

Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 04/03/15 a 15/09/15

Ymweliad safle a wnaed ar 15/09/15

gan Hywel Wyn Jones BA (Hons) BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 16 Hydref 2015

Appeal Decision

Hearing held on 04/03/15 & 15/09/15

Site visit made on 15/09/15

by Hywel Wyn Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 16 October 2015

Appeal Ref: APP/A6835/A/13/2206419

Site address: Land to the rear of 66A Mold Road, Mynydd Isa, Mold, Flintshire, CH7 6TD

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Mullhill Estates LLP against the decision of Flintshire County Council.
- The application (ref: 048042), dated 28 October 2010, was refused by notice dated 10 September 2013.
- The development proposed was described as 'the demolition of 'Sunnyhill' and 66A Mold Road and the erection of 60 houses'.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of 'Sunnyhill' and 66A Mold Road and the erection of 58 houses at Land to the rear of 66A Mold Road, Mynydd Isa, Mold, Flintshire, CH7 6TD in accordance with the terms of the application, ref. 048042, dated 28 October 2010, subject to the conditions in the Schedule to this decision.

Preliminary Matters

2. The appeal seeks outline permission with only the matter of landscaping reserved for future consideration.
3. The description of development in the above banner heading reflects that set out in the application form. The scheme was subsequently amended by the appellant to propose 58 dwellings. As this was the scheme considered by the Council, I have determined the appeal on the same basis. At my request, amended plans were submitted by the appellant that provide information on the proposed finished floor levels of the houses. The appellant also presented a plan which contained a slight variation in the identified appeal site, which was consistent with the more detailed plans submitted. Satisfied that to do so would cause no injustice to any party, I have taken these drawings into account in my assessment of the appeal scheme.

4. The proposal constitutes a Schedule 2 development as defined in The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended. In response to the appeal the Welsh Government issued a Screening Direction confirming that the proposal constituted 'Environmental Impact Assessment (EIA) development'. This was on the basis of the likely effects on Great Crested Newts (GCN), a European Protected Species. Accordingly the appellant submitted an Environmental Statement (ES) and Non-technical Summary. On the opening day of the hearing I adjourned the event when it became evident that the appellant had failed to properly publicise the ES, in accordance with Regulation 14. The appellant took this opportunity to update and revise the ES before undertaking the necessary publicity and formally submitting it. In an Assessment dated 2 September 2015 I confirmed that the revised ES met the requirements of the Regulations.
5. A unilateral undertaking (UU) under the provisions of s106 of the 1990 Act submitted by the appellant includes obligations to provide financial contributions to: affordable housing; equip an on-site play area provision; local education provision; mitigate the loss of habitat for the GCN; and to a travel plan. There is also an obligation to establish a management company for the play area. The duly signed undertaking is dated 14 September 2015.
6. The Council has confirmed¹ that none of the obligations would exceed the threshold of 5 pooled contributions set out in Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010. It has also confirmed that, as it accepts that not all the financial contributions that it would wish to seek from the developer could be financially borne by the project, it agreed to a reduced rate of provision in relation to most topics. The UU that has been submitted reflects this position, with the exception of the level of contribution to affordable housing. Whilst the Council is satisfied that a commuted payment is justified in this case, it considers the quantum to be seriously deficient.
7. The proposed contribution towards play provision, education and wildlife are based on the UDP and associated Local Planning Guidance (LPG) Notes². On this basis I am satisfied that these obligations meet national policy as set out in Circular 13/97 and the 3 statutory tests set out in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. Thus I afford these elements of the undertaking significant weight in my decision.
8. The proposed affordable housing contribution is to "facilitate access to the existing affordable housing" within the Council's area. This contribution derives from UDP policy HSG10 and LPG Note No. 9 – Affordable Housing. However, the detail of how the contribution would be used is based on a report to the Council's Housing Overview and Scrutiny Committee in which the need to update LPG Note 9 is acknowledged. As the approach agreed by the Committee has not been subject to the formal process required of supplementary planning guidance, including public consultation, this limits the weight I afford this obligation.

¹ In an email dated 14 September 2015 and, as agreed at the hearing, the Council provided additional information in an email dated 24 September 2015

² Local Planning Guidance Notes No. 8 – Nature Conservation and Development; No. 13 - Open Space Requirements; No. 22 – Planning Obligations; and No. 23 Developer Contributions to Education

9. At the hearing the appellant expressed reservations regarding whether the payment towards the promotion, monitoring and evaluation of a Travel Plan which the Council had sought was necessary. At my request the Council provided an explanatory note³ on this matter. This short note explains that the contribution would fund the 'promotion, support, advice and review of the Travel Plan'. Whilst it is evident that the developer would bear the responsibility and main cost of implementing the Travel Plan, the contribution sought by the Council would be used to assist in facilitating the effectiveness of the Plan, rather than merely representing part of the Council's everyday, administrative responsibilities. Accordingly I find that it would be justified and thus I afford it weight.

Main Issues

10. The main issues are:

- (i) Whether, having regard to local planning policy, the scheme makes adequate provision for affordable housing;
- (ii) the effect of the proposed development on local ecology, in particular great crested newts; and
- (iii) the effect of the proposed development on highway safety.

Reasons

11. Most of the appeal site is unused and overgrown and includes Sunnyhill, a dilapidated, vacant house. The site includes No. 66A Mold Road over which it is proposed to construct a new access and also encompasses a track connecting to Rose Lane. This track is hard surfaced for part of its length and provides access to Sunnyhill and to the rear of adjacent properties fronting Mold Road. The scheme proposes that it would serve as the main access to one of the proposed dwellings and would continue to serve as a rear access to existing properties. The main part of the site is steeply sloping in parts and is bounded on three sides by residential properties and by open countryside along its remaining boundary. With the exception of the curtilages of the two dwellings to be demolished, most of the remainder of the site is allocated for 57 houses by policy HSG1 of the Flintshire Unitary Development Plan (UDP) (2011).

Affordable Housing

12. At the hearing the pressing need for affordable housing, and the planning system's role in its delivery, was accepted by all parties present. In this case Policy HSG10 of the UDP seeks a 30% provision of affordable housing. When it considered the proposal the Council's planning committee resolved that this level of provision should not be reduced. This stance was contrary to the advice of its officers that, as the applicant had shown that the economic viability of the scheme could not bear this level of provision, the contribution sought should be considerably lower. The appellant drew my attention to 2 relatively recent appeal decisions within the County⁴. In both cases a lower level of provision than the target figure was found to be justified on the grounds of a viability assessment. At the hearing the Council accepted that the policy provided some flexibility in relation to this target where justified by economic viability

³ Email dated 24 September 2015

⁴ Mostyn: APP/A6835/A/13/2203820; Connah's Quay: APP/A6835/A/14/2211737

considerations. This position accords with LPG 22 which explains that the Council will be realistic about the economics of development when negotiating the level of contributions.

13. In preparation for the resumed hearing the appellant provided updated evidence on viability issues prepared by specialist consultants, which was reviewed by the Valuation Office Agency (VAO) on behalf of the Council. Compiling viability assessments inevitably involve making informed judgements on a range of matters over which professional practitioners may disagree. Relatively small changes in inputs can significantly affect overall figures.
14. The main parties agreed at the hearing that the main difference between them on viability turned on the benchmark land value. There are several significant abnormal costs associated with the development of the site. The degree to which this should be reflected in land costs is influenced by the need to provide a 'competitive return to a willing landowner'. The parties agreed at the hearing that there is difference of some £50,000 between the parties' valuers on land benchmark costs. This is a relatively modest figure against the total costs of the project at over £8.6million.
15. The financial contributions contained in the UU exceed that which the appellant considers economically viable using accepted measures. It states that it is willing to accept a reduced developer return in this case to adhere to the total sum of all financial contributions that was originally offered even though the viability positioned has worsened in the meantime. Thus, even if the VAO figures are to be preferred, this would only serve to provide the return to the developer at a rate which is closer to the 18% figure which the parties agree is reasonable.
16. I acknowledge the potential for future changes in circumstances that could markedly alter viability but I must base my decision on the present situation. These circumstances lead me to find that the appellant's approach to land values is reasonable, and that the available evidence on viability justifies reducing the level of contribution to affordable housing to that proposed in the Undertaking. Whilst both local and national policy favours on-site provision of affordable housing, I agree with the main parties that the level of contribution that is to be provided by the unilateral undertaking means that a commuted sum is the only practical means of such provision in this case. Thus, in the circumstances, I find that the appeal scheme would make adequate provision towards affordable housing, in line with policy HSG10.

Ecology

17. The submitted evidence, including the ES, establishes that the scheme would not be likely to cause harm alone or in combination with other projects on any site designated for its nature conservation interests, including the Buckley Clay Pits and Commons Site of Special Scientific Interest and the Deeside and Buckley Newt Sites Special Area of Conservation. On the basis of the up-to-date and detailed ecological surveys which are contained in the ES, I am satisfied that the only significant ecological resource within the zone of influence of the proposed development which is likely to be affected is the GCN, which is protected under the Conservation of Habitats and Species (CH&S) Regulations 2010.
18. In a survey of the area conducted in 2010, GCN were identified as present in one nearby pond ('Pond 2' in the ES). The pond is some 350m from the site. The terrestrial range of a GCN is known to occasionally extend to between 250m and 500m. Thus, given the shelter and foraging opportunities provided by the site the ES

concludes that it is probable that GCN are present. Although the appellant's ecologist could not obtain access to Pond 2 when carrying out a more recent survey, in the absence of any known change in circumstances, the ES has assumed continued GCN presence on the site.

19. The scheme proposes to mitigate the potential impact on the local population of GCN in 2 ways. Firstly, it proposes to adopt measures to avoid direct harm during and after the construction phase by measures to include physical barriers and buffer landscaping works, which would be matters to be secured by planning condition. Secondly, the s106 undertaking would provide a financial contribution towards the provision of alternative migration land or improvements to existing GCN habitats locally.
20. Any works that would potentially affect a European Protected Species would require a licence⁵. The parties agreed that it is necessary to consider the prospects of such a derogation licence being granted by Natural Resources Wales (NRW). The 3 relevant tests in relation to derogation are set out in regulation 53 of the CH&S Regulations, which require that: there is an imperative reason of overriding public interest; that there is no satisfactory alternative; and, that the licence would not be detrimental to maintaining the population of the species at a favourable conservation status in its natural range. The appellant accepts that NRW would require significant further information before granting any licence. At this stage, and bearing in mind the favourable response of NRW to the scheme, I consider that there is a reasonable prospect that a licence would be granted.
21. Whilst I have noted the detailed matters raised by an objector, I am satisfied on the evidence before me and the absence of objections from either NRW or the Council's Ecologist, that the scheme is not likely to unacceptably affect the favourable conservation status of the local GCN population. The requirement for a licence will ensure that a more detailed assessment will be undertaken before any works can take place.
22. The revised ES establishes that the scheme could be undertaken without unacceptable impacts on other ecological interests, provided conditions are imposed to control the timing of works and to require further details of mitigating measures to be agreed and implemented. On this main issue I am satisfied that the scheme is consistent with policy WB1, LPP 8 and national policy⁶.

Highway Safety

23. In deciding to refuse the application against the advice of its officers the Council's Planning Committee cited harm to highway safety and insufficient parking provision among its reasons for refusal. However, at a subsequent meeting the Committee resolved that, in the absence of technical evidence, it would not pursue these objections.
24. In line with national policy, the Council's parking standards⁷ are expressed as maxima which, in this case, would mean a provision of up to 150 spaces. The scheme provides

⁵ Regulation 53, the Conservation of Habitats and Species Regulations 2010

⁶ Technical Advice Note 5: Nature Conservation and Planning

⁷ Local Planning Guidance Note No. 11 – Parking Standards

116. This level of provision is appropriate in a location which has good access by means other than a car to local services and facilities, and a bus route to the nearby larger settlement of Mold. The proposed Travel Plan, which can be secured by condition, will further encourage reduced car dependency. In this respect the scheme is consistent with UDP policy AC18 and the aim of AC13.

25. Access from the site onto the A549 would be facilitated by the demolition of No. 66A and would involve the widening and realignment of the present junction of a short service road that runs parallel with the main road. There have been only 2 recorded personal injury accidents nearby in the last 5 years, both of which were recorded a 'slight'. Local residents are concerned that the present incidents of minor collisions that they have witnessed on this section of highway would be exacerbated.
26. The highway safety and capacity implications of the proposed access have been assessed by specialists on behalf of the appellant, and found to be acceptable, by the Council's Highways Officers, by specialist consultants employed by the Council, and by an independent road safety audit. Updated traffic surveys have been undertaken following the opening of the local Sainsbury's store which residents explained has increased traffic volumes. The evidence indicates that the staggered junction arrangements that would be created by the construction of the proposed access onto the main road would provide sufficient capacity to accommodate the predicted traffic flows.
27. It is evident to me that there are aspects of the arrangements that are not ideal, in particular some vehicles exiting the site may need to cross the centre line, and there will be occasions when the visibility splay eastwards will be reduced whilst a bus stop is in active use. However, the scheme would provide for the realignment and widening of the existing service road junction which would improve visibility and the angle at which vehicles presently enter the main road. It would also widen a presently sub-standard section of footway along Mold Road that extends towards Rose Lane.
28. Whilst local residents are concerned about traffic speeds the appellant's evidence shows that visibility splays would meet the appropriate standards⁸. In an urban location such as this it is reasonable to assume that those travelling along the main road, as well as those entering it, will do so with caution. This is especially the case given the presence of several junctions and numerous private driveways along this section of the main road. If the incidents of dangerous parking on the opposite side of the road continue, as the appellant's highway consultant pointed out, this can be addressed by the police and/or highway authority. On this main issue, I consider that the effect of the proposed development on highway safety would be acceptable, and thus would conform to policy AC13.

Other matters

29. The Council has maintained its objection to the level of public open space to be provided by the scheme. A local resident and member of the Community Council confirmed the impression that I have gained from my visit that Mynydd Isa is well served by public open space, including a toddler play space and a fenced games area at Y Bonc which is of a particularly high standard. This facility is on the same side of Mold Road as the appeal site and is a few hundred metres away and easily accessible. The Council accepted that, whilst the area of land proposed for open space falls well

⁸ Table B, Annex B, Technical Advice Note 18: Transport

below that expected in UDP policy SR5 and LPG⁹, the significance of the shortfall is limited given the local circumstances and that the UU would provide a financial contribution to equip the facility and to address its future management.

30. Local residents, some of whom have experienced at first-hand flooding of their properties, are concerned that the scheme would exacerbate such problems. Areas of the lower-lying parts of the site are marshy and, on occasions, saturated. The appellant's investigations have revealed that a drainage pipe traversing the site is fractured which is likely to exacerbate these local drainage problems. Mindful of the specialist advice of NRW, I consider that the provision of suitable surface water drainage to serve the development and to replace the existing drainage infrastructure is a matter that can be adequately addressed by a planning condition. Whilst I note the concern expressed by local residents that drainage works on some other modern housing estates in the County have proved ineffective, I am not aware of the details of those cases. I am satisfied that there are controls available to ensure that properly designed and constructed drainage works are provided, which will avoid flooding in accord with policy EWP 17.
31. Bearing in mind the relevant local guidance¹⁰, the separation distances between existing and proposed houses, and the potential to secure additional screening through new boundary enclosures mean that the scheme would not give rise to unacceptable impacts in terms of overlooking, visual intrusion or loss of light. The access to the site will pass in proximity to two dwellings, the closest of which is a bungalow, No. 64, which I visited during my inspection of the site. The proposed estate road would be separated from this neighbouring property by a footpath and the modest gap between its side elevation and its boundary. I observed that along this elevation there is a secondary window serving a living room, a dining room window which presently faces the side elevation of No. 66A, and a rear conservatory. I consider that the physical presence of the proposed 2m acoustic fence along the side of the neighbouring bungalow would be no more intrusive than the presence of the existing dormer building and the boundary fence that presently forms a mutual boundary at the rear of the buildings. The separation distance and the acoustic barrier, the details of which would need to be approved, would protect the neighbour from intrusive noise effects of passing vehicles.
32. The south eastern part of the site has been subject to landfill activities in the past. As a consequence the appellant has commissioned several reports to assess the implications of land contamination and associated landfill gas emissions. Means of providing protective measures against gas and other potential pollution have been identified, and the appellant confirmed that this would require the raising of land on parts of the affected area which has been factored into the details that have been provided on proposed finished floor levels. The Council's Contaminated Land Officer has confirmed that there is no objection to the scheme. Mindful of the provisions of section 13.7 of Planning Policy Wales (Edition 7) and UDP policy EWP 14, I am satisfied that the scheme is acceptable in this respect, subject to suggested conditions. These would require further details on mitigation measures and would control further development within the affected area by removing certain permitted development rights.

⁹ Local Planning Guidance Note 13 – Open Space Requirements

¹⁰ Local Planning Guidance Note No. 2 – Space around Dwellings

33. Additional landscaping works to supplement the exiting boundary hedgerows could be secured at reserved matters stage to soften the impact from the surrounding countryside. The scheme would involve the extensive loss of hedgerows within the site, contrary to the aim of policy TWH2, which in this case is justified by the need to facilitate the scale of development envisaged in the UDP allocation. The scheme has been designed to retain all but two of the trees protected by a preservation order. The Council's Forestry Officer has confirmed that one of these is in poor health and the other has limited amenity value. The scheme makes provision for planting replacements for those lost and a condition is required to safeguard the remaining trees during construction. Accordingly the scheme would accord with the aim of policy TWH1. The degree to which the new development would be visually self-contained and the wide variety of architectural styles and sizes of nearby properties means that the scheme would not harm the character or appearance of the area, in accord with policies GEN1, D1 and D2.
34. I have considered all the other matters raised by local residents in objection to the scheme, but none justify withholding permission.
35. The site has been identified through the UDP process as suitable for housing and is in a sustainable location close to a range of local services and facilities. Realising the site's envisaged contribution to meeting an identified need for housing is a factor that weighs in favour of the scheme. Given that the latest published Joint Housing Land Availability Study (JHLAS) for the County shows a shortfall in the 5 year supply of housing required by national policy¹¹, I attach considerable weight to this consideration. I also recognise that the development of the site would benefit the local economy during the construction period.

Conditions

36. I have considered the conditions suggested by the Council, and additional conditions discussed at the hearing, in the light of the advice in Circular 016/2014: The Use of Planning Conditions for Development Management. For reasons I have already explained I consider that conditions relating to: a travel plan; tree protection; site clearance and an ecological management; land contamination and permitted development rights; boundary enclosures; and surface water drainage are all reasonable and necessary.
37. Whilst the level of financial contributions that could be borne by the scheme could change over time, the circumstances of this case including the scale of the development means that there are no exceptional circumstance that would warrant reducing the standard time limit for the commencement of development. To ensure an acceptable appearance to the development details of the external finishes should be controlled and, to minimise disturbance to neighbouring residents, it is reasonable to require a construction management plan and further details of the proposed acoustic barrier. Conditions are also necessary to secure the provision of the estate road but, as discussed at the hearing, there is no need to seek to control visibility splays which are outside the developer's control. To ensure that the existing right of way at the rear of those neighbouring properties that front Mold Road is not used as an alternative means of egress from the site when cars are queuing on the proposed estate road, a condition is necessary to control the use of this route, at the point

¹¹ Technical Advice Note 1: Joint Housing Land Availability Studies (2015)

where it is presently gated. Whilst details of finished floor levels have been provided, it was agreed at the hearing that additional details are necessary, including the levels of garden areas. Finally, to avoid potential pollution I shall require details of foul water disposal to be agreed.

Conclusions

38. Subject to the imposition of the identified conditions, I conclude that the scheme would be acceptable in all respects, and would make a valuable contribution to the local supply of housing. For these reasons I shall allow the appeal.

Hywel Wyn Jones

INSPECTOR

Schedule of Conditions

- 1) Details of the 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) Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development shall be carried out in accordance with the approved plans and drawings listed in Annex A, except insofar as may be required by other conditions of this planning permission.
- 5) Prior to the commencement of the development hereby approved, samples and/or details of the proposed external finish materials, including hardstandings, shall be submitted to and approved in writing by the local planning authority. Thereafter, the scheme shall be undertaken in strict accordance with the agreed details unless the prior written approval of the local planning authority is obtained to any variation.
- 6) No development shall commence until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted, an assessment shall be carried out of the site potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a period for its implementation; and

- iii) provide a management and maintenance plan of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) No development shall commence until details of a scheme for the disposal of foul water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the prior to first occupation of any of the dwellings and retained in perpetuity.
- 8) No works shall take place on site unless and until a Biodiversity Management Plan and an Ecological Compliance Audit have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the Biodiversity Management Plan and Ecological Compliance Audit.
- 9) No development or site clearance works shall take place during the bird breeding season (March – 31st August inclusive) unless supervised by a suitably qualified ecologist. Development shall only take place once confirmation has been received and been approved in writing by the local planning authority that the area of proposed works is free of protected species.
- 10) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during demolition and construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) hours of operation; and
 - ix) temporary acoustic fence alongside Nos 64 & 66 Mold Road.
- 11) No development shall take place, nor any demolition works or site clearance, until there has been submitted to and approved in writing by the local planning authority details of a scheme for the protection of trees shown to be retained on drawing number 1231-115 W. The approved scheme shall be carried out during the demolition of the buildings and throughout the course of the development and shall include:
- a) a plan, at 1:500 scale showing the position of every tree on the site and on land adjacent to the site that could influence or be affected by the development, indicating which trees are to be removed;
 - b) and in relation to every tree identified a schedule listing:

- information as specified in paragraph 4.4.2.5 of British Standard BS5837:2012 - *Trees in Relation to Design, Demolition and Construction - Recommendations*;
 - any proposed pruning, felling or other work;
- c) and in relation to every existing tree identified to be retained on the plan referred to in (a) above, details of:
- any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area;
 - all appropriate tree protection measures required before and during the course of development (in accordance with BS5837:2012).
- d) areas of existing landscaping to be protected from construction operations and the method of protection.
- 12) No works associated with the proposed development of the site excluding plot 58 shall commence unless and until a detailed scheme for the new access road and junction amendments to the service road adjacent the proposed junction has been submitted to and approved in writing by the local planning authority. The scheme shall also include bus stop infrastructure. The development shall be undertaken in accordance with the details hereby approved.
- 13) Details of the layout, design, means of traffic calming, signing, street lighting and construction of the internal estate road shall be submitted to and approved in writing by the local planning authority prior to the commencement of any site works.
- 14) The works associated with forming the means of the site access shall be kerbed and completed to carriageway base course layer up to the internal tangent point of the entrance radii prior to the commencement of any other site building operations.
- 15) Prior to the commencement of development details of a scheme to restrict vehicular access from the proposed estate road via the track to Rose Lane shall be submitted to and approved in writing by the local planning authority. The approved work shall be implemented prior to first occupation of any dwelling and shall be retained thereafter.
- 16) Prior to the commencement of development a scheme indicating the positions, height, design, materials and type of boundary treatment to be erected, to include the timing of the work, shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed in accordance with the approved details.
- 17) Prior to the commencement of development details of existing and proposed site levels (inclusive of external areas within the site) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full thereafter.
- 18) Prior to commencement of the development a Full Travel Plan shall be submitted to and approved in writing by the local planning authority. The provisions of the Full Travel Plan shall be implemented upon occupation of the 30th dwelling of the development, or in accordance with such other timescales as shall be agreed by the local planning authority. The Full Travel Plan shall include:
- i) access to the site;

- ii) parking management plan;
 - iii) information on existing transport services to the site and travel patterns;
 - iv) travel plan principles including measures to promote and facilitate more sustainable transport;
 - v) realistic targets for modal shift or split;
 - vi) measures and resource allocation to promote the Travel Plan, including budget allocation and timetable to connect the site with key transport hubs and residential areas; and
 - vii) mechanisms for monitoring and reviewing the Travel Plan, including the submission of an annual review and action plan to the local planning authority.
- 19) No development shall commence until an assessment of the nature and extent of contamination affecting the part of the appeal site shown hatched on drawing No. 1231-115 W has been submitted to and approved in writing by the local planning authority. This assessment must be carried out by or under the direction of a suitably qualified competent person *in accordance with BS10175 (2011) Investigation of Potentially Contaminated Sites Code of Practice and shall assess any contamination on the site, whether or not it originates on the site. The report of the findings shall include:
- i) a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;
 - ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
 - iii) an assessment of the potential risks to:
 - human health,
 - groundwater and surface waters
 - adjoining land,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - ecological systems,
 - archaeological sites and ancient monuments; and
 - any other receptors identified at (i)
 - iv) an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with Welsh Local Government Association and the Environment Agency Wales' *'Development of Land Affected by Contamination: A guide for Developers'* (2012).

- 20) If any contamination is found during the site investigation required by the foregoing condition, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be

submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

- 21) Prior to the commencement of any development works a scheme to investigate and monitor the site for the presence of gases* being generated at the site or land adjoining thereto, including a plan of the area to be monitored, shall be submitted to and approved in writing by the local planning authority.

Following completion of an approved monitoring scheme, in the event that gases are being generated the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing to the local planning authority.

All required gas protection measures shall be implemented as approved and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained and maintained until such time as the local planning authority agrees in writing that the measures are no longer required. A copy of the verification certificate should be submitted to the local planning authority prior to the first beneficial use of the site.

* 'Gases' include landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide, but does not include radon gas. Gas monitoring programmes should be designed in line with current best practice as detailed in CIRIA 665 (Construction Industry Research and Information Association) and/or BS8485 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments.

- 22) Within that part of the site shown hatched on drawing No. 1231-115 W and notwithstanding the provisions of schedule 2, part 1, classes A, D, E or F of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no porch or other enlargement, buildings or other structures, or hard surfaces shall be provided other than those expressly authorised by this permission.
- 23) No development shall take place until details of the proposed acoustic barrier to be erected along the side boundaries of Nos 64 and 66 Mold Road that adjoin the appeal site, including the timing of the works. The approved works shall be implemented in accordance with the approved details and shall be retained thereafter.

ANNEX A: Approved Plans and Drawings

1. Location plan. Drawing Ref 1231-101 rev A
 2. Site Layout. Drawing ref 1231-115W (the version submitted to The Planning Inspectorate by Muller under cover of a letter dated 17 September 2015)
 3. Street Scenes Plan 1. Drawing Ref 1231-116F
 4. Street Scenes Plan 2. Drawing Ref 1231-117D
 5. Site Section at Entrance. Drawing Ref 1231-118
 6. Type A. Plans and Elevations. Drawing Ref 1231-221D
 7. Type B. Plans and Elevations. Drawing Ref 1231-220B
 8. Type C. Plans and Elevations. Drawing Ref 1231-222C
 9. Type C1. Plans and Elevations. Drawing Ref 1231-229
 10. Type D. Plans and Elevations. Drawing Ref 1231-223B
 11. Type E. Plans and Elevations. Drawing Ref 1231-224B
 12. Type F. Plans and Elevations. Drawing Ref 1231-225B
 13. Type F1. Plans and Elevations. Drawing Ref 1231-228B
 14. Type G. Plans. Drawing Ref 1231-226B
 15. Type G. Elevations. Drawing Ref 1231-227B
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Richborough Estates

APPEARANCES

FOR THE APPELLANT:

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|-------------------------------|------------------------|
| Mr P Downes BSc (Hons) MRICS | Harris Lamb |
| Mr M Wedderburn MRTPI | Muller Property |
| Mr P Johnston | Muller Property |
| Mr J Grundy ACIEEM | CES |
| Mr W Booker BSc (Hons) | SCP |
| Mr R Nicholas BEng (Hons) MBA | Betts Associates |
| Mr M Whiteley | Peter Brett Associates |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|--------------------------------|------------------|
| Mr Rhys Davies BA (Hons) MRTPI | Cadnant Planning |
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INTERESTED PERSONS:

| | |
|----------------------|--------------------------|
| Dr K Armstrong-Braun | Envirowatch |
| Mr J Norwood | Community Councillor |
| Mr K Parry | Local Resident |
| Mrs A Dixon | Local Resident |
| Mr Mitchell | Local Resident |
| Mr P Jewell | Local Resident |
| Mrs H McGuill | County Councillor |
| Mr Q Dodds | Former County Councillor |
| Mr J Rosenfeld | Chair, CPRW |

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Council's letter of notification of hearing
- 2 Plan 1231-115 W
- 3 Agreed list of plans
- 4 Enlarged layout plan of south eastern part of site
- 5 Extract of UDP Proposals Map
- 6 Bundle of Documents submitted by Klaus Armstrong-Braun

- 7 Access Layout plan – SCP/10021/F02
- 8 Local Traffic Accident Record (personal injury)
- 9 Completed Unilateral Undertaking
- 10 List of Agreed Conditions
- 11 Use of Commuted Sums – report and minute of Housing Overview & Scrutiny Committee, 15 October 2014
- 12 Statement of Common Ground, dated 11 September 2015

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