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## Appeal Decision

Inquiry held on 12, 13 and 14 May 2015

Site visit made on 14 May 2015

**by C Sproule BSc MSc MSc MRTPI MIEnvSc CEnv**

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

**Decision date: 2 September 2015**

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**Appeal Ref: APP/J3530/A/14/2225141**

**Site north of Woods Lane, Melton, near Woodbridge, Suffolk**

- 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 Christchurch Land & Estates Limited against the decision of Suffolk Coastal District Council.
  - The application Ref DC/14/0991/OUT, dated 20 March 2014, was refused by notice dated 23 May 2014.
  - The development proposed is an outline planning application for up to 180 dwellings with all matters reserved except for access.
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### Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for up to 180 dwellings with all matters reserved except for access at site north of Woods Lane, Melton, near Woodbridge, Suffolk in accordance with the terms of the application, Ref DC/14/0991/OUT, dated 20 March 2014, subject to the conditions in the attached schedule.

### Procedural Matters and Main Issues

2. Suffolk Coastal District Council ('the Council') takes the view that the appeal scheme is contrary to the core planning principle of the National Planning Policy Framework ('the Framework') that recognises the intrinsic character and beauty of the countryside and supporting rural communities within it. However, the Council has no specific objection on landscape grounds that it considers would, on its own, provide a basis for refusal. Consequently, no landscape evidence was offered by the Council, and that from the appellant's witness was accepted as a written statement.
3. The District Council adopted its Community Infrastructure Levy ('CIL') Charging Schedule on 28 May 2015, see Inquiry Document 12 ('ID12'), and the charges were brought into effect from 13 July 2015. The main parties to the appeal were provided with an opportunity to comment on the implications of this for the cases made by them, and given the circumstances and in the interests of fairness, a revised Unilateral Undertaking was allowed to be submitted as ID14.

4. The 'Main Issues' in this case reflect the reasons for refusal and are whether the development proposed would: a) be a sustainable form of development within the context of local and national planning policies, including those in relation to the provision of housing; and, b) make sufficient provision for community and other facilities/services for the occupiers of the dwellings proposed.

## Reasons

### *Sustainable development*

5. It is a *Core planning principle* of the National Planning Policy Framework ('the Framework') that planning should *take account of the different roles and character of differing areas...recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.*
6. Boosting significantly the supply of housing is a clear objective of the Framework,<sup>1</sup> with paragraph 49 of the document stating that *Housing applications should be considered in the context of the presumption in favour of sustainable development.*
7. Framework paragraph 14 confirms the presumption in favour of sustainable development to be at the heart of the policy and for decision-taking this to mean: approving development proposals that accord with the development plan without delay; and, where the development plan is absent, silent or out-of-date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies of the Framework indicate that development should be restricted.
8. In addition, paragraph 49 states that *'...Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites...'*.
9. The development plan for this area includes the *Suffolk Coast District Local Plan – Core Strategy & Development Management Policies – July 2013 (LP)*. LP Strategic Policy SP1 – *Sustainable Development* highlights that the achievement of sustainable development is central to the LP. It indicates this to include relating new housing development with jobs, transport and infrastructure, and this to be delivered by the defined Settlement Hierarchy. Strategic Policy SP1 includes, amongst other things: priority for the use of brownfield land; reducing the need for travel and managing the transport network to enable it to function more efficiently; enabling a healthy economy; and, accessibility to services.
10. LP Policy SP1A – *Presumption in Favour of Sustainable Development* states that the Council will take a positive approach to development proposals that reflect the presumption within the Framework.
11. The three dimensions to sustainable development are set out in Framework paragraph 7 and are the social, environmental and economic roles.

### The Social Role

#### Housing Land Supply

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<sup>1</sup> Framework paragraph 47

12. LP Strategic Policy SP2 – *Housing Numbers and Distribution* states that the LP will make provision for at least 7,900 new homes across the district in the period 2010 to 2027. The LP Examination Inspector found: the best available estimate of need to be 11,000 dwellings; but it had not been achieved as a result of collaborative working with neighbouring authorities, and a SHMA update would be addressing it.<sup>2</sup> LP Strategic Policy SP2 states that land for new homes will be distributed in accordance with the Settlement Hierarchy.
13. LP Strategic Policy SP19 – *Settlement Policy* provides the Settlement Hierarchy for the district. The associated Settlement Hierarchy Classification identifies Woodbridge (with parts of Melton and Martlesham) as a 'Town' that is a focal point for employment, shopping and community facilities, and a transport hub. Melton village is identified as a Key Service Centre that provides services such as public transport access to town, shops meeting everyday needs, local employment opportunities, meeting places, Post Office, pub or licensed premises, primary school and doctors' surgery.<sup>3</sup>
14. LP Strategic Policy SP29 – *The Countryside* recognises that the countryside comprises an important economic, social and environmental asset within the district that it is important to sustain. The policy limits development outside settlements to that which of necessity is required to be located within the countryside and accords with other LP policies.
15. LP Development Management Policy DM3 – *Housing in the Countryside* states that new housing will primarily be directed to, and integrated with, settlements for which physical limits have been defined or in accordance with Strategic Policy SP19. LP Strategic Policy SP19 indicates that a 'minimal' proportion of total proposed housing growth is to be in the countryside. Both LP Development Management Policies DM3 and DM4 – *Housing in Clusters in the Countryside* provide criteria for new housing in the countryside that the appeal scheme would not comply with.
16. In December 2014, the Council consulted on issues and options for the *Site Allocations and Area Specific Policies Development Plan Document (DPD)*. A Strategic Housing Land Availability Assessment (SHLAA) forms part of the evidence base for the DPD, and the appeal site is not included within it. Consultation on Preferred Options for both the DPD and the Felixstowe Peninsula Area Action Plan is expected to take place during summer 2015.<sup>4</sup>
17. Paragraph 49 of the Framework confirms that policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Paragraph 2.15 of the Statement of Common Ground (SoCG) between the main parties to this appeal notes that it is accepted the Council cannot demonstrate a five year housing land supply. The Council's position in relation to housing land supply changed at a very late stage and a rebuttal proof of evidence was provided that sets out the reasons behind this.<sup>5</sup> Evidence on housing land supply was heard and tested during the inquiry. The subsequent closing submissions from the main parties to this appeal are unambiguous that the Council cannot demonstrate a five year supply of deliverable sites for housing.

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<sup>2</sup> CD-E5 – page 8, Issue 2

<sup>3</sup> LP Table 4.1

<sup>4</sup> Paragraphs 3.16 and 4.3 of Mr Edgerley's proof of evidence

<sup>5</sup> ID3

18. However, the parties disagree on the actual level of supply, with the Council placing it at 4.3 years, and the appellant at 3.2 years. Exchanges during the inquiry confirmed: this difference to result from the use of a 'Liverpool' or 'Sedgefield' approach, and a 5% or 20% additional buffer in relation to paragraph 47 of the Framework;<sup>6</sup> and, that Mr Perkin agreed the difference between 4.3 and 3.2 years to be immaterial in terms of weight.
19. In such circumstances, the Framework creates a simple sequence of steps for decision-making. Firstly, consider whether relevant policies for the supply of housing are out-of-date because there is not a 5 year supply of housing land. If that is so, the presumption in favour of sustainable development will be engaged, and the second step is to consider whether planning permission should be withheld for either of the two possible reasons given in paragraph 14 of the Framework.<sup>7</sup>
20. The appellant has referred to paragraph 11 of the Secretary of State's decision letter in relation to appeal refs: APP/J3720/A/13/2202101 and APP/J3720/A/13/2205529. In that paragraph the Secretary of State agreed with the reporting Inspector that, when both main parties concur that there is less than a five year supply of deliverable housing land, nothing would be gained by trying to assess in detail a more precise figure as to the size of the shortfall.
21. *Ivan Crane vs Secretary of State for Communities and Local Government and Harborough District Council* [2015] EWHC 425 (Admin) is more recent,<sup>8</sup> and paragraph 71 of the judgement addresses the weight given to relevant policies for the supply of housing that are considered not up-to-date. It notes that such weight is not dictated to by Government policy, nor could it be fixed by case law in a Planning Court. Rather the weight will vary according to the circumstances, including the extent of the short fall below the five year supply, and the prospect of development soon coming forward to make up the shortfall. Following the Council's evidence in this case (referred to above), the appellant considered it 'entirely unnecessary' to make submissions regarding the effect of paragraph 71 of ID1 in relation to the weight to be attributed to policies that are considered to be out-of-date.
22. The difference between the parties principally results from the application of a 20% buffer to the five year supply of deliverable sites for housing due to persistent under delivery of housing. For this, the appellant looks to comments in the judgement regarding *Cotswold District Council v Secretary of State for Communities and Local Government (and others)* [2013] EWHC 3719 (Admin).<sup>9</sup> In particular, paragraph 48 of the judgement notes the Inspector's, and subsequently, Secretary of State's approach to an assessment of persistent under delivery which had used a five year period to reflect that used for housing land supply. However, subsequent Planning Practice Guidance published in 2014 states that '*...The assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle...*'.<sup>10</sup>

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<sup>6</sup> Cross-examination of Mr Edgerley

<sup>7</sup> Paragraph 65 of ID1 (*Ivan Crane vs Secretary of State for Communities and Local Government and Harborough District Council* [2015] EWHC 425 (Admin))

<sup>8</sup> Submitted as ID1

<sup>9</sup> In the appendices to Mr May's proof of evidence

<sup>10</sup> Planning Practice Guidance Reference ID: 3-035-20140306

23. In 2012, the LP Examination Inspector noted there to have been a good record of delivery in the District, and considered that a 5% buffer was appropriate.<sup>11</sup> However, there has been a six year period of under delivery that has been attributed to the recent economic downturn.<sup>12</sup> In this regard, the Council considers a six year period to be a 'short cycle' for assessing under delivery.<sup>13</sup> The *Cotswold* judgement found the five year period to be consistent with the Framework, with paragraph 48 noting the Inspector in that case also considered 10 and 20 year periods. Planning Practice Guidance now points to the appropriateness of a longer term view, which would support the use of a 5% buffer in this case.
24. Planning Practice Guidance is clear that, where possible, local planning authorities should aim to deal with any undersupply within the first 5 years of a plan period, and where this cannot be met, the local planning authority will need to work with neighbouring authorities under the 'Duty to Cooperate'.<sup>14</sup> There is no evidence to indicate that the Council has sought to use the Duty to Cooperate to address the current undersupply in the District.<sup>15</sup> Dealing with undersupply within the next five years would help to address the need for homes that currently remains unmet, and that is the subject of LP Strategic Policy SP2.<sup>16</sup> Matters above suggest that the figure for housing land supply lies between 4.3 and 3.2 years.
25. Dealing with undersupply within the next five years supports the Framework aim to boost significantly the supply of housing. While the Council's concerns are understandable regarding the rate at which housing is being delivered on sites with planning permissions in the District, the Framework was published in 2012, some time after both the start of the economic downturn and when its effects were understood. There is nothing in national planning policy or guidance that suggests a failure to deliver dwellings with planning permission should prevent the aims of national policy being met.
26. The 7,900 new homes figure in LP Strategic Policy SP2 has been tested through the LP examination process, and found to be sound. The policy includes an early review of the Core Strategy to identify the full objectively assessed need for housing in the District. At the time of the inquiry, the Council had yet to complete the evidence gathering to produce, in accordance with the policy, an Issues and Options Report by 2015. However, there is still time during 2015 for the Issues and Options Report to be produced.
27. Although the Council considers that it will soon have a five year supply of deliverable sites for housing, being able to rely on such an expectation is not reflected in the Framework, subsequent local policies, or Planning Practice Guidance. The Council's rebuttal proof of evidence includes figures that are unconfirmed and could change. Accordingly, they can only attract very limited weight in this appeal.<sup>17</sup>

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<sup>11</sup> Paragraph 38 CD-E5

<sup>12</sup> Appendix A of the Council's *Housing Land Supply Assessment – 2014* in Mr May's Appendices

<sup>13</sup> No appeal decisions have been referred to which support the view that six years of under delivery should not be considered 'persistent'

<sup>14</sup> Planning Practice Guidance Reference ID: 3-035-20140306

<sup>15</sup> As highlighted by the appellant in paragraph 1.9 of ID2

<sup>16</sup> Rather than being 'bad planning practice' leading to a 'highly inflated annual housing requirement' as suggested by paragraph 3.3 of Mr Edgerley's rebuttal proof of evidence

<sup>17</sup> Including section 8 of Mr Edgerley's rebuttal proof of evidence (ID3) – responded to by the *Note* attached to ID2

28. The appellant has referred to *Hopkins Homes Ltd v Secretary of State for Communities and Local Government, Suffolk Coastal District Council* [2015] EWHC 132 (Admin), and the judgement that in that case LP Strategic Policy SP29 is a relevant policy for the supply of housing. LP Strategic Policy SP29 seeks to protect the countryside in general as an important economic, social and environmental asset, rather than being a policy that restricts development to protect a specific area or feature. As such, it is a relevant policy for the supply of housing.
29. By identifying a Settlement Hierarchy that seeks development to accord with the principles of sustainable development, LP Strategic Policy SP19 restricts development in general and is a policy for the supply of housing. LP Strategic Policy SP2, and LP Development Management Policies DM3 and DM4 deal specifically with the numbers and distribution of housing and therefore, are concerned with the supply of housing. These are also 'relevant policies' for this case in relation to Framework paragraph 49 that are considered not to be up-to-date due to the absence of a five year supply of deliverable sites for housing.
30. However, it is not clear that LP Strategic Policy SP26 is out-of-date. It provides a strategy that is restrictive, but nonetheless enables further significant expansion of Woodbridge (and Melton) to be sympathetically considered having regard to the local character and key physical thresholds.

#### Housing

31. The appeal scheme would be expected to support the aims of LP Strategic Policy SP3 – *New Homes*, which seeks to increase the stock of housing to provide the full range of accommodation needed. LP Development Management Policy DM2 – *Affordable Housing on Residential Sites* states that the District Council will expect 1 in 3 units will be affordable unless there is no local need, or specific matters with the site of development indicate there should not be provision. That is not the case here.
32. Evidence indicates that in the years between 2010 and 2013 respectively, there were 47, 25 and 74 affordable home completions in the relevant Strategic Housing Market Assessment study area. This level of completions contrasts with the much higher annual net affordable housing need of 355 units, and the waiting lists in November 2013 of 49 households in priority need and 145 other households seeking homes in Woodbridge.<sup>18</sup>
33. Part 1 of the Schedule to the Unilateral Undertaking (ID9) confirms that 60 of the 180 new dwellings provided by the appeal scheme would be affordable homes. The proposed development complies with LP Strategic Policy SP3 and LP Development Management Policy DM2, which attracts significant weight in favour of this appeal.

#### Living conditions

34. LP Strategic Policy SP17 – *Green Space* seeks to ensure that communities have well-managed access to green space within settlements, and in other areas, to benefit matters that include health and community cohesion. ID9 also provides a planning obligation in relation to on-site open space that would meet the objectives of LP Strategic Policy SP17.

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<sup>18</sup> Paragraphs 8.29 and 8.30 of Mr Brown's proof of evidence

35. The Council's Environmental Health Officers have not objected to the appeal scheme in regard to the possible effects of road noise, nor any other issue.<sup>19</sup> It is not evident that this outline proposal would be likely to cause any unacceptable loss of residential amenity, or that the detailed design would fail to address relevant matters to cause the appeal scheme to conflict with LP Development Management Policy DM23 – *Residential Amenity*.

#### Highway safety

36. The appellant's Transport Assessment indicates Woods Lane to have an average daily traffic flow of 13,794 vehicles in both directions, with two way flows of 1,251 vehicles between 08:00-09:00hrs and 1,286 vehicles between 17:00-18:00hrs. Traffic modelling predicts the appeal scheme to result in 29 vehicle arrivals and 96 departures between 08:00-09:00hrs, with 96 in and 50 departures between 17:00-18:00hrs.<sup>20</sup>
37. Mean traffic speeds along Woods Lane indicate that most vehicles are below the current 40mph speed limit that extends from the A12 junction to a point approximately 600m west of the Woods Lane crossroads junction with the B1438, where the speed limit becomes 30mph.<sup>21</sup> Accident data for Woods Lane and its junctions confirms there to have been five incidents that resulted in 'slight' injuries with no serious or fatal injury accidents in a three year period between 2010 and 2013.<sup>22</sup> There is no convincing evidence that suggests the Bredfield Road junction with Woods Lane has a significant accident record. In any event, highway works proposed through the appeal scheme, along with a reduction in the speed limit for the 40mph section of Woods Lane, would be expected to calm traffic and reduce the potential for accidents to occur.<sup>23</sup>
38. Although the signalised junction of Woods Lane with the B1438 currently operates within its capacity, there are queues in excess of 10 passenger car units during the morning and afternoon peak hours. Modelling of future years indicates the junction to be approaching capacity. The proposed development would increase pressure on the operation of the signalised junction, but it would do so by adding only one or two vehicles to these queues.<sup>24</sup>
39. The roundabout junction with the A12 already operates at capacity and the appeal scheme would add to this and the associated queuing.
40. Appeal proposals include a ghost island on Woods Lane for right turning vehicles waiting to enter the site access from the east, and the provision of two bus stops immediately to the east of the site access. The proposed junction has been designed to operate well within its capacity (and the Bredfield Road junction would also operate below its capacity).<sup>25</sup> A swept path analysis has been provided to indicate how a larger (refuse heavy goods) vehicle would be likely to navigate through the junction without any difficulty.<sup>26</sup>
41. An unsigned SoCG on transport matters has been provided. The parties to it would have been the appellant and Suffolk County Council. While it has not

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<sup>19</sup> Paragraph 4.22 of Mr Perkin's proof of evidence

<sup>20</sup> Paragraph 3.15 and Table 5.4 of the Transport Assessment (CD-A8 Part 1)

<sup>21</sup> Paragraph 3.12 of Ms Balboa's proof of evidence

<sup>22</sup> Paragraphs 3.19 and 3.52 of the Transport Assessment (CD-A8 Part 1)

<sup>23</sup> Paragraphs 6.30, 6.31, 6.33 and 6.34 of the Transport Assessment (CD-A8 Part 1)

<sup>24</sup> Paragraphs 6.36 and 6.37 of the Transport Assessment (CD-A8 Part 1)

<sup>25</sup> Paragraphs 6.38 and 6.29 of the Transport Assessment (CD-A8 Part 1)

<sup>26</sup> Drawing No.: A083952\_05 Revision A within Appendix G of the Transport Assessment (CD-A8 Part 2)

- been signed, a Senior Development Engineer at the County Council has confirmed in an e-mail dated 9 April 2015 that the SoCG reiterates the content of the Transport Assessment and no amendments would be necessary.
42. The Highway Authority has not objected to the appeal scheme. The Council has drawn attention to local concerns regarding the traffic levels on Woods Lane and the implications of this for the operation of the proposed junction at busy times, including the ability of people to turn right out of the proposed junction. In addition, the Council has noted that it could not cross-examine either the Highway Authority or the appellant's highways witness. However, the Council has offered no convincing evidence to counter the conclusions of the Transport Assessment that informed the Highway Authority's view.
43. Visibility from the proposed junction with Woods Lane has been shown to provide splays of 4.5mx120m, which would be adequate in this location and especially so with a 30mph speed limit.<sup>27</sup> There would also be suitable forward visibility for traffic approaching the proposed Toucan crossing. It is apparent that the proposed access is of a suitable design and could operate safely. Accordingly, it would comply with LP Development Management Policy DM22 – *Design: Function* to the extent that the policy is applicable to the site access and the details provided at this stage.<sup>28</sup>
44. A letter from the Highway Authority indicates that planning obligations are required for improvement works to the traffic signals at the junction of Woods Lane and the B1438, and for a Traffic Regulation Order for the introduction of a 30mph speed limit on Woods Lane.<sup>29</sup>
45. A reduction in speed limit along the highway would be expected to reduce the potential for accidents to occur. In addition to this, the strengthened residential character and the introduction of the Toucan crossing at the western end of Woods Lane reasonably would be expected to calm traffic and assist adherence to the new speed limit.
46. Evidence indicates that in future years the capacity of the signalised junction of Woods Lane with the B1438 will come under increased pressure, and traffic from the appeal scheme would add to this.<sup>30</sup> However, given the number of additional vehicles that are expected to result from the proposed development, the necessity to address the capacity of the junction would appear primarily to be a strategic issue for the highway network, rather than a consequence of the appeal scheme.
47. For the reasons above, the appeal scheme would not result in residual cumulative impacts that would be severe to suggest that, in accordance with paragraph 32 of the Framework, development should be prevented or refused on transport grounds.
- Proximity to services and facilities / use of sustainable modes of transport
48. Two primary schools are within walking distance of the entrance into the appeal site, with the routes to Woodbridge Primary School and Melton Community

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<sup>27</sup> Paragraphs 3.7 and 4.10 of Ms Balboa's proof of evidence

<sup>28</sup> As shown by the drawings within Appendix G of the Transport Assessment (CD-A8 Part 2), including WYG Transport Drawing no.: A083952\_04 Revision D

<sup>29</sup> Sums of £24,350 and £5,500 respectively

<sup>30</sup> Tables 6.9 and 6.10 of the Transport Assessment (CD-A8 Part 1)



Primary School 1.4km and 1.1km in length respectively.<sup>31</sup> Secondary schools are also within walking distance of the proposed development. The nearest local centre to the appeal site is the shops on Warwick Avenue, which are approximately 800m from the site entrance (with the furthest of the proposed dwellings several hundred metres from the entrance). The local centre would be accessed via Bredfield Road, which is a residential street that also provides routes to other shops, services and facilities in Woodbridge that are at greater distances from Woods Lane.

49. The proposed Toucan crossing has been designed to address pedestrian desire lines between from the appeal scheme to Woodbridge,<sup>32</sup> and its location would encourage pedestrians to use it. Given the residential nature of the streets, footways and landscaped areas along these routes, it would only be the distances to the shops, services and facilities that may deter the use of alternatives to the private car.
50. Bus services that would be available to residents of the scheme would not be as frequent as might be expected (for forms of public transport) within a larger settlement or a major conurbation.<sup>33</sup> Nor would the scale of the appeal scheme be expected to result in a higher frequency of services along Woods Lane. Evening services would be limited and no buses provided on Sundays and Bank Holidays. Nevertheless, current timetables would provide occupiers of the proposed dwellings with two buses per hour during peak hours, and one bus per hour off-peak. There is no evidence regarding the viability of these services, but equally there is nothing to suggest the level of service provision is expected to change significantly.
51. Current bus timetabling reflects the size and spatial context of the Melton/Woodbridge settlements. It would provide an adequate bus service for occupiers of the proposed development with stopping opportunities that would enable local journeys to be made by bus,<sup>34</sup> and further afield by connecting bus and rail services.<sup>35</sup>
52. Unaccompanied site visits during the inquiry enabled road conditions and pedestrian activity to be observed on Woods Lane during both the morning and afternoon peak periods. I also travelled daily to and from the inquiry along Woods Lane.
53. The section of Woods Lane with a 40mph speed limit has some of the narrower sections of footway, a curving road and traffic that includes heavy goods and light commercial vehicles. At present the narrower parts of the footway can be an intimidating environment for pedestrians.
54. During the morning peak hour, people were seen to use the Woods Lane footway and cross the carriageway to walk children to Melton Community Primary School. For the most part this was concentrated within the 30mph section of Woods Lane toward the crossroads with the B1438. However, it included at least one family walking from the western end of Woods Lane along the varying and at times narrow width of the footway.

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<sup>31</sup> Including paragraphs 4.15 to 4.20 of Ms Balboa's proof of evidence

<sup>32</sup> Paragraphs 7.1 and 7.4 of the Transport Assessment (CD-A8 Part 1)

<sup>33</sup> Bus timetables in Appendix D of the Transport Assessment (CD-A8 Part 2)

<sup>34</sup> To locations between Aldeburgh and Ipswich

<sup>35</sup> Page 16 of the Sustainability Appraisal at Appendix 1 of Mr Morrison's proof of evidence indicates the railway station in Melton to be 1.8km from the site entrance, and Woods Lane would provide a bus serviced route to it

55. Proposals to increase the width of the footway along Woods Lane, in conjunction with existing street lighting, would help to reduce the potential for footway users to feel intimidated by traffic on the carriageway. A further and significant reduction would be expected from dropping the speed limit on the 40mph section of Woods Lane. These factors would change the character of the highway and provide additional opportunities for crossing Woods Lane, both through the provision of the Toucan crossing and the reduction in vehicle speeds.
56. LP Development Management Policy DM20 – *Travel Plans* seeks all major residential (and other) developments to have travel plans that reduce the use of the private car. A suggested condition would provide a Travel Plan that would ensure that the proposed development would comply with LP Development Management Policy DM20.
57. Proposed interventions in regard to current highway conditions reasonably would be expected to increase the connectivity at the western end of Woods Lane, and although the improved footway width would only be half the minimum effective width sought for an unsegregated shared use route,<sup>36</sup> together these would encourage increased walking and cycling along Woods Lane.
58. Many of the shops, services and facilities in Melton and Woodbridge would be at greater distance than the shops and primary schools referred to above. Even so, these would be at distances that would not be unusual in settlements of this size and type, and they would be accessible by public transport.<sup>37</sup>
59. These matters would support the LP Strategic Policy SP11 – *Accessibility* objective to maximise opportunities for local journeys to be made by means other than by private motor car.<sup>38</sup>
60. The SoCG suggests that LP Development Management Policy DM19 – *Parking Standards* is relevant to this appeal. However, within the context of the development proposed, it deals with matters of detailed design that are reserved for determination at a later date. Therefore, no conflict has been demonstrated in relation to LP Development Management Policy DM19.

#### The Environmental Role

##### Character and appearance

61. The appeal site is an area of open countryside at the junction of the A12 and Woods Lane (the A1152). It lies within the *Suffolk Coast and Heaths, Wooded Plateau Farmlands* and *Ancient Rolling Farmlands* landscape character areas.<sup>39</sup> In this location built development is apparent to the south of Woods Lane, and extends along the southern side of the A12 to the south west of its roundabout junction with Woods Lane. At the western end of Woods Lane the carriageway forms an edge to the settlement, but that is not so at the eastern end, where Woods Lane has development both to the north and south of the highway.

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<sup>36</sup> ID4

<sup>37</sup> As shown on Appendix 1 of Mr Perkin's proof of evidence, and pages 19 & 22 of the Sustainability Appraisal at Appendix 1 of Mr Morrison's proof of evidence

<sup>38</sup> And the associated objective of LP Strategic Policy SP12 – *Climate Change*

<sup>39</sup> Section 4.2 of the application's *Landscape and Visual Assessment* (CD-A16) describes the national, regional and county level landscape character assessments for this area

62. The two agricultural fields that form the appeal site are split by Melton Bridleway no.24, which connects Woods Lane and the A12 by bypassing the roundabout junction. The rural qualities of the appeal site are emphasised by its openness and the mixed woodland to the north. However, the appeal site's edge of settlement context is signalled by the infrastructure and other built development to the south and west of it.
63. LP Strategic Policy SP26 – *Woodbridge* provides a strategy for Woodbridge that seeks to balance opportunities with the acknowledged physical and environmental constraints. These are identified as including the Deben Estuary with its nature conservation and landscape designations to the east of the town, the A12 to the west, areas that are liable to flood and a high quality historic built environment. It seeks to consolidate the town by a range of matters including retaining the A12 as a firm edge to the settlement, and ensuring that the town represents an attractive gateway into the Area of Outstanding Natural Beauty where the scale of new development and standard of design reflects that function, particularly at Melton.
64. LP Strategic Policy SP26 states that further significant expansion of Woodbridge (and Melton) will be sympathetically considered having regard to the local character and key physical thresholds. Woods Lane is not identified as a key physical threshold. If the appeal scheme were to be developed, the A12 would remain as a threshold and the development would be away from the landscape and nature conservation designations to the east.
65. Open countryside would be lost through the development of the appeal site. The open countryside in this location is clearly rural. The appeal site has an amenity value with local significance due to its location on the edge of the settlement, and the opportunities for access and views across it that enables its intrinsic character to be experienced by many people each day.
66. However, the northern edge of the appeal site is wooded. Also, the level of the land rises both gradually to the north and sharply to the west as the level of the A12 responds to the topography. These features would provide a clear and logical transition from the proposed residential development on lower ground to open countryside to the north and west. Open countryside would also remain to the east of the appeal site that would cause the proposed development to have functional context with the residential areas to the south of Woods Lane and next to the A12, rather than with any housing at distance to the east. Such a functional relational relationship with surrounding land uses would not be unusual for an edge of settlement location, and the A12 would continue to provide a clear physical 'constraint' to the west of the proposed development.
67. The proposed access to the appeal scheme would have a junction with Woods Lane in the vicinity, and to the east, of the junction with Bredfield Road, which is on the opposite (southern) side of the highway. The proposed Toucan crossing, with its associated road markings and high friction surfacing, would occupy the section of Woods Lane between the Bredfield Road junction and the access into the appeal scheme.<sup>40</sup> An executed planning obligation would provide a contribution towards the introduction of a 30mph speed limit along Woods Lane. These factors, along with the proposed housing and footway widening along the northern side of Woods Lane, would reinforce the resulting increased residential character on this section of Woods Lane.

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<sup>40</sup> As shown on WYG drawing ref: A083952\_04 Revision D - Proposed Access Ghost Island Junction

68. The central section of Woods Lane between the existing and proposed housing next to the A12 and that toward the eastern end of Woods Lane at its crossroad junction with the B1438, would continue to have open countryside to the north (and to a certain extent a sylvan character on the southern side). The visual separation of these two areas of residential development would also remain due to the curving and slightly undulating line of the central section of Woods Lane.
69. The SoCG indicates that LP Strategic Policy SP15 – *Landscape and Townscape* is considered relevant to this case. The Council’s Landscape Officer identified only limited landscape impact and raised no objection to the proposed development. No conflict with LP Strategic Policy SP15 is identified in the Council’s reasons for refusal. The Council’s Officer Report on the proposal notes: that the site is visually contained to the north and east, and partial screening to the west and south would be provided by planting; the landscape impact would be limited to development of the field surfaces, with other existing landscape features retained or enhanced; the proposal would integrate with the urban edge of Woodbridge/Melton; and while it would be better if the development did not occur, there would not be significant visual/landscape impacts that would support a reason for refusal. The proposed development would erode the rural landscape at the junction of the A12 and Woods Lane, but it would not be sufficient to fail to protect or enhance the landscape character areas in this location or conflict with LP Strategic Policy SP15.
70. By not seriously detracting from and relating well to the scale and the character of its surroundings, the appeal scheme complies with LP Development Management Policy DM21 – *Design: Aesthetics* to the extent that the policy is applicable to this outline proposal.
71. The appeal site has open countryside to the north and east, and busy roads on the southern and western boundaries. However, the introduction of both a Toucan crossing at the western end of Woods Lane and a 30 mph speed limit along its entire length would strengthen the functional relationship (and the connectivity) between the appeal site and existing development in Woodbridge.
72. The contained nature of the appeal site, along with the continued presence of Melton Bridleway no.24 and the increased opportunities for people to cross Woods Lane safely, would significantly reduce the potential for the proposed development to be perceived as being socially or environmentally separated from the settlement. It would have a functional relationship and a social and environmental connectivity with development to the south that would be comparable to other residential developments on Woods Lane. Having regard to local character and key physical thresholds, for the reasons above the appeal scheme complies with LP Strategic Policy SP26.
73. Given these findings, and that LP Strategic Policy SP29 is a relevant policy for the supply of housing, the protection that LP Strategic Policy SP29 seeks to provide to the countryside can only attract very limited weight in this case.
- Protected species
74. The appeal site has been subject to an Extended Phase I Habitat Survey carried out in June 2013 (CD-A11), along with a Reptile Survey Report (CD-A13) and a Nocturnal Bat Activity Survey Report (CD-A14). Although Common Toads were

recorded on the site during the Phase I Habitat Survey, no reptiles or amphibians were found during the following reptile survey.

75. Bat activity on the appeal site included foraging activity around trees and hedgerows at various locations within the site, but no emergence was recorded from vegetation on the site, except from an oak tree in the southeast corner. Illustrative proposals for the appeal site would retain the hedgerows and trees where foraging has been recorded. Given the boundary location of the tree that had bats roosting within it, there is no reason to assume that it would not be retained within any final detailed design for the site.
76. There is no evidence that indicates the appeal scheme would be likely to have a significant effect on protected species, their habitats or on protected areas in the wider locality. Consequently, the appeal scheme complies with LP Strategic Policy SP14 – *Biodiversity and Geodiversity* and LP Development Management Policy DM27 – *Biodiversity and Geodiversity*.

#### The Economic Role

77. Developing the proposed housing would result in economic benefit through the economic activity associated with the construction of the dwellings and their subsequent occupation. In accordance with Framework paragraph 19, economic growth through the provision of construction jobs and the sale of construction materials, and revenue and expenditure resulting from the occupation of the houses, attracts significant weight in this case.

#### *Provision for community and other facilities/services*

78. Part 1 (2) of Statutory Instrument 2010 No.948 – *The Community Infrastructure Levy Regulations 2010* indicates 'infrastructure' to have the meaning given in section 216(2) of the Planning Act 2008.<sup>41</sup> Listed within Section 216(2) are: (a) roads and other transport facilities; (b) flood defences; (c) schools and other educational facilities; (d) medical facilities, (e) sporting and recreational facilities; and, (f) open spaces.
79. CIL Regulation 123(2) states that: *A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure (including, subject to paragraph (2B), through requiring a highway agreement to be entered into)*. Parties have highlighted that the Council has published a list of *relevant infrastructure* under CIL Regulation 123. The list is noted to include: strategic highway improvements including strategic cycling and pedestrian infrastructure; provision of library facilities; provision of additional pre-school places at existing establishments; provision of secondary, sixth form and further education places; and, provision of off site open space.
80. The executed Unilateral Undertaking submitted by the appellant at the inquiry (ID9) includes provisions for: affordable housing; an Education Contribution; a Library Contribution; an Off-Site Sports Contribution; On-Site Open Space; a Pre-School Contribution; a Highway Contribution; and, a Traffic Regulation Order Sum.
81. On the basis of the representations received, it appears that the Council's Regulation 123 List corresponds with ID9's planning obligations in regard to:

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<sup>41</sup> As amended by Regulation 63

the Education Contribution; Library Contribution; Pre-School Contribution; and, Off-Site Sports Contribution. However, the listing for highway improvements is specifically for 'strategic' infrastructure, which separates it from the listings of other items where 'provision' is to be made. If the 'strategic' item was not intended to have a different meaning, the Regulation 123 List would have been expected to read as 'Provision of highway improvements...'

82. For example, in common with highway improvements, library and education contributions could be considered to relate to facilities where the 'provision' is planned on a 'strategic' level. Despite this, the Regulation 123 List specifically uses the wording 'Provision' for matters such as pre-school places, education, library and off site open space. It would appear to indicate funding that is a direct response to a need that results from a development, with CIL funding toward 'strategic' highway, cycling and pedestrian infrastructure having a much wider geographic (and funding) context.
83. The appellant has highlighted that the County Council did not object to the inclusion of clause 4.4 within ID9, which states that '*...Where the CIL Date<sup>42</sup> occurs prior to the grant of Planning Permission then the obligations referred to in clauses 4.2 and 4.3 above shall cease to have effect and shall not be enforceable against the Owner...*'. However, that lack of initial objection does not indicate that obligations that are not *relevant Infrastructure* for the purposes of CIL Regulation 123 no longer meet the three tests within CIL Regulation 122 that are reflected in paragraph 204 of the Framework. These tests are that planning obligations should only be sought where they would 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.
84. ID14 was submitted to address clause 4.4 of ID9 and the potential outcome of a decision in relation to the differing views of the appellant and County Council in relation to 'relevant infrastructure'.
85. For the reasons above, the planning obligations in relation to affordable housing, on-site open space and the Traffic Regulation Order Sum meet the tests of a planning obligation and provide significant weight in favour of the appeal scheme.
86. However, it has not been shown that the planning obligation in relation to the signalised junction is necessary and meets the tests of a planning obligation and therefore, no weight is attached to it.
87. Given the planning obligations provided and the scope of CIL in this area, no conflict has been identified with the following LP policies that the SoCG considers relevant to the appeal scheme: Strategic Policy SP16 – *Sport and Play*; Strategic Policy SP18 – *Infrastructure*; Development Management Policy DM25 – *Art*; and, Development Management Policy DM32 – *Sport and Play*.

#### *Other matters*

88. The application's Flood Risk Assessment (FRA) notes the appeal site to lie within Flood Zone 1, where flooding would not be expected to occur. The FRA has taken into account potential run-off from the development and the possible

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<sup>42</sup> Clause 1.1 of ID9 indicates 'CIL Date' to be *the date upon which the first Charging Schedule comes into effect in the area in which the Development is situated*

effects of climate change.<sup>43</sup> A suggested condition would deal with SuDS surface water drainage and would be expected adequately address surface water management and the potential for flooding on, or from, the site. Accordingly, the appeal proposal complies with LP Development Management Policy DM28 – *Flood Risk*, which is not permissive of new development in areas at high risk from flooding, except in certain circumstances.

89. The SoCG indicates that LP Development Management Policy DM24 – *Sustainable Construction* is considered relevant to this appeal. The policy expects all new all new developments to use of resources efficiently. In doing so, it makes reference to the Code for Sustainable Homes, which has been withdrawn following the Written Ministerial Statement of 25 March 2015.<sup>44</sup> In any event, this is an outline proposal with all matters apart from the site access reserved for determination at a later date, and no conflict has been identified with LP Development Management Policy DM24.
90. It has been suggested that the appeal scheme could act as a precedent for future development proposals. However each application and appeal is determined on its own merits and that is how the appeal scheme has been considered, including in relation to its effect on landscape and the degree of natural and built containment around the site. If this appeal were to be allowed, other proposals also would be determined on their merits, rather than following matters that are specific to this case.
91. A number of Neighbourhood Plans are being progressed within the District. The appeal site lies within the Melton Neighbourhood Plan Area, which was approved by the Council in December 2013. When the inquiry sat, the Melton Neighbourhood Plan had been drafted but it had yet to be consulted upon.<sup>45</sup> As a result, very limited weight can be attributed to the objectives of the Melton Neighbourhood Plan described to the inquiry.

### Conditions

92. Following the inquiry, the Inspector's preferred wordings for the suggested conditions provided within the SoCG were circulated for consideration by the two main parties to the inquiry. If this appeal were to be allowed, the following conditions would be imposed.
93. In the interests of the character and appearance of the locality, two conditions would be imposed in relation to reserved matters, along with a condition to address commencement.
94. For the avoidance of doubt and in the interests of proper planning, a condition would be imposed regarding the approved plans in relation to the site and its access with associated junction and bus stops details.
95. In the interests of highway safety, conditions would be imposed requiring a scheme for the provision of the site access, other highway works including a Toucan crossing, and details for the provision of estate roads and footpaths. These would be pre-commencement conditions as they address matters that must take place before any other development, and associated deliveries, can commence.

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<sup>43</sup> CD-A7, including paragraphs in section 7

<sup>44</sup> As described in Planning Practice Guidance - Reference ID: 56-001-20150327

<sup>45</sup> Ms Barrington's evidence to the inquiry

96. In the interests of the historic environment, a condition would be imposed to address a programme of archaeological work, and by necessity this must be a pre-commencement condition to enable archaeological work to be undertaken prior to any archaeology being lost as a result of development.
97. To protect local living conditions and the water environment, a condition would be imposed to address a surface water drainage scheme for the site. In the interests of the natural environment, the character and appearance of the locality, and local living conditions, a condition would be imposed requiring the provision and implementation of a Habitat Management Plan for areas of green space in the development. These would be pre-commencement conditions as they address matters with the scope, timing and associated decisions that would need to be determined prior to development commencing.
98. This would also be the case in regard to the first (pre-commencement) part a condition in relation to noise that would deal with a scheme that would address matters relevant to the detailed design of the development. The condition would be imposed in the interests of ensuring suitable local living conditions.
99. To protect local living conditions and the water environment a condition would be imposed in relation to the provision of details regarding any sewage pumping station and associated noise.
100. To provide a sustainable form of development, a condition would be imposed requiring the provision and implementation of a Travel Plan.
101. In the interests of highway safety a condition would be imposed requiring the provision of carriageways and footways prior to the occupation of dwellings.
102. In the interests of the natural environment, a condition would be imposed to address the conclusions and recommendations of the Extended Phase I Habitat Survey.
103. Suggested possible conditions include those in relation to water, energy and resource efficiency measures, during the construction and occupation phases, including rainwater harvesting. Given the scope of Building Regulations, along with the costs of these resources, it has not been shown that such conditions would be necessary in this case, and therefore, would not be imposed.

## Conclusion

104. While there is conflict with LP Strategic Policies SP29 and SP19 (and therefore SP2), and LP Development Management Policies DM3 and DM4, the weight attributed to these policies and the conflict is considerably less than would be case if there had been a five year supply of deliverable sites for housing.
105. Policies that seek to recognise the intrinsic character and beauty of the countryside address a *Core planning principle* of the Framework. Nevertheless, paragraph 7 of the Framework is unambiguous that the social role of sustainable development, amongst other things, supports strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. Framework paragraph 49 seeks matters such as these to be balanced, noting that relevant policies for the supply housing should not be considered up-to-date if a local planning



authority cannot demonstrate a five year supply of deliverable sites for housing. That is the case in this appeal.

106. The benefits of the appeal scheme include: the provision of market and affordable housing in a local planning authority area where there is a shortfall in both; improvements to local infrastructure; and, economic benefits. While it has not been shown that the appeal site would be the best or most suitable location for new housing, equally it has not been shown that other sites are available that would provide the social and economic benefits that would be expected to be realised from the proposed development.
107. It has not been shown that any other factors, such as sites coming forward for housing, would change the reduced weight attributed to the out-of-date policies in this case.
108. In contrast and within the context of suggested planning conditions and obligations, the appeal scheme complies with the relevant parts of policies LP Strategic Policies SP3, SP11, SP14, SP15, SP17, SP26, and LP Development Management Policies DM2, DM20, DM21, DM22, DM23, DM27, DM28, and the associated parts of the Framework. These policies are not out-of-date and weigh heavily in this case.
109. Within the context of the existing land uses, patterns of development and topography in the locality, the appeal proposal would be a logical addition to the settlements in this location that would be sympathetic to local character and key physical thresholds.
110. The adverse impacts of granting planning permission in this case do not significantly and demonstrably outweigh the benefits, when assessed against the development plan, and Framework planning policies, taken as a whole. Therefore, the appeal scheme would be a form of sustainable development that complies with LP Strategic Policy SP1, and in accordance with LP Strategic Policy SP1A, it should be allowed.

*Clive Sproule*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Clay, of Counsel	Instructed by Ian de Prez, Solicitor to Suffolk Coastal District Council
He called	
Mark Edgerley	Principal Planner (Planning Policy and Delivery), Suffolk Coastal District Council
BSc(Hons) Pg Cert MA	
MRTPI	
Philip Perkin	Principal Planner, Suffolk Coastal District Council
BA MRTPI	

### FOR THE APPELLANT:

Anthony Crean, Queens Counsel	Instructed by Richard Brown, Richard Brown Planning Limited
Ian Ponter, of Counsel	
He called	
Christopher May	Director, Pegasus Group
BA(Hons) MRTPI	
Richard Brown	Richard Brown Planning Limited
MSc	

### INTERESTED PERSONS:

Buffy Barrington	Melton Parish Council
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## DOCUMENTS

- 1 *Ivan Crane vs Secretary of State for Communities and Local Government and Harborough District Council* [2015] EWHC 425 (Admin)
- 2 Pegasus Group - Notes on Rebuttal Evidence from M. Edgerley and further e-mails from SCDC, dated 11 May 2015
- 3 Rebuttal Proof of Evidence – Mark Edgerley, Suffolk Coastal District Council
- 4 Department of Transport, Local Transport Note 1/12, September 2012 – *Shared Use Routes for Pedestrians and Cyclists*
- 5 Summary Proof of Evidence – Mark Edgerley, Suffolk Coastal District Council
- 6 Planning Practice Guidance – Housing and economic land availability assessment
- 7 Summary Proof of Evidence – Philip Perkin, Suffolk Coastal District Council
- 8 Providing for Journeys on Foot - Planning for Pedestrians, pages 41 and 42

9 A Unilateral Undertaking relating to land north of Woods Lane, Melton, Suffolk, dated 12 May 2015

10 A statement by Buffy Barrington of Melton Parish Council

11 A written statement fro Woodbridge Safer Neighbourhood Team

Document submitted after closure of the inquiry:

12 Suffolk Coastal District Council – Community Infrastructure Levy – Charging Schedule – May 2015

13 Suffolk Coastal District Council – Community Infrastructure Levy – Regulation 123 List – May 2015

14 A Unilateral Undertaking relating to land north of Woods Lane, Melton, Suffolk , dated 6 August 2015

Richborough Estates

## SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing number: BMD.213.DR.001 – *Red Line Site Boundary*

Drawing number: A083952\_04 Rev D – *Proposed Access Ghost Island Junction*
5. No development shall take place until there has been submitted to and approved in writing by the local planning authority, a scheme for the provision of the vehicular access from Woods Lane and visibility splays shown on drawing number: A083952\_04 Rev D. The approved scheme for the provision of the access junction with Woods Lane and the visibility splays from it shall be implemented in full prior to the commencement of any other works hereby permitted or the delivery of any other materials.
6. No development shall take place until details of the estate roads and footpaths, (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
7. No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed in accordance with the approved details to at least binder level.
8. No development shall take place until a scheme for the widening of the existing footway on the northern side of Woods Lane, and the provision of the Toucan crossing and all works to the existing footways on the south side of Woods Lane, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to the occupation of any dwelling hereby permitted.
9. Prior to the occupation of any dwelling hereby permitted a Travel Plan for journeys to and from the site by occupiers of the dwellings hereby permitted shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented as approved and this implementation shall commence prior to the occupation of any dwelling hereby permitted.
10. No development shall take place until a programme of archaeological work

has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

11. No development shall take place until a surface water drainage scheme for the site based on RSK drawing number 40-04 Rev P6 – *Indicative SUDS Strategy* has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of the hydrological and hydrogeological context of the development, and an implementation programme. The scheme shall be implemented in accordance with the approved details.
12. No development shall take place until a Habitat Management Plan for the areas of greenspace within the development has been submitted to and approved in writing by the local planning authority. The Habitat Management Plan shall be implemented as approved.
13. The conclusions and recommendations of the Extended Phase 1 Habitat Survey, June 2013 (Ref 1319-CWS-01) shall be implemented, except in relation to *Further Surveys*.
14. Before the installation of any sewage pumping station (including wet wells, pumps and any other associated fixed plant), details of the station, its equipment, its location, acoustic housing and any vibration isolation measures, together with the projected noise levels at the boundary of the nearest residential property, shall be submitted to the local planning authority and only the approved plant shall be installed and retained in the approved form thereafter.

Noise from any sewage pumping station shall be no more than 5dB(A) above the existing background noise level. Noise measurements for background noise shall be expressed as a 5 minute LA90 and measurement of any fixed plant shall be expressed as a 5 minute LAeq. In the event that the fixed plant has a distinguishing tonal element, the noise emitted from it shall not exceed the background noise level. 1/3 Octave band measurements shall be used to identify whether the fixed plant has a tonal element. Noise levels shall be measured or predicted at the boundary of the nearest residential premises.

15. a) No development shall take place until a scheme for protecting any noise sensitive part of the development from road traffic noise from the A12 and A1152 has been submitted to and approved in writing by the local planning authority. The scheme submitted to the local planning authority shall state how an adequate level of protection against road traffic noise will be ensured to the following standards:

Dwellings - living room indoors, daytime 30 dBL<sub>Aeq16hour</sub>

Dwellings - bedrooms, night time 30 dBL<sub>Aeq8hour</sub> and 45 dBL<sub>Afmax</sub>

Outdoor living space - daytime 50 dBL<sub>Aeq16hour</sub>

All works forming part of the scheme (including boundary treatments, glazing and ventilation requirements) shall be completed before the noise sensitive part of the development is occupied, and these works shall be retained in the approved form thereafter.

b) Prior to occupation of any of the proposed dwellings, the applicant shall arrange for noise measurements to be undertaken by a competent person in order to verify the achievement of the standards set within condition 15 a) at plots to be agreed with the local planning authority. Measurements shall be made in accordance with the Association of Noise Consultants Guidelines: Noise Measurement in Buildings, Part 2 Noise from External Sources 2013. (These noise criteria should be met when windows to the rooms are closed and passive ventilation is open).

Richborough Estates