



Appeal Decision

Inquiry held between 12-15 October 2021

Site visit made on 18 October 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/H1705/W/21/3276870

Land adjacent to Two Gate Lane, Overton, Basingstoke RG25 3TG

- 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 Bewley Homes PLC and Romanina Real Estate Inc against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 20/00789/FUL, dated 13 March 2020, was refused by notice dated 30 April 2021.
 - The development proposed is the erection of 82 dwellings, with vehicular access from the B3400, and the provision of public open space, landscaping and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 82 dwellings, with vehicular access from the B3400, and the provision of public open space, landscaping and other associated works on land adjacent to Two Gate Lane, Overton, Basingstoke RG25 3TG in accordance with the terms of the application, Ref 20/00789/FUL, dated 13 March 2020, and subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Bewley Homes PLC and Romanina Real Estate Inc against Basingstoke and Deane Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. Revised plans amending plots 56-57, 77-78 and 80-81 have been submitted by the appellant as part of the appeal proposal changing the dwellings from 1 bedroom houses to 1 bedroom apartments with shared gardens. These plans have been publicised by the Council. Having regard to the principle established in the *Wheatcroft*¹ judgement, I am satisfied that all those with an interest in the proposal have had the opportunity to comment on the amended plans, and I have taken them into account in determining the appeal.
4. A legal undertaking under section 106 of the Town and Country Planning Act 1990 has been submitted with the appeal. Some minor corrections have been made to it by way of an Addendum received after the close of the Inquiry. I consider this undertaking in more detail under other matters.

¹ Bernard Wheatcroft Ltd v SSE [1982] 43 P&CR 233

5. When making its decision the Council opposed the development on 3 other grounds, in addition to the main issues bulleted below. These grounds related to the effect on residential amenity, mitigating potential harm to areas of ecological importance, and the provision of affordable housing and infrastructure to support demands arising from the new development.
6. The concerns of the Council on these grounds have been largely overcome by the appellants through the submission of the amended plans and legal undertaking referred to above. A remaining concern about the impact of the proposed kick-about area on the amenities of neighbouring residents has been considered as part of the second main issue, and I have considered the issue of mitigation on ecological interests under other matters. In all other respects, I am satisfied that these matters have been adequately addressed.

Main Issues

7. The main issues are considered to be:
 - the effect of the proposed access onto the B3400 on highway safety; and
 - the character and appearance of the development, with regards to density and layout.

Reasons

Highway safety

8. The Council's highway safety concerns relate to the proximity of the proposed vehicular access to another access serving Two Gate Meadow, and the potential for conflicts between them.
9. The preference of the Council, and as anticipated in the indicative plan in the Overton Neighbourhood Development Plan 2016-2029 (the 'Neighbourhood Development Plan'), is that access to the site should be gained from the B3400 via the existing access to Two Gate Meadow. That preference would avoid the potential highway safety implications of having two access points close together. However, there is nothing in policy terms, including the Site F specific policies in the Neighbourhood Development Plan, that precludes an alternative access being formed to the B3400, so long as it can be done safely.
10. While early iterations of the junction design included moving the speed limit further east, this does not form part of the current design which has been based on the existing position of the speed limit and existing vehicle speeds along this part of the B3400 London Road. The design of the junction is based on the Design Manual for Roads and Bridges (the 'Design Manual'). Although this document is primarily aimed at motorways and trunk roads it includes guidance on junction design including right turn lanes, which can be suitably modified to take account of the function and lower traffic speeds on roads such as the B3400. Overlapping visibility splays between accesses is not encouraged in the Design Manual but is not precluded for a junction of the type proposed in the appeal scheme².
11. Specific safety concerns arising from the proximity of the access points are: the interruption in visibility for a vehicle turning right into Two Gate Meadow by

² Design Manual for Roads and Bridges, CD123 Geometric design of at-grade priority and signal-controlled junctions, Revision 2, paragraph 2.4

another waiting to turn right into the proposed access (manoeuvre 1); the interruption in visibility for a vehicle turning right out of the proposed access by another waiting to turn right into Two Gate Meadow (manoeuvre 2); the interruption in visibility for southbound pedestrians using the western refuge as a result of a vehicle waiting to turn right into the proposed access; and the length of the right turn lane on the B3400 for vehicles turning right into the proposed access. I consider each of these aspects of highway safety in turn.

Manoeuvres 1 and 2

12. It is common ground that although visibility from the proposed access would meet the desirable stopping sight distances, sightlines would be interrupted momentarily if vehicles were involved in either manoeuvre 1 or manoeuvre 2 outlined above. The difference between the main parties is the weight that should be given to the interruption in visibility in terms of its effect on highway safety.
13. Based on the evidence presented, it is apparent that the occurrence of these manoeuvres would be infrequent. The worst case likelihood of such events is calculated by the appellants as 1 in 3,703 for manoeuvre 1 and 1 in 3,150 for manoeuvre 2, both of which would only occur when there are vehicles simultaneously making right turn movements³.
14. When such infrequent events do occur, the interruption in visibility of an oncoming vehicle would be momentary, of the order of 1-2 seconds, with an oncoming vehicle being visible before and after it passes the stationary vehicle waiting in the right turn lane. In practice, a driver whose visibility is partly obscured in this way is likely to wait a few seconds to see if an oncoming vehicle is passing behind the stationary vehicle, or wait until the vehicle has turned right and visibility is clear.
15. If the new junction arrangements led to a fall in traffic speed along the B3400, as is suggested to be likely by the appellants, this would marginally increase the time a waiting vehicle might be unsighted, but would be compensated for by the decrease in speed. The effect on highway safety of reducing traffic speed is therefore likely to be either neutral or beneficial.
16. Even if a driver were to act rashly and to begin a manoeuvre without waiting, there would be sufficient time for an approaching vehicle to come to an emergency stop, given the distance available and the existing 85th percentile speed. It is common ground that highway junctions should not be designed using the emergency stopping distances as set out in the Highway Code, but it is of relevance that the space between the junctions is sufficient to cater for such emergency situations.

Pedestrian movement

17. Similar considerations apply to the visibility for a pedestrian standing in the proposed western refuge intending to cross to the southern footpath. Here visibility of oncoming traffic could be interrupted by a vehicle waiting to turn right into the proposed access. However, a pedestrian would be able to see an approaching vehicle before and after it passed the stationary vehicle, and the interruption in visibility would only be of the order of 1-2 seconds. A brief pause would allow a pedestrian to assess whether there was any oncoming

³ PJA Transport Technical Note

vehicle passing behind the stationary vehicle and proceed accordingly. In practice, if a vehicle was waiting to turn right, it would indicate to a pedestrian that there was likely to be approaching traffic, who could then let the vehicle pass before crossing.

18. Even if a pedestrian were to cross without due caution, an approaching vehicle would be able to come to an emergency stop within the distance available, at existing 85th percentile speeds.
19. The proximity of the proposed access to the access serving Two Gate Meadow would give rise to some interruptions in visibility for both drivers and pedestrians. However, these interruptions in visibility would be infrequent and when they did occur, they would be momentary. I consider that they would not give rise to unsafe conditions for road users behaving normally. Even if drivers or pedestrians were to act rashly, there would still be sufficient distance for oncoming vehicles to come to an emergency stop.

Right turn lane

20. Guidance in the Design Manual on the length of right turn lanes for trunk roads sets a standard of 35m at 30mph and 50m at 40mph⁴. These distances include taper, deceleration and turning lengths. For other roads, the Design Manual advises that it is for the Highway Authority to decide on the extent to which the requirements are appropriate in any given situation⁵.
21. The length of the right turn lane for the proposed access would be approximately 36m. It would start in the 30mph limit and continue into the 40mph limit, although the 85th percentile vehicle speed leaving Overton at this point is somewhat higher. The length of the right turn lane would therefore be shorter than the standard required for trunk roads as set out in the Design Manual.
22. However, the B3400 is not a trunk road and does not function in the same way. It is a reasonable expectation on B class roads for traffic to slow to allow vehicles to exit and join from junctions and other access points, particularly close to and within built up areas. The length provided for deceleration does not therefore have to be as long as that on a trunk road as a vehicle intending to turn right can start to slow while still on the main carriageway. Vehicle speeds for traffic leaving Overton at this point, even for vehicles exceeding the speed limit, are not so high that vehicles slowing to turn right would materially worsen journey times for through traffic along the B3400. There is no capacity issue forecast for the junction and therefore no likelihood of vehicles waiting to turn right queuing back onto the main carriageway.
23. Having regard to these matters, I consider that the length of the right turn lane is appropriate for the road conditions and the intended use of the access to the proposed development.

Other highway matters

24. Concern was raised that the traffic modelling carried out for the new junction does not include adjacent accesses nor all the traffic arising from other recent

⁴ Design Manual for Roads and Bridges, CD123 Geometric design of at-grade priority and signal-controlled junctions, Revision 2, figure 4.1 and table 4.1

⁵ Design Manual for Roads and Bridges, GG 101 Introduction to the Design Manual for Roads and Bridges, Version 0.1.0, paragraph 1.1

developments in Overton. Additional modelling work was carried out in response to that concern by the appellants⁶, which found that additional traffic flows arising from these sources would make no appreciable difference to the operation of the proposed junction or movements into and out of it. I am satisfied that the modelling can be relied upon to forecast the capacity and operation of the junction.

25. In a similar vein, concern was raised at the impact of additional traffic from the new dwellings on queuing at the Overton crossroads. The development would add to the congestion experienced at peak periods, but that additional pressure would not be severe. Additional housing on the site has in any case been anticipated through its allocation in the Neighbourhood Development Plan, and the small increase in dwellings proposed would not materially alter that situation. Additional modelling shows that no further minor road junctions would be blocked as a result of the proposed development⁷.
26. The road safety audit carried out at an early stage of the proposal assumed that the 30mph speed limit would be moved eastwards. No updated safety audit has been carried out although for the purposes of the appeal that was not necessary as the safety of the junction as designed with the speed limit retained in its existing location has been the subject of the evidence examined at the Inquiry. If a further road safety audit is necessary prior to any highway works being carried out that would be a separate matter for the Highway Authority to determine.
27. It was agreed that although pedestrian visibility towards Overton on the north side of the B3400 opposite the proposed eastern refuge is currently partly obscured, the required visibility could be achieved through cutting back encroaching vegetation⁸. Such maintenance would also widen the useable footpath width to the required standard. This vegetation all lies within the limits of the highway and therefore there would be no objection from the Highway Authority to its cutting back and future maintenance at that distance.
28. Further along the B3400 are separate ingress and egress access points to the Berrydown Sports Ground. The proposed junction design would not cause any conflict between vehicle movements to or from these access points. A small improvement would arise from the right turn pocket in the proposed hatching to the east of the easternmost pedestrian refuge, which would provide space for a vehicle to wait to turn into the sports ground where none exists at present.
29. Two pedestrian footpaths are proposed from the new development into Two Gate Meadow, which would then link to other footpaths giving access into the centre of Overton. Pedestrians would have to cross Two Gate Lane, which is narrow and without footpaths or lighting. However, the lane is lightly trafficked and while care would be needed in crossing it, the crossings would not require pedestrians to walk along the lane other than for a short stretch at the northern end, which would be lit. The links would provide more direct pedestrian routes from the appeal site to the centre of Overton than the footpath along the northern side of the B3400.

⁶ Iceni Projects Ltd, rebuttal of Kathryn Backhouse Evidence, September 2021

⁷ Iceni Projects Ltd, rebuttal of Kathryn Backhouse Evidence, September 2021

⁸ Addendum Statement of Common Ground, 5 October 2021

30. The proposed junction design would introduce some highway safety benefits. The introduction of a right turn lane into Two Gate Meadow would improve traffic flow by providing space for vehicles waiting to turn right into that access, where there is none at present. The introduction of two pedestrian refuges would also benefit the safety of pedestrians wanting to cross the main road at this point.

Conclusion on highway issue

31. Having regard to these matters, I conclude that the proposed junction arrangement would operate safely because the infrequent and momentary interruptions in visibility would not unduly compromise highway safety. The development would therefore comply with Policies CN9 and EM10 of the Basingstoke and Deane Local Plan 2011-2019 (the 'Local Plan') which require development proposals to integrate into existing pedestrian and cycling networks and provide safe, suitable and convenient access for all road users that does not compromise highway safety.

Density and layout

32. The Council's reason for refusing planning permission on design and layout grounds refers to the development being an unacceptably cramped form of development in relation to the site area.
33. The site is allocated under Policy SS1 of the Neighbourhood Development Plan for approximately 70 dwellings. Site Plan F shows an indicative site boundary for the allocation but notes that it may be extended to encompass the whole field of which the allocation forms part, if required. The appeal scheme proposes 82 dwellings on a slightly larger site than that shown to be allocated on the indicative plan in the Neighbourhood Development Plan but still well within the field's boundaries. It would therefore be at a slightly higher density than that envisaged in the Neighbourhood Development Plan, but not significantly so, and still well within the area of land earmarked for new development.
34. The perceived density of the development would arise not only from the number of dwellings on the site but also their size, spacing and layout. In that regard the layout follows a perimeter block format with dwellings facing out onto residential roads and with rear gardens backing onto one another. This differs from the cul-de-sac layout of some older developments like Two Gate Meadow but reflects current design preferences as set out in national and local design guidance⁹.
35. Buildings would be spaced apart from one another with intervening drives. The dwellings on the outer edges of the development would be either detached or set in a looser formation and views of them would be further softened by landscaping along their fronts. Internally, street views would be broken up by open spaces and there would be planting in front gardens, with occasional street trees. Other than the difference in layout design, the size of the dwellings and the spacing between them would not be dissimilar to more recent residential developments in Overton, including those at Two Gate Meadow and Overton Hill. There would therefore be adequate space around the buildings in

⁹ National Design Guide 2021 and Basingstoke and Deane Design and Sustainability Supplementary Planning Document, July 2018.

both observed and comparative terms, and the proposal would not appear cramped.

36. A suggestion was made by the Council's planning witness that the development should have a more rural character given the countryside location. However, as an allocated site on the edge of the settlement it would form part of the built up area and, subject to good design, it is right that the development should seek to make an efficient use of land in accordance with Policy EM10 of the Local Plan. In that regard a suburban form of layout of the density proposed would not be out of place or contrary to policy or design guidance.
37. The layout has buildings occupying the higher part of the site with open space on the lower. This layout contrasts with the layout on indicative Site Plan F in the Neighbourhood Development Plan which shows the reverse. Although building would take place on some of the higher parts of the site, the boundaries of the scheme would be well screened in wider views from the countryside by the established woodland edges along the eastern and southern sides of the field. The development would be further softened by landscape belts along the outer edges of the site. In visual terms the site is well contained, and the form of layout proposed would not therefore appear prominent or fail to make an appropriate transition to the wider countryside.
38. Local design guidance encourages the interlocking of back gardens and to avoid placing open space against existing back gardens. Interlocking back gardens with those of dwellings in Two Gate Meadow is not possible because of the intervening Two Gate Lane, which forms a 'green corridor' between it and the appeal site. Positioning buildings so that they front onto and benefit from this green corridor is in my view preferable to the alternative arrangement of them backing onto it. The development would not interlock back gardens with the few dwellings in Nightingale Rise, Waltham Road or at 1-2 Moores Farm that do back onto the site, but their back gardens would be screened by substantial new landscaping, for which there is sufficient space set aside. The position of the western swale is dictated by it being in one of the lower points of the site.
39. The informal kick about area would be located in the north west corner of the site. While this has some advantages in that it would be more accessible to those inside and outside the site, it would be adjacent to the rear gardens of 1-2 Moores Farm and therefore its use has the potential to cause disturbance. I noted on my site visit that the rearmost parts of these gardens are used for parking and garaging with the more private garden areas set further west. This arrangement, together with the proposed boundary landscaping and buffer area around the kick about area would provide adequate separation such that the neighbouring occupiers' living conditions would not be harmed. Dwellings within the new development would provide surveillance over the open space, reducing the likelihood of anti-social behaviour.
40. I conclude that the density and layout of the proposal is acceptable for its location. It would not appear cramped when compared to other residential development in Overton or cause unacceptable harm to the living conditions of neighbouring occupiers. Consequently, it would accord with Policy EM10 of the Local Plan and the general thrust of local design guidance in the Design and Sustainability Supplementary Planning Document, which together seek high quality design that responds to its local context and creates a positive, inviting environment for future occupiers.

Other Matters

Appropriate assessment

41. The appeal development's wastewater would ultimately drain to the Solent. Natural England advise that high levels of nutrients are causing eutrophication to the Solent Water Special Protection Area and Special Areas of Conservation, designated as such for their importance as habitats for indigenous and migrating bird populations. There is therefore the potential for the development's wastewater, when taken in combination with other residential development in the same catchment area, to contribute towards the adverse effect such nutrients are having on the designated areas. Consequently, it is necessary for me to carry out an appropriate assessment under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations').
42. The appellants have sought to mitigate the potential harm to the ecological value of the designated areas by ensuring nutrient neutrality for the scheme. This would be achieved by taking an area of grassland that is currently used for dairy farming, and in the same catchment area as the appeal site, out of production. The land would be planted as deciduous mixed woodland and lowland meadow and maintained as such thereafter. A habitat management and monitoring plan would be secured by an obligation in the legal undertaking.
43. Despite initial reservations over use of part of the mitigation land as lowland meadow, Natural England now raises no objection to the proposed development subject to implementation of the mitigation strategy and the agreed management and monitoring of the mitigation land being secured for the lifetime of the development.
44. Having regard to the information provided with the application¹⁰ and subsequently¹¹, and the advice of Natural England¹², I am satisfied that taking existing grassland out of agricultural use would mitigate against any net increase in nutrients reaching the Solent as a result of the development. I am also satisfied that the management and monitoring arrangements secured in the legal undertaking would ensure that the use of the land would remain as mixed woodland or lowland meadow. Subject to these measures, I consider the development would meet the requirements of the Habitats Regulations.

Provision of infrastructure

45. In addition to the mitigation measures mentioned above, the legal undertaking would secure 33 dwellings (40%) of dwellings as affordable housing with an agreed mix of sizes and tenures; financial contributions towards an off-site play area, a school travel plan and the provision of allotments; multi-functional open space; a landscape management plan; a biodiversity enhancement and management plan; and off-site highway works.
46. I have considered the compliance statement provided by the Council and am satisfied that these contributions meet the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 (as amended) in addressing

¹⁰ ACD Environmental, report to inform an appropriate assessment

¹¹ ACD Environmental, ecology proof of evidence of Daniel Wood

¹² Natural England email response, 24 August 2021

the additional demands placed on infrastructure and public facilities arising from the development. In so far as they achieve that aim, I consider them to be necessary, directly related to the development and fairly and reasonably related in scale and kind.

Matters raised in representations

47. Other matters raised in representations include a concern that the community bus would not be able to turn within the site, that the development would put pressure on parking in the centre of Overton, the potential for flooding from the drainage swales, the relationship of the kick about area to one of the swales, a desire that the new houses should be carbon zero, and a general concern that more building will result in Overton losing its distinctive character.
48. The internal roads within the scheme have been designed in accordance with national and local design guidance¹³. While the scheme is not designed to accommodate a bus route, there is no reason why a vehicle of that size could not access the site albeit it may have to reverse before leaving. The centre of Overton would be readily accessible on foot or by bicycle from the development, which would therefore give its residents genuine alternatives to using motor cars to access local services and facilities.
49. The scheme has been designed with a sustainable surface water drainage system which would accommodate and then release surface water from the site in a controlled manner. The development is therefore likely to reduce the risk of surface water flooding from the site rather than increase it. I do not consider that the swales would be unsafe, even alongside the kick about area, as they are designed to be shallow with gradually sloping banks.
50. The preference for carbon zero housing is noted. However, the Government does not consider the planning system to be the appropriate mechanism for imposing new building standards. Following the introduction of national technical standards, the scope for requiring a reduction in carbon emissions on individual schemes is limited.
51. I appreciate that cumulative development in villages such as Overton can give rise to concerns that the pace of change is too fast, places undue burdens on local services, and erodes what makes the village a pleasant place in which to live and work. However, there is a pressing need for new housing to meet demand, and this site has been allocated to help meet that demand as part of the Neighbourhood Development Plan. A proportionate response to the additional demands the development would make on local services and facilities is addressed through the obligations contained in the legal undertaking.

Conditions

52. I have considered the conditions discussed during the Inquiry against the tests in paragraph 56 of the National Planning Policy Framework (the 'Framework'). I have included those which meet the tests set out in the Framework, subject to rewording in the interests of clarity, consistency and enforceability. Some have been combined in the interests of simplicity. They have also been reordered in accordance with the advice in the Planning Practice Guidance. I have taken the signed addendum statement of common ground as the

¹³ Manual for Streets 1 and 2, and Hampshire County Council Technical Guidance Notes

appellants' written agreement to the terms of the pre-commencement conditions under section 100ZA of the Town and Country Planning Act 1990.

53. In addition to the standard time limit, a condition listing the approved plans is necessary in the interests of certainty.
54. Conditions requiring a wildlife protection and mitigation plan, a construction environmental management plan, investigation of any land contamination, means for protecting the highway from mud and debris, and archaeological investigation are necessary to address those specific aspects relevant to the development. Approval and implementation of these matters is necessary prior to the commencement of development on the site.
55. A condition requiring approval of details of water efficiency is necessary to help to conserve water supply. Conditions requiring approval of details of footpath links, barriers, hard and soft landscaping details in addition to those contained within the approved plans, and electric vehicle charging points are necessary in the interests of the living conditions of neighbouring and future occupants and the efficient operation of the site once complete.
56. Conditions requiring the development to be carried out in accordance with the materials, hard and soft landscaping, site access, boundary treatments and parking and turning areas shown on the approved plans are necessary in the interests of the appearance of the development and the living conditions of future occupiers.
57. Conditions requiring construction and approval of the long-term maintenance arrangements for the surface water drainage system are necessary to reduce the risk of flooding on and off the site. Conditions requiring protective measures around trees and replacement of any landscaping that is damaged or dies for a period after initial planting are necessary in the interests of ensuring the retention and long term benefits of soft landscaping within and adjacent to the site.
58. A condition limiting hours of work during the construction phase is necessary in the interests of the living conditions of neighbouring occupants. A condition requiring the provision of domestic refuse collection arrangements is necessary in the interests of future occupiers' living conditions.
59. I agree with the main parties that a condition controlling the sampling of imported material is unnecessary as no landfill is anticipated to be needed as part of the development, and a condition limiting the slope of driveways is unnecessary because the scheme is sufficiently detailed already. A condition relating to sustainable design failed the tests of precision and enforceability. Some of its provisions are in any case contained within other conditions that have been imposed.

Conclusion

60. I am required to make my decision in accordance with the development plan, unless material considerations indicate otherwise. In this case, I have concluded that the proposed development would not compromise highway safety to an unacceptable extent, nor would its density or layout appear cramped either by reference to its design or by comparison with neighbouring residential areas. It would therefore comply with Policies CN9 and EM10 of the Local Plan. Following agreement on the terms of the legal undertaking, there is

also no dispute that the development would meet the terms of other policies in the Local Plan aimed at securing affordable housing, the necessary infrastructure to support the future population and mitigating against potential harmful impacts.

61. I therefore conclude that the development accords with the development plan when taken as a whole. There are no material considerations which indicate that a decision should be reached other than in accordance with the development plan.
62. The appellant has put forward arguments in favour of the development, including the benefits accruing from the scheme and the acknowledged lack of housing land supply. Given that the development accords with the development plan there is no need for me to consider these in any detail, as the Framework advises that in such circumstances development proposals should be approved without further delay.
63. For the reasons given above I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Rupert Warren QC, of Counsel, who called:

Clive Burbidge BSc MSc MRTPI FCIHT	Director, Icen Projects Ltd
Karen Charles BSc (Hons) DipTP MRTPI	Director, Boyer

FOR THE COUNCIL:

Ben de Feu, of Counsel, who called:

Kathryn Backhouse MSc CMILT MCIHT	Director, Yes Engineering Group Ltd
Jeremy Butterworth BSc MA MRTPI	Director, J Butterworth Planning Ltd

DOCUMENTS

Received during or after the Inquiry

1. Opening submissions on behalf of the appellants by Rupert Warren QC.
2. Opening submissions on behalf of the Council by Ben du Feu.
3. Email representation from Andrew Devine received 13 October 2021.
4. Copy of email response from Natural England dated 26 August 2021.
5. Closing submissions on behalf of the Council by Ben du Feu.
6. Closing submissions on behalf of the appellants by Rupert Warren QC.
7. Addendum to legal undertaking signed and dated 18 October 2021.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
 - Site Location Plan - FD18-1605-50 Rev. C
 - Tree Protection Plan - BEW22001-03 Sheets 1 and 2
 - Plots 38 - Floor Plans - FA18-1605-133
 - Plots 38 - Elevations - FA18-1605-134
 - Double Garage - Plans and Elevations - FA18-1605-159
 - Plots 01, 17, 26, 46, 63 & 68 - Elevations - FA18-1605-101
 - Plots 01, 17, 26, 46, 63 & 68 - Floor Plans - FA18-1605-100
 - Plots 01 & 10 Garage - Plans and Elevations - FA18-1605-159
 - Plots 10, 43 and 59 - Elevations - FA18-1605-115
 - Plots 10, 43 and 59 - Floor Plans - FA18-1605-114
 - Plots 12-15 - Elevations - FA18-1605-118
 - Plots 12-15 - Floor plans - FA18-1605-116
 - Plots 12-15 - Roof Plan - FA18-1605-117
 - Plots 12-15 - Elevations - FA18-1605-119
 - Plots 2, 11, 16, 19, 21 & 48 - Elevations - FA18-1605-103
 - Plots 2, 11, 16, 19, 21 & 48 - Floor Plans - FA18-1605-102
 - Plots 22 & 23, 24 & 25, 65, 66, 69 & 70 - Elevations - FA18-1605-125
 - Plots 22 & 23, 24 & 25, 65, 66, 69 & 70 - Floor Plans - FA18-1605-124
 - Plots 29-32 - Elevations - FA18-1605-130
 - Plots 29-32 - Floor Plans - FA18-1605-128
 - Plots 29-32 - Roof Plans - FA18-1605-129
 - Plots 03, 28, 40 & 71 - Floor Plans - FA18-1605-104
 - Plots 34 & 35, 36 & 37, 75 & 76 - Elevations - FA18-1605-132
 - Plots 34 & 35, 36 & 37, 75 & 76 - Floor Plans - FA18-1605-131
 - Plots 04, 09, 18, 33, 41, 47 - Elevations - FA18-1605-107
 - Plots 04, 09, 18, 33, 41, 47 - Floor plans - FA18-1605-106
 - Plots 45 and 62 - Elevations - FA18-1605-136
 - Plots 45 and 62 - Floor Plans - FA18-1605-135
 - Plots 49, 50, 51 and 52 - Elevations - FA18-1605-138
 - Plots 49, 50, 51 and 52 - Floor Plans - FA18-1605-137
 - Plots 55-57 - Elevations - FA18-1605-137 rev. A
 - Plots 55-57 - Floor Plans - FA18-1605-137 rev. A
 - Plots 6 and 7 - Elevations - FA18-1605-111
 - Plots 6 and 7 - Floor Plans - FA18-1605-110
 - Plots 73 and 74 - Floor Plans - FA18-1605-149
 - Plots 73 and 74 - Elevations - FA18-1605-150
 - Plots 77-79 - FA18-1605-144 rev A
 - Plots 77-79 - FA18-1605-142 rev A
 - Plots 77-79 - Roof Plans - FA18-1605-143 rev. A
 - Plots 8, 39 and 61 - Floor Plans - FA18-1605-112
 - Plots 8, 39 and 61 - Elevations - FA18-1605-113
 - Plots 80-82 - Floor Plans - FA18-1605-145 rev. A
 - Plots 80-82 - Elevations - FA18-1605-146 rev. A
 - Single Garage Plans and Elevations - FA18-1605-156
 - Twin Garage Plans and Elevations - FA18-1605-159
 - Plots 42, 44 and 60 - Elevations - FA18-1605-161

Plots 42, 44 and 60 Floor Plans - FA18-1605-160
Plots 53-54 - Floor Plans - FA18-1605-139
Plots 53-54 - Elevations - FA18-1605-140
Plots 05 and 20 - Floor Plans - FA18-1605-108 Rev.C
Plots 05 and 20 - Elevations - FA18-1605-109 Rev. A
Plots 27 and 72 - Floor Plans - FA18-1605-126 Rev. C
Plots 27 and 72 - Elevations - FA18-1605-127 Rev. A
Plots 58 and 64 - Floor Plans - FA18-1605-143 Rev. C
Plots 58 and 64 - Elevations - FA18-1605-144 Rev. A
Plot 67 - Floor Plans - FA18-1605-145 Rev. C
Plot 67 - Elevations - FA18-1605-146 Rev. A
Site Layout - FA18-1605-055SK Rev. K
Site Layout Housing Mix - FA18-1605-060 rev. F
Site Layout Chimney Plan - FA18-1605-071 rev. B
Site Layout - Showing Enclosures - FA18-1605-068 rev. F
Site Layout Showing Housing Tenure - FA18-1605-062 rev. F
Site Layout - Materials Dispersion Plan - FA18-1605-067 rev. F
Lighting, Drainage and Planting Overlay - 03857-B1-SK007-P2
Site Layout Road Hierarchy - FA18-1605-061 rev. E
Street Scenes - FA18-1605-500 to 509 Rev. B
Site Layout - Showing Refuse Strategy - FA18-1605-065 rev. F
Refuse Strategy - 03857-TR-005-P8
Land Mitigation Plan - FA18-1605-900 Rev. G
Mitigation Land - BEW22001_66
Landscape Masterplan - BEW22001 10F
Site Layout Showing Parking - FA18-1605-063 rev. E
Proposed External Levels - 03857-B1-SK001-P4 S
Site Layout Showing Open Space Areas - FA18-1605-069 rev. H
Soft Landscaping Proposals - BEW22001 11H Sheets 1-10
Site Access Arrangements - 03857-TR-0001-P7
Proposed Basin Details - 03857-B1-SK006-P2
Hard Landscaping Proposals - BEW22001 12C Sheets 1-10
Proposed Lighting Design - MMA15757/001 Rev. R0
Soft Landscape Specifications - BEW22001 Spec Rev.1
Landscape Management and Maintenance Plan - BEW22001 Man

- 3) No development, including any soil moving, temporary access construction/widening or storage of materials shall commence until a Wildlife Protection and Mitigation Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Wildlife Protection and Mitigation Plan. If any habitat or landscape feature intended to be retained is removed or damaged in contravention of the Wildlife Protection and Mitigation Plan, a scheme of remedial action including a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details and timetable.
- 4) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The Plan should include, but not be limited to: procedures

for maintaining good public relations including complaint management; public consultation and liaison; arrangements for liaison with the Council's Environmental Protection Team; mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites to minimise noise disturbance from construction works; control measures for dust and other air-borne pollutants; the parking of site operatives and visitors vehicles; loading and unloading of plant and materials; management of construction traffic and access routes; and storage of plant and materials used in constructing the development. The Construction Environmental Management Plan once approved shall be implemented for the duration of construction on the site.

- 5) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority:
- (a) a desk top study carried out by a competent person documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Land at Two Gate Lane, Overton Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011;
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as being appropriate by the desk study in accordance with BS10175:2011- Investigation of Potentially Contaminated Sites - Code of Practice;
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed. The scheme must include a timetable of works and site management procedures and the nomination of a competent person to oversee the implementation of the works.
- The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 and if necessary shall include proposals for future maintenance and monitoring. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Contamination Land Guidance'.
- 6) No dwellings forming part of the development hereby permitted shall be occupied until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of condition 5(c) that any remediation scheme required and approved under the provisions of condition 5(c) has been implemented fully in accordance with the approved details. Such verification shall comprise; 'as built' drawings of the implemented scheme; photographs of the remediation works in progress; certificates demonstrating that imported and/or material left in situ is free of contamination. Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 5(c).
- 7) No development shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority detailing the method of cleaning wheels and chassis of all heavy goods vehicles, plant and delivery vehicles leaving the site and the means of keeping the site access road and adjacent public highway clear of mud and debris during site demolition, excavation, preparation and construction. The approved scheme shall be implemented prior to the commencement of development and retained thereafter throughout the duration of the demolition, excavation,

preparation and construction phases. No vehicles shall leave the site in a condition whereby mud, clay or other deleterious materials shall be deposited on the public highway.

- 8) No development on the areas of archaeological mitigation identified in Figure 1, Land at Two Gate Lane, Overton: Project Specification for Archaeological Excavation by Thames Valley Archaeological Services, May 2020, revised 22/07/2020 shall commence until a programme of archaeological mitigation has been implemented in accordance with a written scheme of investigation that has been submitted to and approved in writing by the Local Planning Authority.
- 9) Following completion of archaeological fieldwork, a report shall be produced in accordance with a programme that has been submitted to and approved in writing by the Local Planning Authority setting out post excavation assessment, analysis and reports, and means of publication.
- 10) Within 2 months of the commencement of the development hereby permitted a Construction Statement detailing how the new dwellings shall meet a water efficiency standard of 110 litres or less per person per day shall be submitted to and approved in writing by the Local Planning Authority. The details approved in the Construction Statement shall be carried out as part of the development and thereafter retained.
- 11) Within 2 months of the commencement of the development hereby permitted, details of the method of construction of the northern footpath south of Two Gate Lane shall be submitted to the Local Planning Authority. The footpath shall be implemented in accordance with the details approved in writing by the Local Planning Authority prior to occupation of any of the dwellings hereby permitted.
- 12) Within 2 months of the commencement of the development hereby permitted, details of the barrier to be located on top of the retaining wall adjacent to the kick about area shall be submitted to the Local Planning Authority. The barrier shall be erected in accordance with the details approved in writing by the Local Planning Authority prior to the use of the kick about area and shall be retained thereafter.
- 13) Within 2 months of the commencement of the development hereby permitted, a hard landscape management plan to include management responsibilities and maintenance details on the site other than for privately owned domestic areas shall be submitted to the Local Planning Authority. The hard landscape management plan shall be carried out in accordance with the details approved in writing by the Local Planning Authority.
- 14) Within 2 months of the commencement of the development hereby permitted a scheme for the provision of electric vehicle charging points shall be submitted to the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

- 15) Within 2 months of the commencement of development hereby permitted details of the barriers around the southern hammerheads to prevent vehicles accessing the open space shall be submitted to the Local Planning Authority for approval. No dwelling hereby permitted shall be occupied until the barriers have been installed in accordance with the approved details, and shall be retained thereafter.
- 16) Within 2 months of the commencement of the development hereby permitted details of additional planting around the western balancing pond shall be submitted to the Local Planning Authority for approval. The additional planting once approved shall be implemented in accordance with conditions 24 and 25.
- 17) Within 2 months of the commencement of the development hereby permitted details of all street furniture shall be submitted to the Local Planning Authority for approval. No dwelling hereby permitted shall be occupied until the approved street furniture has been installed, and the street furniture shall be retained thereafter.
- 18) The development hereby permitted shall be carried out in accordance with the material details referenced on the approved drawings listed in condition 2.
- 19) All hard landscaping comprised in the details shown on the approved plans listed in condition 2 shall be carried out prior to occupation of any of the dwellings hereby permitted.
- 20) Details for the long-term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings hereby permitted. The submitted details shall include: maintenance schedules for each drainage feature type and ownership, including the pumping stations; and details of protection measures.
- 21) No dwelling within the development hereby permitted shall be occupied until provision for the turning and parking of vehicles and cycles has been made within the curtilage of that dwelling in accordance with the approved plans, and the areas of land so provided shall not be used for any purpose other than the turning and parking of vehicles.
- 22) Before any dwellings forming part of the development hereby permitted are occupied, the means of vehicular access to the site shall be constructed in accordance with the approved plan (Drg No. 03857-TR0001-P7) and no structure, erection or planting exceeding 1.0m in height shall thereafter be placed within the visibility splays shown on the approved plans.
- 23) The development hereby permitted shall be carried out in accordance with the boundary/enclosure details referenced on the approved drawings listed in condition 2. The approved boundary/enclosure details shall thereafter be retained.

- 24) All planting, seeding or turfing comprised in the landscaping details shown on the approved plans listed in condition 2 shall be carried out in the first planting and seeding season following occupation of any of the dwellings hereby permitted.
- 25) If within a period of five years from the date of the planting of any tree or shrub pursuant to the landscaping details shown on the approved plans listed in condition 2 that tree or shrub, or any tree or shrub planted in replacement, is removed, uprooted, destroyed, dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the same place.
- 26) Protective measures including fencing, ground protection, supervision, working procedures and engineering solutions shall be carried out in accordance with the arboricultural impact assessment and method statement by ACD Environmental, ref BEW22001aia-ams and the tree protection plan, ref BEW22001-03 sheets 1 and 2.
- 27) No work relating to the construction of the development hereby permitted, including works of demolition or preparation prior to operations, or deliveries of construction materials or plant and machinery, or removal of any spoil from the site shall take place before 0730 or after 1800 Mondays to Fridays, before 0800 or after 1300 Saturdays nor on Sundays or public holidays.
- 28) The drainage system shall be constructed in accordance with the Two Gate Lane, Overton Technical Addendum ref: 03857. Any changes to the approved documentation must be submitted to and approved in writing by Local Planning Authority. Any revised details submitted for approval must include a technical summary highlighting any changes, updated detailed drainage drawings and detailed drainage calculations.
- 29) The development shall be carried out in accordance with the approved Refuse Strategy (03857-TR-005-P8).

***** End of Conditions *****