



Appeal Decision

Hearing held on 8 and 9 February 2020

Site visit made on 10 February 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Appeal Ref: APP/Y3940/W/19/3243873

Land south of Westwells Road, Neston, Corsham

- 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 HD Town Planning against the decision of Wiltshire Council.
 - The application Ref 18/09884/OUT, dated 12 October 2018, was refused by notice dated 20 September 2019.
 - The development proposed is for residential development (Class C3) of up to 81 dwellings including roads, footpaths, balancing area and open space.
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Decision

1. The appeal is allowed and planning permission is granted for residential development (Class C3) of up to 81 dwellings including roads, footpaths, balancing area and open space at Land south of Westwells Road, Neston, Corsham, in accordance with the terms of the application Ref 18/09884/OUT, dated 12 October 2018, and subject to the conditions set out in Annex B to this decision.

Preliminary Matters

2. The third reason for refusal is in relation to ecology. However, the appellant submitted further information to the Council in this regard in the lead up to the hearing. In light of that additional information, the Council did not pursue this reason for refusal.
3. The fourth reason for refusal is in relation to securing adequate provision for on and off-site infrastructure. A completed and engrossed s106 Unilateral Undertaking, dated 17 February 2021 (the UU) was submitted, following discussions both in the lead up to the hearing and in the hearing itself. Subject to this, the Council confirmed that it would not be pursuing this reason for refusal either.
4. The application was submitted in outline with all matters reserved. Some of the supporting documentation in support of the appellants case suggested that access had been applied for in full. However, it was clarified at the hearing that this was in error and that the appeal scheme is in outline for all matters.

Main Issues

5. The main issues are whether or not:
 - the site is previously developed land;

- the site is a former military establishment and associated considerations about whether or not the appeal site is an appropriate location for development of this type; and
 - adequate arrangements are made for the disposal of surface water from the site.
6. In addition to these, the weight to be attached to the provision of affordable and self-build/custom build housing are key components of both parties cases. However, the provision of affordable housing and self-build/custom build housing, in principle, amount and detail, is not contested. I cover this in the Planning Balance and Conclusion section below.

Reasons

Planning policy

7. The development plan includes the North Wiltshire Local Plan 2001, the Wiltshire Core Strategy 2015 (the CS), and the Corsham Neighbourhood Plan 2016-2026, November 2019 (the NP). Policy CNP H1 of the NP was deleted in line with the recommendations of the Examiner's Report and therefore is not part of the 'made' version of the NP.
8. It is agreed between the parties that the Council cannot demonstrate a five-year housing land supply. The Council considers that it has a supply of 4.56 years. The appellant believes this is the most that it could be. Paragraph 11d) of the National Planning Policy Framework (the Framework) is therefore engaged.

Previously developed land

9. Several buildings were constructed all over the site on concrete hard standing bases during World War II (WWII). Access roads, drainage and other services were also constructed. It is no longer possible to say precisely how the buildings were constructed. Whatever the initial intention for their permanence, they were retained and occupied until at least the late 1950's and potentially 1960. On that basis, they can be considered as permanent structures. Having had regard to the definition of previously developed land in the Framework, the associated bases and access roads, which still mostly exist, comprise associated fixed surface infrastructure.
10. The concrete bases and access roads are clearly visible on the site, with the bases protruding above the underlying vegetation and the vegetation is also cut back from much of the access roads. Evidence has been provided that this has not always been the case and that in the past the site was more overgrown. However, as it stands today, the remains of the fixed surface infrastructure have not blended into the landscape. The site is therefore previously developed land, as defined by the Framework.

Former military establishment and location

11. The appeal site is adjacent to Westwells village, which is a 'small village' as defined in Policy CP1 of the CS. Policy CP1 restricts residential development in 'small villages' to that needed to meet the housing needs of the village. The housing needs of the village are not defined, but Policy CP11 sets out that in the Corsham Community Area, which covers not only Westwells but several

- other villages as well, around 175 homes should be provided outside of Corsham. The Council provided evidence that 343 homes have already been provided in these areas in the Plan period.
12. 'Small villages' do not have defined settlement boundaries. Policy CP2 of the CS states that development at 'small villages' will, among other factors, be limited to infill within the existing built area, and that it should not elongate the village. The appeal site is arguably not in the village in any case, merely adjacent, and therefore outside of a settlement for the purposes of the CS. Even if it were considered to be in the village, the proposal is for a greater scale than could be considered infill development. It would also elongate the village. The proposal therefore conflicts with Policies CP1, CP2 and CP11.
 13. The original buildings on the site were constructed during WWII for military purposes, either by the Ministry of Works or the Ministry of Defence (MoD). They were then most likely used in the post-war years for accommodation for displaced persons, linked to the aftermath of WWII. Since their demolition in either the late 1950's or 1960, the site has lain vacant. The origins of the site are clearly military. The most recent use, although a long time ago, was also linked to the military. Consequently, the site is a former military establishment. I am aware that the Inspector in an appeal decision in 1989¹ did not place any great weight on the former use of the site during WWII. However, this decision pre-dates the adoption of the current CS and the policies within it relating to military sites.
 14. In this regard, Policy CP37 of the CS supports the redevelopment of redundant MoD sites provided they are well related to an existing settlement in terms of both location and scale. Whilst the policy focuses on employment-led development, it does not preclude residential development. It requires that development of redundant sites should enhance the overall character of the site.
 15. Westwells is a relatively small village. Two borders of the appeal site are shared with the edge of the village. Beyond the residential core of the village are large commercial areas and development, running north-west along Westwells Road. The appeal site sits at the junction of these two different character areas and directly borders the nearest commercial development to the west. It is also previously developed land and has fairly extensive existing fixed surface infrastructure across the majority of the site in the form of access roads and concrete bases. The proposal for up to 81 dwellings and associated landscaping would not be out of keeping given this context, helping to bridge the residential part of the village to the commercial areas to the north-west.
 16. The Inspector in the 1989 appeal decision concluded that development on the appeal site would result in the loss of a buffer site between the village and the MoD land. Since then, however, much of the commercial development to the north-west has been constructed, changing the character and appearance of the area and the relationship between the residential part of the village, the appeal site, and the commercial areas.
 17. The appeal site is not isolated and, in the context of the extensive, immediately adjoining commercial development, the proposal is not out of scale with the character of the area. The appeal site is currently vacant, comprising partial

¹ Ref T/APP/J3910/A/88/098283/P3, determined 25 July 1989

scrub land with disused areas of concrete in a poor state of repair. Were the appeal to succeed, a condition could control the outline proposal to limit the number of proposed dwellings to 81 of no more than 2-storeys in height and to provide sufficient public open space. This would be further controlled by the submissions of reserved matters. Subject to this, the proposal would enhance the character and appearance of the appeal site.

18. Policy CP37 of the CS encourages a masterplanning approach with the local community be undertaken. Whilst no masterplanning has been undertaken with the local community, I am content that the proposal would enhance the overall character and appearance of the site. In this context, I do not see the lack of public involvement in the masterplanning process as fatal to the scheme.
19. The appeal site lies within the area covered by the NP. The NP does not allocate the site for development. Policy CNP BE3 of the NP supports development that contributes to strengthening the vitality and identity of West Corsham including the creation of an active frontage on to Westwells Road. Whilst it is not made clear in the NP, I tend towards the view that this is likely to refer to the appeal site because this is the only area along Westwells Road that is not already developed, and because West Corsham is not well defined and could include the area near Westwells where the appeal site is located. Although this policy relates to commercial development, it nonetheless indicates support from the NP for development on the appeal site. There is certainly nothing in the NP which precludes development of the appeal site for housing.
20. Consequently, the proposal complies with Policy CP37 of the CS as the redevelopment of a former military establishment site with a proposal well related to an existing settlement in terms of both location and scale, and which enhances the character and appearance of the site. It does not conflict with the NP, which is silent on residential development on the site. Whilst it fails to comply with Policies CP1 and CP11 of the CS, the relevant policy to consider for a former military site is Policy CP37, which provides an exception to the restrictions set out in those policies.
21. The proposal also fails to comply with Policy CP2 of the CS. Again, however, this is subservient to Policy CP37 because the appeal site is a former military establishment. In addition, this policy is inconsistent with the Framework by being overly restrictive for development outside of defined limits. Paragraph 170 of the Framework recognises the intrinsic character and beauty of the countryside but does not provide a blanket prohibition on development outside of settlements. Paragraph 78 of the Framework also encourages the location of housing where it would enhance or maintain the vitality of rural communities, which would be the case for the appeal site because it is directly adjacent to the residential part of the existing Westwells village.

Drainage

22. The appeal site is 3.6 hectares (ha), of which 0.7 ha are impermeable areas, such as the access roads and concrete bases. As the appeal is in outline, it is not known at this stage what the impermeable area would be following development. For the purposes of the drainage calculations, the appellant has assumed 1.87 ha of impermeable areas following development. It is proposed to provide significant attenuation, at 2,383 m³, including permeable paving, swales and a fairly large flood basin to the boundary with Westwells Road. There was an error in the appellant's submission regarding the calculation of

the volume of attenuation, but this was clarified at the hearing as being sufficient to meet the requirements of the development allowing for the amount of proposed permeable and impermeable land.

23. The proposed attenuation measures and flow control through hydro-brakes would result in a significant betterment of surface water run-off, compared with the existing situation, from 96 litres per second (l/s) to 5 l/s. The appellant claims that the 5 l/s velocity is the minimum level that allows the site to self-cleanse whilst the Council claims that a 2 l/s velocity still allows a site to self-cleanse. In any event, 5 l/s is both lower than the greenfield rate of 11.3 l/s and significantly lower than the existing run-off rate of 96 l/s. Achieving a lower rate than 5 l/s is not a requirement of policy.
24. The attenuation plan includes an allowance for infiltration, which might be able to increase following further ground investigation works. It follows the surface water drainage hierarchy of prioritising infiltration first, then by providing attenuation measures such as the proposed attenuation pond. Even allowing for this, there would still be some exceedance flows from the site, which would rely on off-site drainage. It is proposed to use existing drainage, which runs from the site to the Spring Lane watercourse, some 0.5km away from the appeal site.
25. The existing drainage infrastructure is in a poor state of repair as confirmed by a CCTV survey. The survey is incomplete and the precise quantity of work required to repair the drainage is not known. However, it is agreed between the main parties that fairly substantial works would be required. Equally, because the proposal would result in reduced discharge from the site, if the repair works were completed, then the network could satisfactorily accommodate the proposed flows from the development, so as not to unacceptably effect the downstream network and/or flood risk elsewhere.
26. The repair works would involve carrying out works to drains underneath third-party land, potentially involving up to 13 different landowners. This would need to be controlled by a negatively worded, Grampian type condition. In this regard, the Planning Practice Guidance² (the PPG) confirms that such conditions can be used unless there are 'no prospects at all' of the works being carried out within the time-limit imposed by the permission.
27. The actual works to the drainage infrastructure would be outwith the planning regime and subject to private law considerations. There is a likelihood that an agreement would need to be reached to progress the improvements with many, potentially all, the third-party land owners, which may prove difficult. Potentially, very difficult. Although the Council may have the powers to insist on access being granted for these works, it has indicated that, in practice, it may be reluctant to use them for the purposes of facilitating the proposed development, as opposed to maintenance of existing drains for existing development. Taking everything into consideration, whilst the off-site works are likely to be difficult to accomplish, that is not to say that there are 'no prospects at all' of the works being carried out in a timely manner. A Grampian type condition is therefore acceptable in this instance and would allow for the necessary upgrading to the drainage infrastructure to take place.

² Paragraph 009 ID 21a-009-20140306

28. Consequently, through the proposed on-site measures which can be secured by condition, and by prohibiting occupation until the off-site works have been carried out, the proposal would reduce the rate of surface water run-off and would not unacceptably affect the downstream network or increase flood risk elsewhere. The proposal therefore complies with the relevant parts of Policy CP67 of the CS. It also complies with Paragraphs 163 and 165 of the Framework which, amongst other criteria, seek to ensure that flood risk is not increased elsewhere, and that development incorporate suitable sustainable drainage systems where appropriate.

Other Matters

Ecology

29. The site is located approximately 1 km south-east of the Box Mines Site of Special Scientific Interest which forms part of the Bath and Bradford on Avon Bats Special Area of Conservation (the SAC). The appeal site supports core roosts for the three bat species. The conservation objectives of the SAC are, in relation to the three identified bat species, to maintain or restore their habitats, the supporting processes on which their habitats rely, their populations, and their distributions within the site.
30. The habitats for the species are to the southern and western boundaries of the site. Lighting, both of the highways and from the proposed houses, could disturb bat flight paths and roosts. There could also be disturbance during construction. Landscaping and any associated changes to vegetation could lead to a reduction in the amount of roosting and foraging habitat. Accordingly, development on the appeal site would be likely to have significant effects on the conservation objectives of the SAC. In such circumstances, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) requires that, as the Competent Authority, I undertake an Appropriate Assessment (AA). Sufficient evidence was submitted at the hearing to enable me to undertake that and Natural England was consulted.
31. A Bat Mitigation Strategy by Ecology Solutions, dated February 2020, has been submitted by the appellant. This proposes mitigation measures through the provision of darkened bat corridors, parameters for a lighting strategy to minimise lux levels where necessary, retention of key landscape features such as the scrub line, a commitment to the provision within the proposed landscape scheme of increased foraging opportunities for bats, such as the attenuation basin with associated wildflower seeding. This can be secured by condition. Control over the construction process is also required with regard to lighting and damage to habitats, which can also be secured by condition.
32. Natural England advised that there would be no adverse effects on the integrity of the SAC, subject to the relevant mitigation measures being secured by condition. On that basis, I am content that the proposal would have no adverse effect on the integrity of the protected site or the protected species.

Neighbours

33. A number of objections have been received from neighbours and other parties, including Corsham Town Council and the Neston Action Group. The objections are wide ranging in scope, although the biggest areas of concern relate to the character and appearance of the area, suitability of the location for housing

including reference the use of the land for military purposes, and drainage issues particularly regarding the access to third-party land. Other concerns relate to the potential for flash flooding, loss of a valuable piece of open space to the village, effects on Public Rights of Way (PRoW), increase in traffic, and highway safety.

34. I have taken all of these factors into consideration. Most were addressed in the officer's report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Others are addressed in my reasoning above, can be addressed by conditions or are dealt with by the planning obligations secured. In particular, conditions can control flooding and drainage, and require the provision of sufficient open space within the proposed layout along with appropriate measures in relation to PRoW. They can also mitigate the effect from construction traffic and secure safe vehicular and pedestrian junctions. The UU secures further mitigation including details of the proposed open space and contributions towards local infrastructure.

Conditions

35. A list of planning conditions was suggested by the main parties and these were discussed at the hearing. My consideration has taken account of Paragraph 55 of the Framework and advice in the PPG. In particular, I have had regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. I have amended the suggested wording in some cases, and amalgamated conditions or parts of conditions in other cases, to ensure that the conditions are precise, focused, comprehensible and enforceable. The appellant has confirmed acceptance in writing of those pre-commencement conditions that have been imposed.
36. The timing of the self-build/custom build homes proposed is not in the control of the appellant and agreeing details of these properties should not prevent works progressing on the rest of the scheme. It is therefore necessary to require a Phasing Plan condition to agree the delineation between the self-build/custom build homes and the other dwellings. The Phasing Plan can then also be used to provide split 'triggers' for other conditions, as required.
37. The reserved matters condition is necessary to control their future submission. The reserved matters timing and the implementation conditions are necessary to ensure that the submissions and then the subsequent works are undertaken in a timely manner. The Council requested that the time limit be shortened from its standard three years to two years for submissions and two years to one year for implementation, because of the pressing need in light of the shortfall of five-year housing land supply. However, the difference the tightening of timescales of delivery by one year could make to the speed of the delivery of housing would be negligible in the context of the entire housing land supply in the District. It is not therefore necessary to shorten the standard timescales.
38. The standard drawings reference condition provides certainty.
39. Control of the number of dwellings and amount of public open space is necessary to ensure the proposal is in keeping with the character and

- appearance of the site and the wider area. The vehicular access element of this condition is necessary to ensure highway safety.
40. The tree protection condition is necessary to ensure that trees and other vegetation are suitably protected during construction, in the interest of visual amenity.
 41. It is necessary to specify the landscaping details to be submitted as part of the reserved matters in order to protect and enhance the character and appearance of the area, and to ensure highway safety and necessary accessibility, including to both on-site and nearby off-site PRow. This specifically applies to PRow CORM 135, 136 and 140, all of which are on the appeal site and would likely be used by future occupiers. Although a condition was proposed relating to the implementation and management of landscaping, that is more appropriate at reserved matters stage than outline and I have not imposed it.
 42. The Construction Method Statement condition is necessary to mitigate/minimise the effect of construction on the living conditions of nearby residents, on highway safety, and on traffic congestion. This condition also encompasses the scope of the Construction Environment Management Plan condition as requested by the main parties, which is therefore not required as a separate condition.
 43. Travel Plans are an important means by which more sustainable travel options can be achieved and a condition is therefore justified in this regard.
 44. The surface water and sewage conditions are necessary to avoid pollution and to prevent increased risk from flooding.
 45. A condition is necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly and that any risks from contamination are properly dealt with in order to protect the health of future occupiers and to prevent pollution of the environment.
 46. The photographic record of extant military and quarry features condition is necessary because a slope shaft, air shaft and underground tunnels within the site are identified as having heritage significance.
 47. The noise condition is necessary to protect the living conditions of the future occupiers of the development, particularly from noise from the nearby commercial and mine uses.
 48. The Landscape and Ecology Management Plan and lighting conditions are necessary in the interests of biodiversity and the protection of wildlife.
 49. The archaeological condition is necessary to ensure that works appropriately protect and record archaeology on the site.
 50. Conditions in relation to visibility splays both for the main access to the site and for internal junctions were put forward by the main parties. Further conditions were also put forward regarding the construction and provision of pedestrian and vehicular access to each dwelling. However, these factors can be controlled by a combination of the reserved matters submissions, the landscaping condition, and the Rowan Lane element of the development parameters condition. I have not therefore attached these conditions.

Planning Obligation

51. I have considered the various obligations set out in the final UU with regard to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in Paragraph 56 of the Framework.
52. The UU secures 30% of the proposed dwellings, i.e. 24 out of the 81 homes, to be affordable housing, with a split of 60% affordable rent and 40% shared ownership. The affordable rented housing is to have rents at no more than 80% of open market rent. The shared ownership housing is to be for sale or rent at rates above affordable rented housing but below open market levels. Detail of the precise location and mix of the affordable housing has not been provided but is to be agreed prior to commencement of development. The UU also requires that the affordable housing be indistinguishable from the market units in terms of outlook, design, and appearance, and that no more than 15 affordable units be clustered together. This is necessary, reasonable and related to the development.
53. A contribution of £7,500 is secured towards improvements to the surface of PRoW BOX49, to be paid prior to occupation. PRoW BOX 49 runs from just outside the site around nearby countryside land. It is likely to be used by future occupants of the proposed development and upgrading the footpath is necessary, reasonable and related to the development.
54. A contribution of £91 per home, to be paid prior to commencement of the development, is secured towards expanding waste and recycling facilities in Corsham, including waste containers on site. The proposal would give rise to additional waste and recycling from its future occupants and this contribution and proposed works would mitigate that effect. It is necessary, reasonable and related to the development.
55. The principle of a contribution is secured towards the provision of infrastructure at Corsham Primary School, related to a planned expansion of the school. This is to be calculated based on the child yield from the development and is to be paid prior to commencement of the development. The proposal would increase pressure on child places at the primary school and the future agreement of payment to mitigate this in accordance with the child yield, as will then be calculable, is necessary, reasonable and related to the development.
56. A contribution of £300 per home, payable prior to commencement of the development, is secured towards providing work(s) of public art within Corsham pursuant to Policy CP3 of the CS which, amongst other criteria, requires developer contributions towards 'place-shaping infrastructure', which includes public art.
57. A landscape plan, to be agreed prior to commencement of the development, is secured and will require details of the materials, specifications and management of the open space and playspace. The playspace and open space is to be constructed prior to 70% of the homes being occupied. It is either to be transferred to the Council or, if it remains with the appellant, ongoing maintenance is to be paid for by a management/rent charge levied on the future occupiers of the proposed homes. In this instance, the maintenance would be carried out in accordance with a management scheme to be agreed with the Council. This is necessary, reasonable and related to the development.

58. Eight of the residential units are secured as self-build/custom build housing. The area, design principles, marketing, and development of these plots is controlled by the UU. After 12 months of reasonable efforts and marketing, these homes can revert to market residential homes. The Council contends that this is not necessary because self-build/custom build housing is not a requirement of policy. However, whether a requirement of policy or not, self-build/custom build housing is a part of the proposal and the UU secures delivery mechanisms for them. This is therefore necessary, reasonable and related to the development.

Planning Balance and Conclusion

59. For the reasons set out above, the proposal complies with Policy CP67 of the CS in relation to drainage. The proposal does not conflict with the NP. Whilst it fails to comply with Policies CP1, CP2 and CP11 of the CS, these policies are subservient to Policy CP37 of the CS in the consideration of a proposal on a former military establishment site. I have found that the proposal complies with Policy CP37. In addition, Policy CP2 is inconsistent with the Framework by being too restrictive for development outside of defined limits. I therefore place limited weight on the conflict with these policies.
60. The creation of 81 dwellings would help the Council to meet its housing land supply. It would bring temporary economic benefits during the construction process, and longer-term economic benefits from the boost to local services from future occupiers. I place substantial positive weight on these factors.
61. The UU secures 30% of the proposed homes as affordable housing, with a 60/40 split of affordable rented to social rented provision. The Council is not currently meeting its targets for affordable housing provision, with a shortfall of 489 homes, or 23%, against its objectively assessed need. The provision of 24 affordable units as part of the proposed development would help to redress this. The provision only complies with Policy CP43 of the CS, rather than exceeding it, but this does not diminish the fact that the proposal would result in the provision of 24 much needed affordable homes. The Council has stated that the conflict with Policies CP1 and CP2 reduces the weight to be applied to the provision of affordable housing. However, as set out above, I place limited weight on the conflict with these policies. I therefore attach substantial positive weight to the proposed provision of affordable housing.
62. The Self-Build and Custom Housebuilding Act 2015 (the Act) as amended places a statutory duty on Council's to keep a register of people and groups who want to construct a self-build/custom build property, and to have regard to that register when making planning decisions. The Act also states that a Council must give sufficient permissions for self-build/custom build housing to meet demand within each 'base period'. Each 'base period' is one year. Councils are provided with three years grace from the end of each 'base period' to provide the required planning permissions.
63. The Council has provided evidence that it is meeting its requirement to give sufficient planning permissions for self-build/custom build housing. However, these calculations include all planning permissions for single dwellings. Very few of these are secured by a s106 agreement to be self-build/custom build housing or have applied for the relevant CIL exemption for self-build/custom build projects. Not all of them include specific references to self-build/custom build within the planning applications. Once this is factored in, the Council has

- a shortfall in planning permissions for self-build/custom build homes against its requirement for the current 'base period' monitoring period – Base Period 2.
64. The PPG sets out³ that these are the types of methods that may be used to determine if an application or permission is for self-build/custom build housing. I acknowledge that using this specific data collection methodology is not a requirement. However, I have not been provided with any convincing evidence in other forms to override the data provided by these methods. The UU secures eight of the proposed houses to be self-build/custom build, although this is only for one year, following which they may revert to market homes. In the context of the current failure of the Council to meet its statutory duty to provide sufficient planning permissions to meet its requirements, but acknowledging that the self-build/custom build units have not been secured in perpetuity, I place moderate positive weight on the proposed provision of self-build/custom build housing as part of the appeal scheme.
65. The UU secures contributions towards expanding waste and recycling facilities in Corsham, improvements to the surface of public right of way BOX49, providing work(s) of public at within Corsham, and the provision of infrastructure at Corsham Primary School. Although aimed at mitigating the impact of the development proposed, existing local residents would also benefit from these improvements. The proposed playspace would also be available for use by the public as well as the future residents of the proposal. I place moderate positive weight on these factors.
66. The proposal complies with Policy CP37 of the CS, which is the policy directly relevant to proposals on former military establishment land. The provision of housing, including affordable housing and self-build/custom build housing, and contributions towards local infrastructure all weigh positively in the planning balance. As does the boost to the local economy both during construction and longer term from the future occupiers. There would be conflict with Policies CP1, CP2 and CP11, but this conflict has limited weight for the reasons set out above. All in all, I consider that the proposal would comply with the development plan when considered as a whole. Even were I to have found that the policy conflicts meant that the scheme did not comply with the development plan as a whole, the Council cannot demonstrate a five-year housing land supply. As such, the so-called 'tilted balance' of Paragraph 11d) would be engaged, adding further weight in favour of the development proposed, leading to the same outcome.
67. For the reasons above, I conclude on balance that the appeal be allowed.

O S Woodward

INSPECTOR

³ At Paragraph: 038 Reference ID: 57-038-20210508

ANNEX A: APPEARANCES

FOR THE APPELLANT:

Richard Kimblin QC	No. 5 Chambers
Nina Pindham, of Counsel	No.5 Chambers
David Pritchard	Partner, Marrons Planning
Matthew Roe	Senior Planner, Marrons Planning
Matthew Cheeseman	RSK Group
Andy Moger	Tetlow King
Paul Hunt	Howes Percival

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Guest	Planning Officer
Daniel Everett	Principal Engineer
Mark Henderson	Senior Planning Officer
Stella Davies	Principal Drainage Engineer
Sarah Marshall	Senior Solicitor

INTERESTED PERSONS:

Steve Abbott	Chairman, Corsham Town Council
Tim Awmack	local resident
Morgyn Davies	local resident

ANNEX B: SCHEDULE OF CONDITIONS

APPEAL REF APP/Y3940/W/19/3243873

- 1) No development shall commence until a Phasing Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Phasing Plan shall draw a distinction between the part of the scheme that does not comprise self-build/custom build homes and the part of the scheme (including individual plots) that will accommodate the self-build/custom build homes. The development shall be carried out in accordance with the approved Phasing Plan.
- 2) Details of the access, 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 takes place with respect to each phase of the development as shown on the approved Phasing Plan. The development shall be carried out as approved.
- 3) With respect to each phase of the development as shown on the approved Phasing Plan, application(s) for the 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) With respect to each phase of the development as shown on the approved Phasing Plan, the development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The development hereby permitted shall be carried out in accordance with the following approved drawings: P17-2682_003_01 Rev C; Design & Access Statement (Addendum 2 by Pegasus Group, dated May 2019) – PARAMETER PLAN: USE AND AMOUNT; PARAMETER PLAN: ACCESS AND MOVEMENT; PARAMETER PLAN: CHARACTER AND APPEARANCE.
- 6) The development hereby approved shall make provision for the following:
 - i. No more than 81 dwellings, none of which shall exceed 2-storeys in height;
 - ii. At least 0.62 hectares of public open space to include a children's playspace and green corridor links utilising existing and proposed footpath links; and
 - iii. A vehicular access from Rowan Lane only (other than an emergency vehicular access from Moor Green) and a pedestrian access from Westwells Road only.
- 7) No development, including any site works or operations relating to the development hereby permitted, shall commence until an Arboricultural Method Statement to ensure the satisfactory protection of retained trees, shrubs and hedgerows during the construction period has been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved statement.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved

in writing by, the Local Planning Authority. The Statement shall provide, but not be limited to:

- i. details regarding parking of vehicles of site operatives and visitors;
- ii. details regarding loading and unloading of plant and materials;
- iii. details regarding storage of plant and materials used in constructing the development;
- iv. details regarding the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. details regarding wheel washing facilities;
- vi. measures to control the emission of dust and dirt during construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii. delivery, demolition and construction working hours and a named person for residents to contact;
- ix. a description of management responsibilities;
- x. a description of the construction programme;
- xi. communication procedures with the local community regarding key construction issues, e.g. newsletters, fliers etc.;
- xii. confirmation that no burning shall be undertaken on site at any time; and
- xiii. details regarding all precautionary measures to be implemented during the construction period to safeguard wildlife and the habitats that support them.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) No development shall commence until a scheme for the disposal of sewage, including the point of connection to the existing public sewer, has been submitted to, and approved in writing by, the Local Planning Authority. No dwelling shall be occupied unless and until the scheme has been completed in accordance with the approved details and connected to the public sewer.
- 10) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), has been submitted to, and approved in writing by, the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to, and approved in writing by, the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to, and approved in writing by, the Local Planning Authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures

for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 21 days of the report being completed, and approved in writing by, the Local Planning Authority.

- 11) No development shall commence until a full survey, including analysis, and photographic record of all extant military and quarry features has been submitted to, and approved in writing by, the Local Planning Authority.
- 12) No development shall take place in any phase as shown on the approved Phasing Plan unless and until a scheme for protecting occupiers of the dwellings within that phase (or, in the case of any of the dwellings in the self-build/custom build phase, until a scheme or schemes for protecting the occupiers of all or each of the dwellings within that phase) from noise from the operation of adjacent industrial uses has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include details of any scheme of mitigation required to meet internal and external amenity standards in accordance with BS8233:2014 and BS4142:2014 (or equivalent British Standards if replaced). The scheme shall also include a survey of mine workings within the locality and, where mine workings are close to the site, noise and vibration assessments shall be undertaken to assess the potential effects. Appropriate mitigation measures, if required, must be set out. All works which form part of the scheme shall be completed before the relevant dwellings are occupied and must be retained thereafter.
- 13) The landscape details to be submitted pursuant to condition 2 above shall be accompanied by a Landscape and Ecology Management Plan (LEMP). No development shall commence until the LEMP has been approved in writing by the Local Planning Authority. The LEMP shall detail management prescriptions and responsibilities to ensure that habitats within the site are maintained for the benefit of biodiversity - with particular reference to bats. The LEMP shall be based on and incorporate the mitigation measures set out in the Bat Mitigation Strategy by Ecology Solutions, dated February 2020, and in particular the 'Ecological Parameters Plan' (Ref ECO2). The LEMP shall be implemented as approved in perpetuity thereafter.
- 14) Prior to the commencement of development, an external lighting strategy for those parts of the site other than the area set aside for the self-build/custom build units shall be submitted to and approved in writing by the Local Planning Authority. This will include a lux plot demonstrating that all boundary features and other ecologically sensitive receptors will not be subject to light levels exceeding 0.5 lux. The development shall be carried out in accordance with the approved strategy. A separate lighting strategy or strategies shall be submitted to, and approved in writing by, the Local Planning Authority prior to development of all or each of the self-build/custom build units. The development shall be carried out in accordance with the approved separate strategy or strategies.
- 15) No groundworks shall take place until a Written Scheme of Archaeological Investigation (WSI) has been submitted to, and approved in writing by,

the Local Planning Authority. The WSI shall include details of archaeological excavation of the site; a post-investigation programme of archaeological, artefactual and environmental analysis of excavated material; production of a report on the archaeological excavation and post-excavation analyses; and details for publishing and archiving the results. For land that is included within the WSI, no work shall take place other than in accordance with the agreed WSI.

- 16) No dwelling shall be occupied until a Travel Plan, which shall include notification of an appointed Travel Plan Co-ordinator for the development, has been submitted to, and approved in writing by, the Local Planning Authority. The Travel Plan shall include but is not limited to:
- i. The key actions and timescale as outlined within the submitted Framework Travel Plan (TP1 V1 October 2018);
 - ii. A timetable for implementation; and
 - iii. How the Action Plan and the Review Measures secured will be implemented throughout the lifetime of the development.

The approved Travel Plan shall be implemented in accordance with the implementation timetable.

- 17) No building hereby permitted shall be occupied until surface water drainage works, incorporating works required off-site to the existing drainage connection to Spring Lane, have been implemented in accordance with details that shall first have been submitted to, and approved in writing by, 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 timetable for its implementation; and
 - iii. provide, a management and maintenance plan for the lifetime 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.
- 18) The landscaping details to be submitted pursuant to condition 2 above shall include, but are not limited to:
- i. a statement setting out the design objectives and how these will be delivered;
 - ii. earthworks showing existing and proposed finished levels or contours;
 - iii. means of enclosure and retaining structures;
 - iv. boundary treatments;
 - v. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
 - vi. vehicle parking layouts;
 - vii. other vehicle and pedestrian access and circulation areas;

- viii. hard surfacing materials;
- ix. minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.);
- x. details of: the proposed on-site footpaths and cycle paths, link paths to existing public footpaths (such as CORM136), the potential use as shared footpaths/cycle paths for CORM135 and 136 within the site, and consolidated surfaces for CORM 136 and 140 within the site; and
- xi. proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant).

----- END OF SCHEDULE -----

Richborough Estates