 - (a) the discharge of surface water from the development shall be restricted to a maximum of 10.9 litres per second per hectare;
 - (b) in accordance with the approved Flood Risk Assessment, surface water attenuation (including allowances for climate change) shall be provided in the form of swales and ponds.
- 11) All planting, seeding or turfing comprised in the details of perimeter landscaping approved under this permission shall be carried out in the first planting/seeding season following the first occupation of the dwellings and no later than within 12 months of that first occupation or of the completion of the development, whichever is the sooner; and any trees or plants which within 5 years from the completion of the approved development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written consent to any variation.
- 12) No development shall commence until a scheme for the provision of a buffer zone alongside the watercourse has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
 - (a) plans showing the extent of the buffer zone;
 - (b) details of planting;
 - (c) a management plan demonstrating how the buffer zone will be protected during development and managed, maintained and protected in the long term.

The development shall be carried out in accordance with the approved scheme.
- 13) No development shall commence until a detailed method statement for the removal or long-term management/eradication of Japanese Knotweed on the site has been submitted to and approved in writing by the local planning authority. The method statement shall include
 - (a) measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement;
 - (b) measures to ensure that any soils brought to the site are free from the seeds/roots/stems of any invasive plant covered under the Wildlife and Countryside Act 1981.

Development shall be carried out strictly in accordance with the approved method statement.

- 14) No development or other operations shall commence until a detailed Arboricultural Method Statement to include a scheme for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site has been submitted to and approved in writing by the local planning authority. The Arboricultural Method Statement and tree/shrub/hedge protection scheme shall include full details of the following:
- (a) timing and phasing of arboricultural works in relation to the approved development;
 - (b) implementation, supervision and monitoring of the approved tree/shrub/hedge work specification;
 - (c) implementation, supervision and monitoring of the approved tree/shrub/hedge protection scheme;
 - (d) implementation, supervision and monitoring of any approved construction work within any area designated as being fenced off or otherwise protected in the approved tree/shrub/hedge protection scheme.

No development or other operations shall take place otherwise than in complete accordance with the approved Method Statement and protection scheme.

- 15) Both before and after submission/approval of the Arboricultural Method Statement and protection scheme to be submitted:
- (a) no trees and hedgerows within the site shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the local planning authority to a detailed felling/removal/pruning specification;
 - (b) any trees, shrubs or hedge plants removed without such consent, or which die or become severely damaged or diseased within 5 years from the completion of the development hereby approved shall be replaced with trees, shrubs or hedge plants of similar size and species unless the local planning authority has given written consent to any variation;
 - (c) no operations shall commence on site (including soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) unless the protection works required by the submitted/approved protection scheme are in place;
 - (d) no excavations for services, no storage of materials or machinery, no parking of vehicles, no deposit or excavation of soil or rubble, no lighting of fires and no disposal of liquids shall take place on the site otherwise than outside any area designated as being fenced off or otherwise protected in the submitted/approved protection scheme.
- 16) All protective fencing erected in accordance with Condition No.15 above shall be retained intact for the full duration of the construction of the development hereby approved and shall not be removed or repositioned without the prior written approval of the local planning authority.
- 17) The development hereby approved shall be carried out in accordance with the recommendations contained in Section 7.2 of the Phase 1 Habitat Survey and Protected Species Assessment.

- 18) No construction work audible at residential property adjoining the site shall take place outside the following hours:
 - (a) 0800hrs to 1800hrs on Mondays to Fridays;
 - (b) 0800hrs to 1300hrs on Saturdays;
 - (c) At any time on Sundays or Public Holidays.
- 19) Any equipment which needs to be operated on or adjacent to the site outside the hours specified in Condition No.17 above in connection with the development hereby approved shall before its first use be acoustically screened in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority; and the approved acoustic screening shall be retained at all times when the equipment is in use.
- 20) No piling shall take place except in accordance with a written method statement which shall have been submitted to and approved in writing by the local planning authority.
- 21) No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The scheme shall be submitted and approved in writing by the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced and submitted to the local planning authority. The report of the findings must include:
 - (a) A survey of the extent, scale and nature of contamination;
 - (b) An assessment of the potential risks to human health, property including crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwater and surface water, and ecological systems;
 - (c) An appraisal of remedial options and proposals of the preferred options.
- 22) In the event of any contamination being found to be present, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment must be prepared, and submitted for approval in writing by the local planning authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 23) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given 2 weeks' written notification of the commencement of the works to be carried out under the remediation scheme.

ANNEX B: LIST OF APPLICATION PLANS

BAR197/2-001	Location plan (John Rose Associates)
BAR197/2-003	Existing site plan (John Rose Associates)
11-018-1000	Amended indicative site layout plan (MCK Architects)
11-018-1001	Streets and movement plan (MCK Architects)
11-018-1002	Colour and materials palette (MCK Architects)
1201-2010-05a	Landscape strategy (Tyler Grange)
1201-2010-14	Tree Survey plan (Tyler Grange)
1201-2010/16	Landmark features design sheet (Tyler Grange)
1201-2010/17	Boundary treatments design sheet (Tyler Grange)
1201-2010-18b	Soft landscape proposals overview sheet (Tyler Grange)
1201-2010-19b	Soft landscape proposals – Sheet 1 (Tyler Grange)
1201-2010-20b	Soft landscape proposals – Sheet 2 (Tyler Grange)
1201-2010-21b	Soft landscape proposals – Sheet 3 (Tyler Grange)
1201-2010-22b	Soft landscape proposals – Sheet 4 (Tyler Grange)
SCP08100F01C	Proposed access off Manchester Road (Singleton Clamp & Partners)
SCP10294F02	Proposed access off Crossings Road (Singleton Clamp & Partners)

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Peter Taylor	Solicitor, of DLA Piper, Victoria Square House, Victoria Square, Birmingham B2 4DL
He called	
Mr Colin Barnes	of Barnes Walker Ltd, Unit 6 Wearlee Works, Longley Lane, Manchester M22 4WT
Mr Martin Seddon	of Martin H Seddon Ltd, 47 Alms Hill Road, Sheffield S11 9RR

FOR THE APPELLANT:

Mr Jeremy Cahill QC	instructed by John Rose Associates
He called	
Mr Jonathan Berry	of Tyler Grange, 11 Market Place, Macclesfield, Cheshire SK10 1EB
BA(Hons) DipLA AIEMA	
CMLI MArborA	
Mr Carl Copestake	of John Rose Associates, 1-3 Berkeley Court, Borough Road, Newcastle-under-Lyme, Staffordshire ST5 1TT
BA(Hons) DipUPI MRTPI	

INTERESTED PERSONS:

Ms Ruth George	
Mr Hugh Barton	of Chapel Vision,
Ms Sue Stockdale	of Chapel-en-le-Frith Parish Council,
Mr Paul Hellewell	
Mrs Jo Daniel	
Dr Derek Yalden	
Mr Paul Winter	

DOCUMENTS

Documents submitted by the Appellant:

- 1 Opening statement
- 2 List of Plans
- 3 Responses to consultation on amended plans
- 4 Copy of e-mail dated 18 May 2012 from Chapel Vision Housing Group to Robinson Developments re sites in Chapel-en-le-Frith
- 5 Review of sites contained in Council's estimate of 5-year land supply
- 6 Copy of Council's Annual Monitoring Report 2010/11
- 7 Copy of High Peak Housing Land Availability Schedule as at 31 March 2012
- 8 Table of Comparison between Appellant and Council on Housing Land Availability
- 9 Extract from Derbyshire Dales and High Peak Draft Core Strategy Chapter 6 – Supporting the Rural Economy and Enhancing Prosperity
- 10 Comments by Primary Care Projects Officer NHS Derbyshire
- 11 Costing model for integrated primary care services, NHS Derbyshire
- 12 Additional landscaping condition
- 13 Closing Submissions

Documents submitted by the Council:

- 14 Letter of Notification of appeal and List of persons notified
- 15 Particulars of residential land for sale at Harpur Hill, Buxton
- 16 Letter dated 23 May 2012 to HPBC from DPP Consulting Ltd
- 17 Revised 5-year land supply position as at 22 May 2012
- 18 Letter dated 10 October 2008 to HPBC from Miller Homes
- 19 Copy of planning application dated 6 March 2012 by Elegant Homes at Sheffield Rd, Chapel-en-le-Frith
- 20 Copy of planning permission HPK/0003/9366 re Waterswallows Road, Buxton
- 21 List of Conditions

Documents submitted by Interested Persons:

- 22 Statement by Hugh Barton (of Chapel Vision) inc. Annex of responses to survey of suitability re major housing sites in Chapel-en-le-Frith
- 23 Statement by Ruth George
- 24 Bundle of plans re proposed residential sites - John Rose Assoc submission re Derbyshire Dales and High Peak Joint Core Strategy (Ruth George)
- 25 Table of sites (Ruth George)
- 26 Bundle of documents submitted by Suzan Stockdale, Clerk to Chapel-en-le-Frith Parish Council
- 27 Copy of Illustrative Masterplan by Barratt Homes (Mr Winter)
- 28 Statement by Mrs Jo Daniel