



Appeal Decision

Hearing held on 5-6 January 2016

Site visit made on 6 January 2016

by Michael Boniface MSc MRTPI

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

Decision date: 26 January 2016

Appeal Ref: APP/F1040/W/15/3033436

Land at Valley Road, Overseal, Swadlincote, Derbyshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Persimmon Homes Ltd against the decision of South Derbyshire District Council.
 - The application Ref 9/2014/0431, dated 1 May 2014, was refused by notice dated 26 March 2015.
 - The development proposed is a residential development for 64 dwellings with access provided.
-

Decision

1. The appeal is allowed and planning permission is granted for a residential development of 64 dwellings with access provided at Valley Road, Overseal, Swadlincote, Derbyshire in accordance with the terms of the application, Ref 9/2014/0431, dated 1 May 2014, subject to the conditions contained in the attached Schedule.

Application for costs

2. At the Hearing an application for costs was made by Persimmon Homes Ltd against South Derbyshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. During the course of the planning application the proposed scheme was amended to accommodate 64 dwellings rather than the 61 dwellings initially proposed. This scheme was consulted upon by the Council and was that considered by the Council in reaching its decision. Therefore, I have considered the appeal on the same basis and have used the description of development contained within the appeal forms rather than the original planning application.
4. It is common ground between the parties that the Council cannot currently demonstrate a deliverable five year housing land supply in accordance with paragraph 47 of the National Planning Policy Framework (the Framework). In these circumstances, paragraph 49 is clear that housing applications should be considered in the context of the presumption in favour of sustainable development. Furthermore, relevant policies for the supply of housing should not be considered up-to-date.

5. Paragraph 14 of the Framework states that the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking. For decision taking this means, approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole, or specific policies of the Framework indicate development should be restricted. This is the basis upon which I have determined the appeal.
6. In its Statement of Case, the Council argued that the provisions of paragraph 14 did not apply given the need for Appropriate Assessment (AA) under the Habitat Regulations¹. However, it conceded during the Hearing that AA is not required and this matter is considered further below.

Main Issue

7. The main issue is the effect on landscape character.

Reasons

8. Environment Policy 1 (EV1) of the South Derbyshire Local Plan (LP) (1998) seeks to restrict development outside settlements unless it is essential to a rural based activity; or unavoidable in the countryside, and the character and appearance of the countryside, the landscape quality, wildlife and historic features are safeguarded and protected. If development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside.
9. Again, it is common ground that this policy actively restricts the delivery of housing and is, therefore, a relevant policy for the supply of housing in the terms of the Framework set out above. As such, it is to be considered out-of-date. However, this does not alter the status afforded to the policy by statute as part of the development plan, in accordance with which applications for planning permission must be determined unless material considerations indicate otherwise².
10. For this reason, I do not accept the appellant's position that no weight should be attached to Policy EV1, but given its effect of restricting the supply of housing, it must be weighed against other material considerations, including the policies of the Framework.
11. The site is a field comprising rough grassland outside of, but adjoining, the settlement of Overseal. Residential properties surround the North West and North East boundaries, their frontages facing Lullington Road and Valley Road respectively. Public rights of way roughly follow the alignment of the site boundaries and are in close proximity to the remaining boundaries that are not enclosed by existing housing, albeit separated from the site by established tree and hedgerow planting of various depths and height. A public right of way also crosses the site from Valley Road to the South West where it intersects the surrounding right of way. A sewerage treatment plant is located to the South West beyond an area of dense tree planting.

¹ Conservation of Habitats and Species Regulations 2012 (as amended)

² S38(6) of the Planning and Compulsory Purchase Act 2004

12. A Landscape and Visual Impact Appraisal (LVIA) undertaken in accordance with GLVIA³ and by a landscape professional accompanied the planning application. The Council's Statement of Case dealing with landscape matters acknowledged that it appeared to have been undertaken in accordance, in general terms, with good practice. There is, however, disagreement as to the significance of visual effects from the various viewpoints identified.
13. The Zone of Theoretical Visibility (ZTV) identified by the LVIA, which is drawn relatively tightly around the site and surrounding properties, is also endorsed by the Council's Statement. This indicates that visual effects are likely to be localised to within very close proximity of the site, particularly from the surrounding residential properties and public rights of way. It is clear from this ZTV that the most significant visual effects would be localised. Beyond this area, it is suggested that landform, the surrounding built form, the presence of the sewerage treatment works and woodland areas and the strong hedgerow and tree planting on and close to the site boundaries would screen or filter views of the development.
14. I am inclined to agree with this assessment, noting that the site, even at the time of my site visit during the winter, was very well visually enclosed by the above features. I am also mindful of the additional landscaping proposed as part of the development. Therefore, I am satisfied that the viewpoints identified are representative of the most significant effects that are likely to be experienced. 14 representative viewpoints within and surrounding the site are identified within the LVIA and the Council identified a further 5.
15. Users of the various public rights of way within and close to the site, and residents surrounding the site are receptors that would be likely to be sensitive to changes in the landscape. Clearly the introduction of a residential development will alter the character of the site, the views across it and the experience of people passing through.
16. However, the route of footpath FP13 is to be maintained within the development and would continue to provide access to the countryside beyond. The change in character along the footpath would be notable for the length of the site but the effects would be short lived as users would continue to experience rural scenes beyond the site itself. Bearing in mind the proposed planting along the route of the path, the transient nature of users and the short stretch of footpath that would be affected, I consider that the Council overstates the significance of effect to these users. Conversely, the appellant's assessment is overly optimistic and I would anticipate a moderate adverse impact remaining by year 15 given the significant change from a rural to urban experience on this part of the path.
17. Public Rights of Way FP9 and FP10 surround the site but are separated by strongly defined hedgerow and tree planting. I found this to provide a very good degree of screening even during the winter. Whilst there are some gaps, these are likely to reduce in the Spring and Summer and in any case, only provide glimpsing views at intermittent points along the route. Given this level of visual screening, and again noting the transient nature of users with access to good rural scenes beyond the site, I agree with the findings of the LVIA that the significance of effect would be no more than minor adverse.

³ Guidelines for Landscape and Visual Impact Assessment - Third Edition

18. Residents surrounding the site, including those at Clifton Close, Valley Road and Lullington Road would all have views of the site of varying significance dependent on their relative proximity and position. The view from these properties would be altered somewhat from open fields to residential development but private views are not protected by the planning system. In this case, the number of residents affected would be relatively small and the visual effect would again be likely to fall somewhere between the main parties assessment, amounting to moderate-minor adverse impact at year 15 for the worst affected residents. This effect would reduce with distance from the site and whilst glimpsing or partial views would be possible from Valley Road, Bailey Avenue and Lullington Road the development would be seen in the context of the surrounding built form on the edge of the village and would be well related to it.
19. The landscape effects of the development would be evident, in introducing built form to a currently undeveloped site along with the removal of hedgerows to accommodate the site access. However, the other boundary hedgerows and tree planting, field pattern and general form would be maintained. No other particular landscape features of merit exist within the site and although some rough grassland would be lost, no evidence has been submitted to suggest this is a rarity in the area or of any particular importance. I am also mindful that compensatory planting is proposed as a condition by the Council.
20. The LVIA identifies that the site falls within National Character Area 71 – ‘Leicestershire and South Derbyshire Coalfield’ of the National Character Map of England⁴ and the ‘Village Estates Farmlands’ character area defined more locally within *The Landscape Character of Derbyshire*⁵. The site is found to be broadly consistent with the characteristics of these areas. The site also falls within the National Forest where development is expected to incorporate additional tree planting and 20% of the site area would be laid out for tree planting and landscaping in support of these objectives.
21. The site is not designated for its landscape value and the Council accepted that it did not rank highly in the hierarchical approach to protection advocated by paragraph 113 of the Framework. Nevertheless, it asserted that the site constitutes a ‘valued landscape’ which should be protected and enhanced in the terms of paragraph 109 of the Framework.
22. I note that the site is well used by local people for recreation and leisure, that it allows countryside views and quick access to the wider countryside and National Forest. However, no specific feature of interest of physical attribute was identified within the site, nor was it demonstrated how the site makes a positive contribution to the local area other than through its intrinsic rural character, which could be said of any piece of undeveloped land in the countryside.
23. The Council undertook an exercise based on guidance within GLVIA3 to apportion value to the site, finding an overall medium value, much of which derived from the field pattern, boundary planting and ecological benefits, all of which would be maintained or enhanced by the development. The appellant provided an alternative assessment, which although not offering a defined value, assessed the value to be attached to various criteria as somewhat less.

⁴ National Character Map of England, Natural England

⁵ The Landscape Character of England, Derbyshire County Council (2004)

24. The bar for landscape being considered 'valued' in the terms of the Framework is a matter for the decision maker but was considered by the High Court⁶ recently which found support for an interpretation that the site need show a demonstrable physical attribute rather than just popularity. This is not something that can be said of the appeal site, nor is this argued by the Council. For the reasons set out above, I have seen nothing to indicate that the site is anything other than ordinary or that its level of protection should be elevated to that of a truly 'valued' or valuable landscape. This is notwithstanding that local people clearly enjoy the site.
25. Whilst the development would clearly alter the appearance of the site, the landscape effects would be localised given the enclosed nature of the site and the design of the proposed development. The wider countryside would not be harmed. Similarly, harmful visual effects would largely be confined to the immediate vicinity of the site and limited to the surrounding residents and users of nearby public rights of way for a short stretch within and very close to the site.
26. Policy EV1 of the LP allows for development outside of settlements where it is unavoidable in the countryside. The Council accepts that land outside of settlements will need to be released in order to meet its housing needs. Therefore, it seems to me that the first part of the policy is met. Furthermore, the character of the wider countryside, landscape quality, wildlife and historic features would be safeguarded and protected. However, there can be no dispute that some limited adverse effect would result to landscape character in the vicinity of the site. For this reason, I find a limited degree of conflict with Policy EV1. Whilst Policy EV1 is out-of-date in so far as it restricts housing supply, its objectives to protect the countryside and its intrinsic character are consistent with paragraph 17 of the Framework and this must be weighed against other considerations.
27. Although the Council had not previously referred to Criteria B of Policy EV1, it raised some concerns during the Hearing that housing would be located on higher ground within the site and that landscaping might be improved. However, it also acknowledged during the Hearing that the development had been designed sensitively. Areas of open space are proposed on the periphery of the site along with areas of improved landscaping, as well as a green corridor along the maintained route of public right of way FP13. Furthermore, it seems entirely appropriate that development be located on the higher parts of the site given that these are directly adjacent to the existing built edge of the village. As a result, the development would be well related to the existing form of the settlement with a reduced density marking the transition to the open countryside beyond. I consider that it has been designed and located so as to create as little impact as practicable on the countryside and this is supported by the conclusions reached above. I find no conflict with this criterion of the policy.
28. Much of the village has developed with properties in a linear alignment following the main roads in the settlement. However, this is not exclusively the case and I noted several examples of development at depth and of irregular layout, including close to the site at Clifton Close, Bailey Avenue and Bramble

⁶ Case of Stroud District Council v Secretary of State for Communities and Local Government and Gladman Developments Ltd [2015] EWHC 488 (Admin)

Walk. As such, the development would not be at odds with the prevailing character and form of the settlement.

Other Matters

29. The site is located close to the River Mease Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). The Habitats Regulations require that development does not significantly harm the purposes or integrity of such areas. In this case, the SAC is designated for the habitat it provides to a number of important species and water quality must be protected in order to maintain favourable conditions.
30. The Council has carried out a detailed Screening Exercise under the Habitats Regulations, concluding that, subject to appropriate mitigation such as a drainage scheme and developer obligation to maintain water quality, no significant effects would occur, either individually as a result of the development, or in combination with other development. The approach to avoidance of effects is outlined in the Council's *River Mease Special Area of Conservation Water Quality Management Plan (October 2012)* Developer Contribution Scheme and is supported by Natural England. I have no reason to reach a different conclusion and agree with the Council's Screening exercise. As a result, Appropriate Assessment is not necessary under the regulations.
31. Many local residents have raised concern that the development would result in highway safety issues at the junction with Valley Road and on the surrounding highway network. The application is accompanied by a Transport Statement (April 2014) which considers these matters. It details traffic speed surveys in the vicinity of the site access, which are recorded as being below the speed limit. The Local Highway Authority (LHA) confirms that the site access complies with its design requirements and would be safe. Whilst I note that the access would be on a bend, visibility splays appropriate to the measured speed of traffic on Valley Road are achievable (2.4m x 33m) and I see no reason why the access should be unsafe under these circumstances.
32. The traffic volume arising from the development is also considered, along with the likely distribution on the surrounding highway network. No capacity issues are identified and the recorded accident data provided by Derbyshire Constabulary indicates no pattern of accidents in the local area. Whilst visibility at some junctions between Valley Road, Lullington Road and the A444 are substandard by current requirements, Manual for Streets confirms that there is not necessarily a link between reduced visibility and increased incidents as drivers are likely to be more cautious. This is evident in the accident data submitted. The development would have only limited additional impact on surrounding junctions and this would not be harmful to highway safety or capacity. In reaching this conclusion, I am also mindful that the Council commissioned its own Independent Transport and Highways Review (Edwards and Edwards Consultancy Ltd) which supported these findings.
33. Whilst I have had regard to the concerns of local people regarding accidents, some of which may not be recorded by the Constabulary, and the volume and size of traffic using the surrounding area, there is no evidence before me to suggest that the development would be harmful in highways terms.
34. Both the LHA and the Council have also confirmed that the level of parking provision, roughly 2 parking spaces per dwelling, is considered appropriate.

- Given the location of the site, with access to a range of services and facilities on foot, including public transport, I have no reason to disagree.
35. It is preferable to utilise Brownfield sites prior to Greenfield but it is unlikely that the Council can meet its housing requirements solely using previously developed land. This is particularly so in the short term and there is an immediate need for the delivery of housing now. Available sites must, therefore, be considered on their merits.
 36. Overseal provides a range of services and facilities which has led the Council to identify it as a Key Service Village in its emerging Local Plan. Whilst I can only attribute very limited weight to this document at the current time given its stage of preparation, it is a good indication of the village's relative sustainability. The village benefits from a primary school, post office/shop and public transport amongst other things. The main parties agree that the village is an appropriate location for residential development and I have no reason to disagree.
 37. The development is solely residential in nature and would be entirely compatible with neighbouring residential properties. Whilst some noise and disturbance may result during construction, this would be temporary and the living conditions of neighbouring residents would not be unacceptably harmed. I am also aware of concerns in respect of overlooking, loss of light and overbearing impact but the proposed buildings would be suitably removed from neighbouring properties as to avoid an adverse impact in these respects. Buildings would be close to the boundary with properties on Clifton Close but have been sited so as to avoid harmful impacts in terms of window placement and design. The Council raises no objection with regards to living conditions and I see no reason to take an alternative view.
 38. Some ridge and furrow has been identified within the site but this is of limited significance according to the submitted Archaeological Assessment and the County Archaeologist. Its isolated position suggests that the site is outside of the old medieval village and the likelihood of any further remains of archaeological interest is considered to be low.
 39. A number of local residents raised concern regarding the presence of a geological fault under the site, noting the impact of the coal mining industry on ground conditions in the area. The appellant confirmed that no land stability issues had been identified, including in the submitted Geo-environmental Assessment (April 2014) and Flood Risk Assessment (April 2014). Ground conditions would be a matter for the developer to consider in the detailed design of the building foundations and whilst I have had regard to the anecdotal evidence provided by local people of ground shrinkage and subsidence, there is nothing before me to indicate that the site is not suitable for residential development, or that ground conditions present an insurmountable issue that should lead to the refusal of planning permission.
 40. An Ecological Appraisal (April 2014) identifies that the site comprises heavily grazed semi-improved natural grassland which would be lost to development. However, the main habitat is provided in the surrounding hedgerows and trees on the boundaries of the site which may be suitable for bat roosting and bird nests. These are to be retained within the development. Potential exists for the presence of Great Crested Newts but further survey work is required on third party land. If this species is present, terrestrial trapping will be required

and a licence may be necessary from Natural England. The report goes on to recommend a series of measures that would enhance the ecology within the site, such as the provision of native planting, bat and bird boxes, dead wood piles and insect houses. Such measures could be secured by condition if planning permission were granted. Overall, therefore, there is potential for ecological enhancements and no significant loss of biodiversity is identified.

41. I have had regard to the ongoing plan making process underway by the Council and the emerging Local Plan. This process will ultimately identify the quantum and location of development in the district but as mentioned above, the emerging LP attracts only very limited weight at the current time given its stage of preparation, its lack of independent testing and the unknown extent of unresolved objections. Given the Framework's objective to boost significantly the supply of housing, it would not be appropriate to withhold planning permission in anticipation of the plan making process being completed.
42. The site is located entirely within Flood Zone 1 (lowest risk) as defined by the Environment Agency. The detailed Flood Risk Assessment (April 2014) carried out in support of the application suggests that Greenfield run-off rates will be maintained at their current level through the detailed design of the drainage scheme, utilising attenuation ponds and the existing surface water system. As such, the development would not be at risk of flooding, nor would it increase the risk elsewhere.
43. Residents raised concern that the scheme might adversely affect the local tourism industry but the development would have little impact on the wider public rights of way in the area or the level of access to the countryside. There is no evidence to suggest that this development would harm tourism and I attach this matter little weight.
44. Many local people are concerned that the development would result in a loss of value to their property but that is not material to my decision in this appeal and I am unable to attach it weight.
45. Concerns are raised that local infrastructure such as the school and doctor's surgery has insufficient capacity to accommodate additional residential development. However, the Council is satisfied that the existing facilities could be upgraded or altered to increase their capacity and accommodate the demand generated by the development. This would be funded by developer contributions secured under S106 of the Town and Country Planning Act 1990. The County Council and Health Authority have each confirmed that appropriate contributions would mitigate the impact of the development.
46. Further obligations contained within the completed legal agreement include a built facilities contribution for improvements to the changing room facilities at Overseal Recreation Ground; a grassland contribution to provide compensatory grassland at Swadlincote Woods; provision of a Locally Equipped Area for Play; an Off-site Open Space contribution to improve play provision at Overseal Recreation Ground and compensate for a lack of open space provision on site; an Outside Sports Facilities Contribution to improve the existing sports pitches at Overseal Recreation Ground; and a River Mease Contribution towards water quality management so as to ensure that significant effects to the SAC are avoided. Provision is also made for maintenance contributions in respect of the open space and SuDS if adopted by the Council or other body.

47. Having had regard to the evidence before me, including the CIL Compliance Statement provided by the Council, I am satisfied that these obligations are relevant to the development proposed, necessary and are otherwise in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. Furthermore, no obligation would involve the pooling of more than 5 contributions towards any one project so as to conflict with Regulation 123 and I am, therefore, able to take the contributions into account.

Planning Balance

48. The appellant has highlighted a range of benefits that would arise from the development. Firstly, the scheme would deliver 64 dwellings that would assist in meeting the Council's housing needs. The Framework seeks to boost significantly the supply of housing and it is recognised that the Council cannot currently demonstrate a deliverable five year housing land supply so as to support this objective. Therefore, I attach significant weight to the contribution that would be made to local housing supply. Furthermore, 30% of the proposed dwellings would be for the purposes of affordable housing, for which there is, again, a recognised shortfall in the district and an ongoing need. I attach significant weight to this benefit.
49. The construction of houses creates jobs in the construction industry, whilst the in-migration of people increases the local labour force and assists in maintaining the viability of local business through increased custom. The Council do not dispute these benefits and accept that both the social and economic objectives of the Framework would be fulfilled by the development.
50. In environmental terms, I have identified limited landscape impact that would be in conflict with Policy EV1 of the LP. However, this impact would be localised and would not be significant in the wider landscape. There would be environmental benefits arising from the development given the location of the site with good access to services and facilities, reducing the need to travel. Furthermore, the open space, landscaping and ecological enhancements proposed would enhance the environmental value of the site. Therefore, I conclude that, taken as a whole, the environmental objectives of the Framework would also be fulfilled and that the development would constitute sustainable development.
51. I have identified only limited conflict with Policy EV1 of the LP, which I have already established is out of date. The limited and localised adverse impact on landscape character that I have identified does not significantly and demonstrably outweigh the benefits that I have outlined above, when assessed against the policies of the Framework, taken as a whole. As such, the presumption in favour of sustainable development applies and planning permission should be granted.

Conditions

52. The Statement of Common Ground contains a range of conditions which both parties consider to be necessary if planning permission is granted, which I consider below.
53. It is necessary to secure details of facing materials and detailed design components to ensure an appropriate appearance for the development. Details of the proposed boundary treatments are sought to ensure an appropriate

appearance and ensure suitable living conditions for future occupants. Details of the LEAP equipment are necessary to ensure that an appropriate facility is provided which meets the needs of residents.

54. Tree and hedgerow protection measures must be approved in the interests of ecology, character and appearance. For the same reason, detail of the proposed street tree planting is necessary and the approved landscaping scheme is secured. A detailed foul and surface water drainage scheme is necessary for flood prevention and pollution control. Furthermore, a condition is necessary to ensure that drainage follows the principles of SuDS and accords with the submitted FRA. Ground contamination must be investigated and remediated as necessary in the interests of public health.
55. Finished floor levels must be approved to ensure an appropriate appearance and protect the living conditions of neighbouring occupants. In order to protect the integrity of the River Mease SSSI and SAC, details of the proposed design and operation of the attenuation pond is necessary and an ecological construction and mitigation scheme must be approved and implemented. The ongoing effectiveness of the attenuation pond should also be monitored. The development should be carried out in accordance with the recommendations of the submitted Ecological Appraisal, including the provision of bat boxes/tiles.
56. A scheme of affordable housing (19 units) is secured. Whilst a Planning Obligation is normally the best way to ensure certainty of delivery, the parties agree that a condition would secure the necessary housing and would be enforceable. Given that the condition specifies the requirements of the scheme, I see no reason why a condition would not be effective in this instance.
57. In the interests of highway safety details of the proposed surface materials for the internal roads should be approved; on-site provision should be made for the storage of plant, materials and vehicles associated with construction; wheel washing should take place; visibility splays should be secured from an early stage; parking for individual properties should be retained for that purpose in perpetuity; gates should be set back from the highway by 5m to allow a car to pull clear and driveway gradients should not exceed 1 in 15.

Conclusion

58. In light of the above, and having considered all other matters, the appeal is allowed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gary Stevens	Planning Consultant
Phil Rech	Landscape Advisor
John Edmond	Solicitor
Colin Shields	Highways Advisor

FOR THE LOCAL PLANNING AUTHORITY:

Ian McHugh	Planning Consultant
David Hickie	Landscape Advisor
Chris Nash	Planning Officer

INTERESTED PERSONS:

Cllr Beth Hall	District Councillor
Darren Holmes	Local resident
Lyndsey Holmes	Local resident
Donald Swindell	Local resident
John Haywood	Local resident
Michael Strangward	Local resident
Anne Beard	Local resident
Mr Motram	Local resident
Cllr Pat Murray	District Councillor

DOCUMENTS SUBMITTED DURING HEARING

- 1 Proposed Conditions and CIL Compliance Statement
- 2 High Court case of Stroud District Council v SoS and Gladman Developments Ltd [2015] EWHC 488 (Admin)
- 3 Aerial photograph of site at Linton
- 4 Diagram titled Areas of Multiple Environmental Sensitivity (October 2010)
- 5 Costs application on behalf of the appellant

- 6 Completed Planning Obligation
- 7 Addendum to Statement of Case (by the Council)
- 8 Copy of complete set of house type drawings
- 9 Independent Transport and Highways Review (Edwards and Edwards Consultancy Ltd) (March 2015)
- 10 Ariel photographs of appeal site
- 11 E-mail from Derbyshire Constabulary to Robert Holland dated 5 January 2016 regarding accident data
- 12 Consultation responses to planning application
- 13 Updated Costs application on behalf of the appellant
- 14 Council's Costs Rebuttal
- 15 GLVIA3 Box 5.1 review by Phil Rech
- 16 E-mail from Zoe Sewter to Chris Nash dated 6 January 2016 regarding leisure and recreation contributions

DOCUMENTS SUBMITTED AFTER CLOSE OF HEARING

- 1 Amended Planning Obligation

Richborough Estates

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SL/01 Rev. E, 178/FLAT/08, 178/ALN/01, 178/Cast/12, 178/CHED/08, 178/ClayA/10, 178/DGAR/11, 178/HAN/02, 178/HAT/05, 178/KEN/07, 178/ROSE/06, 178/SGAR/11, 178/SOUT/04 and 178/WIN/09); and GL0267 01 Rev. F.
- 3) No part of the development involving the construction of a dwelling shall be carried out until precise details, specifications and samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
- 4) Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no dwelling shall be occupied until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
- 5) Prior to the commencement of the erection of the dwelling to which they relate, details of all cills, window headers, ventilation infill panels within windows, wet verge details without cloaking tiles, eaves and verge projections, block paving types and colours, and footpath/pavement materials and colours shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved details.
- 6) Prior to the first occupation of any of the dwellings, details of the design and equipment for the LEAP, including the materials of the proposed equipment, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details in accordance with a timetable agreed in writing by the Local Planning Authority.
- 7) Notwithstanding the submitted details, prior to the commencement of development, details of the measures for the protection of all trees and hedgerows to be retained shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the commencement of the development and retained in position until all building works on the site have been completed.
- 8) Prior to the commencement of development involving the construction of a road the planting scheme for the street trees and details of the tree pit design shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) No development shall take place until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the Local Planning Authority. The surface water drainage scheme shall be based on sustainable drainage principles and include an assessment of the hydrological and hydro geological context of the development. The drainage scheme shall demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The submitted scheme shall demonstrate how the drainage will discharge into the attenuation pond. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied.
- 11) In accordance with Condition 10 above the surface water drainage system(s) shall include: a) the design to be in accordance with either the National SuDS Standards or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken; b) limiting the run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site; c) provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm; d) detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details of any attenuation system and the outfall arrangements; and e) details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long-term operation to design parameters.
- 12) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the Local Planning Authority; and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the Local Planning Authority dispenses with any such requirement specifically and in writing. Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'. In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the

Council's 'Guidance on submitting planning applications for land that may be contaminated'.

- 13) If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accordance with the approved methodology.
- 14) Prior to the commencement of the dwellings to which they relate, details of the finished floor levels and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved level(s).
- 15) Prior to the first construction of any dwelling or road on the site, full detailed drawings of the attenuation pond, including depth, construction, water quality outflow parameters, materials and planting, shall be submitted to and approved in writing by the Local Planning Authority. The pond shall be designed to capture and filter out surface water run-off from the estate roads. The development shall be completed in accordance with the approved details.
- 16) Prior to the commencement of development an ecological construction and mitigation statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved statement.
- 17) Prior to the occupation of the first dwelling on the site, details for the monitoring of the effectiveness of the attenuation pond shall be submitted to and approved in writing by the Local Planning Authority and the approved monitoring scheme shall be carried out in accordance with the approved details.
- 18) No development involving the construction of a dwelling shall commence until a scheme for the provision of the affordable housing hereby permitted, as detailed on approved plan SL/01 Revision E, has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include: a) the tenure of the affordable housing provision to be made which shall consist of not less than 19 dwellings; b) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved); c) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and d) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 19) Prior to the first occupation on site, details of the surface materials to be used in all areas of proposed public highway shall be submitted to and

- approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 20) Before any other operations are commenced (excluding demolition/site clearance) space shall be provided within the site for the storage of plant and materials / site accommodation / loading and unloading of goods vehicles / parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted to and approved in writing by the Local Planning Authority. The area shall be maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
 - 21) Throughout the period of construction wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.
 - 22) Before any other operations are commenced the new estate street junction shall be formed to Valley Road in accordance with the application drawings, laid out, constructed to base level and provided with 2.4m x 33m visibility splays in each direction, the area in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.
 - 23) No dwelling shall be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the application drawings to conform to the County Council's Estate Road design guide, constructed to binder course level, drained and lit in accordance with the County Council's specification for new housing development roads.
 - 24) No dwelling shall be occupied until space has been provided within the site in accordance with the application drawings for the parking and manoeuvring of residents' and visitors' vehicles, laid out and surfaced. Once provided any such facility shall be maintained throughout the life of the development free from any impediment to its designated use.
 - 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose.
 - 26) No gates or other barriers to any dwelling shall be erected within 5m of the proposed nearside highway boundary and any gates elsewhere shall open inwards only.
 - 27) The proposed access drive to each dwelling shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.
 - 28) Prior to the construction of the first dwelling on the site, details shall be submitted to and approved in writing by the Local Planning Authority to show how bat boxes and bat tiles will be incorporated into the development. The works shall be carried out in accordance with the approved details.
 - 29) The development hereby approved shall be carried out in accordance with the Ecological Appraisal dated April 2014.