



Appeal Decision

Hearing Held on 14 and 15 December 2021

Site visit made on 16 December 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2022.

Appeal Ref: APP/D1265/W/20/3259308

Land south of the A30 and east of Shaftesbury, Salisbury Road, Shaftesbury, Dorset, SP7 8BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Persimmon Homes (South Coast) Ltd against Dorset Council.
 - The application Ref 2/2018/1773/OUT, is dated 11 March 2019.
 - The development proposed is an employment led mixed-use scheme consisting of industrial starter units, primary school, up to 135 dwellings and flexible commercial uses to include a combination of hotel and non- food retail or a residential care home together with car parking, sport pitches, public open space and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for industrial starter units; primary school; up to 135 dwellings and flexible commercial uses to include a combination of hotel and non-food retail or a residential care home together with car parking, sport pitches, public open space and associated works at land south of the A30 and east of Shaftesbury, Salisbury Road, Shaftesbury, Dorset, SP7 8BS in accordance with the terms of the application, Ref 2/2018/1773/OUT, dated 11 March 2019, subject to the conditions in the conditions annexe at the end of this Decision.

Application for costs

2. An application for costs was made by Persimmon Homes (South Coast Ltd) against Dorset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The hearing was changed from an in person physical meeting to a digital web based event, following the Government's requirement on home working in the light of the pandemic. The Council confirmed at the hearing that measures were in place for any attendees and that nobody was disadvantaged.
4. A draft planning obligation was agreed by both main parties at the start of the hearing. Some amendments were made following discussion at the hearing. A finalised document was signed and dated on 23 December 2021. This makes provision for affordable housing, a primary school, open space and playing fields, footpath improvements, primary care funding, open space and marketing for the employment development and limitations on potential uses.

5. The planning application was submitted in outline with all matters reserved except for access. A layout plan was submitted for indicative purposes and has only been considered on that basis. However, a parameters plan and building heights plan were purposefully submitted for consideration at this outline stage.

Development Plan (DP) strategy and background to the main issues

6. The planning application was not determined by the Council. Nonetheless the Council's Statement of Case and the Statement of Common Ground state that their main concern was the conflict of the proposal with the Development Plan in terms of the allocation of uses for the site. The starting point is the consideration of the policy basis.
7. Saved policy SB12 of the North Dorset District Wide Local Plan 2003 (LP) states: 'Employment land allocation, land south of Salisbury Road, approximately 7 hectares of land to the south of the A30 will be developed for business, industrial and warehousing purposes subject to specified criteria'.
8. In 2003 a Development Brief was published for the 'Eastern Shaftesbury Development', which covers the appeal site and an area to the north. The introduction explains the purpose was to promote a sustainable development strategy for growth in this main town. The strategy sought to promote transport efficiency and reduce the number of trips. The Brief's stated objective was to help developers achieve a comprehensive development.
9. The Brief also affirms the LP strategy which noted the town has a critical mass of service provision and employment opportunities. The area is described as of strategic importance to the development of the town. It continues by providing suggestions to help comprehensive development.
10. In 2016 the North Dorset Local Plan followed. Policy 11 covers economic development in the four market towns (including Shaftesbury). This involves the development of key strategic sites to meet the identified need for employment land. The policy states: 'About 49ha of land will be developed primarily for employment uses in North Dorset between 2011 and 2031. This will include the development of the following key strategic sites for employment uses: land south of the A30 at Shaftesbury, about 7.0 hectares'. It explains the Council 'will permit employment (B Class) uses and where it would support businesses and /or provide a wider range of jobs, may also permit community uses, such as community halls, healthcare facilities such as doctors or vets (but not with a residential element such as a care home), education facilities, including training facilities for businesses and pre-school nurseries and small scale retail, which is ancillary to a B Class use'.
11. Policy 18 of the 2016 Plan, headed sustainable development strategy, is specific to Shaftesbury: 'the town will maintain its role to serve the needs of the northern part of the district, in part through an expansion to meet employment needs to the south east'. The policy is then latterly re-affirmed under the sub-title supporting economic development.
12. The recently adopted Shaftesbury Neighbourhood Plan (NP), Policy SFHE3 states the allocation as employment land will be safeguarded. The lower case wording states: 'whilst employment areas include those falling within traditional 'B' Class uses (business and general industrial premises), in practice we need

to consider a much wider range of employment types - the education and training sector, leisure and tourism, healthcare etc, where the use of that land or building directly supports jobs. Care homes that employ an equivalent number of staff as a typical B1 type use will be considered as an employment use'.

13. The Dorset Council Local Plan is an emerging plan for which the options have been the subject of consultation. At this stage it continues with the employment based allocation for this site. However, at paragraph 5.3 of the Statement of Common Ground both parties agree that 'it is at an early stage and should be given limited weight'.
14. In conclusion the aim of the policies is twofold. Firstly, to provide an employment site within each of the four market towns in North Dorset. This would discourage residents of the towns from out-commuting for work, by providing more employment opportunities close to and directly accessible to the main residential area. The appeal site is a 'key employment site', which was emphasised by the Council at the hearing. Secondly, the aim is to provide the necessary quantum of employment land so that North Dorset is self-sufficient in employment land. This would also avoid out-commuting to further afield. It also would maintain and stimulate the local economy as there is land for emerging and expanding businesses.

Whether the proposed uses would conflict or accord with the Development Plan (DP)

15. The employment element of the proposal would wholly accord with the DP.
16. Both parties accept that the proposed residential element would conflict with the wording of policy 11 of the 2016 Local Plan. There would also be conflict with policy 18 as it refers to 'an extension to meet employment needs to the south- east'. Similarly, there would be conflict with Policy SFHE3 of the NP.
17. The retail element is only allowed by the policy if ancillary to employment. Accordingly, it would conflict with the wording of the policy. Similarly, a hotel is not mentioned in the policy and as such would conflict. A care home would be a form of residential use and is specifically precluded in the policy wording.
18. The school would be a community use and the policy makes some allowance but only if ancillary and directly supporting another employment use such as training. This would conflict with the strict interpretation of the wording.
19. The proposal includes open space, and any development would require some landscaping to soften the impact with the adjacent countryside. The policy does acknowledge this necessity. However, the proposal has more open space than would be expected with wholesale employment and consequently conflicts.
20. Aside from the above policies, the proposal would not conflict with other DP policies: it is accepted that this is an accessible location, development is accepted in principle so would not be harmful to the character of the area, the highway aspects are not the subject of objections, biodiversity impacts are in principle accepted, there is no objection to living conditions and there is no evidence to substantiate adverse retail impact to the town centre.
21. In conclusion, the majority of the uses would conflict with the allocation in the DP, in terms of policies 11 and 18 of the LP and policy SFHE3 of the NP.

The main issues

22. The main issues arise from the conflict with the DP: the effect of the proposal in terms of potential out-commuting; the effect of the proposal on employment land supply in North Dorset; the likelihood of a scheme being implemented which is wholly compliant with the DP and; whether the benefits of the proposal would clearly outweigh the impacts.

The effect of the proposal: out commuting from Shaftesbury

23. The submitted layout shows that approximately one seventh of the development (3,057sqm) would be developed for employment purposes. At the hearing it was confirmed that these would be small units intended for emerging businesses. The planning obligation relating to the proposal defines the range of uses that can take place and has been agreed with the Council: the uses would comply with the policy. The obligation also includes a marketing strategy, thereby helping implementation of this element.
24. Whilst the other uses would conflict with the DP the school, hotel, retail and care home would nonetheless provide some employment. The school and care home in particular would directly and indirectly employ large numbers of staff. The extent of employment arising from the hotel and retail uses would depend upon their specific operation.
25. Some of the uses envisaged by the policy, as evident from the planning obligation would not contribute much employment being floorspace hungry or heavily mechanised. The school and care home due to their nature would offer substantial number of jobs as well as a wide range of jobs, including specialist and skilled as well as unskilled. They would also be likely to offer part time/full time opportunities.
26. The nature of current employment in Shaftesbury is towards hospitality/tourism/care as evident in the appellants extract of the latest Business Register and Employment Survey, from 2018, shows that only 22% of employment in Shaftesbury was from Use Class B. The nature of this proposal may be more orientated towards these proposed uses rather than the allocation in the LP. Contrarily, the allocation may help diversify the employment offering by providing lesser represented activities. However, the nature of existing employment may directly reflect the skills and motivations of the workforce, the needs and demands of the population and the characteristics of Shaftesbury; in such circumstances the allocation may not be wholly effective.
27. A completely compliant scheme would have stopped some out commuting as there would be greater number of businesses and a greater diversity of employment. How much commuting it would prevent is open to conjecture. There will always be some commuting as the nature of work can be very specialised and some travelling will happen for niche jobs. Additionally, some employees may have a loyalty or association with a business which leads to travelling.
28. Whilst the policy SFHE3 in the NP accords with the LP, the lower-case wording is more flexible in the possible land uses for the appeal site. It specifically refers to the need to consider uses beyond traditional B Class uses. This does

not mean that the proposal would not be in conflict but points to a limited degree of conflict.

29. The proposed residential element would lead to some additional people moving to Shaftesbury and needing employment. However, the 135 dwellings would be a very small addition to the working population of the town and would not in itself lead to significant outward travelling.
30. The out commuting is an existing problem. Whilst the allocation, if implemented, would perhaps maximise the opportunities for employment, it is nonetheless reasonable to conclude that the proposal would provide some employment and therefore reduce some outward travelling. Accordingly, the proposal would lead to a reduction in carbon emissions and has some merit towards the objective of the strategy.
31. I therefore conclude that whilst the proposal would be in conflict with the DP the degree of conflict would be limited.

The effect of the proposal: Functional Economic Market Area land supply

32. Both parties agreed at the hearing that the strategy for employment land allocations is based on the Functional Economic Market Area (FEMA), rather than just Shaftesbury.
33. The appellant's North Dorset Employment Needs Review notes the supply of employment land between 2013 and 2033 as 48ha, with the latest evidence provided by the Council showing a demand of between 29.3 and 38.4ha. The Council's statement at paragraph 5.11 accepts that there is an over-supply. The appeal site is recorded as 6.64ha in the land availability monitoring, which makes a significant contribution but not to the extent that supply would be prejudiced.
34. The Council's employment land availability monitoring shows that between 2011 and 2020 the yearly development of employment land has been between 0.55ha and 2.7. This is low and suggests that employment is generally small scale, which questions the necessity for a 7ha employment allocation.
35. The FEMA is the parameter for employment land provision and this suggests that self-containment for employment should be considered on the basis of that area rather than one particular town.
36. Gillingham is a town nearby, which provides employment which both parties agreed at the hearing is distinctively different to Shaftesbury and more suited to B class uses. Indeed, the Council's employment land monitoring report shows substantially more land available in Gillingham than Shaftesbury.
37. In conclusion, there is a surplus of employment land in the FEMA to allow for growth, consistent with the take up of previous years, and there is no overriding necessity to maintain the allocation. In this respect the proposal would be an insignificant conflict with the DP. Indeed Paragraph 122 of the Framework refers to the need to review allocations.

The likelihood or otherwise of a scheme wholly compliant with the DP

38. The site was first allocated for employment development in the 2003 LP. The 2003 Development Brief promoted its implementation. In 2011, planning permission was granted for B1 and B2 employment with ancillary B8. This

would be expected to have provided interest and reassurance to developers to help its deliverability. It also shows a commitment from the landowners to implement employment.

39. It was acknowledged by the Council at the hearing that the site has been marketed since 2008. Wooley and Wallis, local agents submitted a marketing report. They directly mailed various developers and companies in 2009 to make them aware of its availability. Additionally, a signboard has been erected at the site entrance and replaced when necessary. The land has also been promoted on the agent's website, the Estates Gazette, Showcase and Rightmove. Some national advertising was also undertaken between 2009 and 2011.
40. The marketing report details the interest in the site. Only a few offers were received which did not come to fruition. They state that a comprehensive marketing campaign has been carried out and interest has only been expressed in part of the site or other uses.
41. The Council produced an e-mail expressing interest from the local firm Virginia Hayward Hampers, who have extensive premises on the north side of Shaftesbury. This was not taken up and the appellants indicate that this may well have led to problems with site division.
42. The Council also maintain a register of available sites to help promote their take up and the site was included from 2008. The Council explained at the hearing that they act as a point of contact rather than negotiating a sale, but nonetheless this publicity did not lead to any offer.
43. At the hearing several local residents questioned the selling price, particularly as it was originally Council owned and sold to Persimmon Homes. However, the Council confirmed at the hearing that the price was reasonable. Thus, the marketing process was not prejudiced by the asking price.
44. Part of the appeal site was a quarry and tip, with some contamination, which has been estimated for remediation at £1million as acknowledged in the LEP Strategic Economic Plan. This LEP plan acknowledges that 'the site has been actively marketed for some time but has not been purchased. The high start-up costs appear to have been a barrier to the implementation of the planning permission, which may be a particular issue for speculative developers'. It was confirmed at the hearing by both parties that no LEP funding would be available for the site at least at the moment. In addition, there would be wariness over the implementation as the nature of contamination is often uncertain due to poor information on the actual material involved.
45. The junction with the Salisbury Road has been formed but thereafter the road into the site does not exist. This would entail significant works and costs. The LEP Plan under the heading 'Addressing barriers to growth states': the main requirement would be to provide the internal infrastructure within the site, principally the roads, drainage and servicing. Moreover, the shape of the development would need to be known so that the road would fit efficiently around the buildings and their servicing. Thus, in likelihood a comprehensive development would be needed which would discourage a piecemeal developer.
46. At the hearing the attractiveness of Shaftesbury for traditional employment was questioned. The town does not have overly good road links and this would mean it would be less competitive for any business involved in the movement

of goods. The LEP/SEP does not identify Shaftesbury as having a niche market unlike Bournemouth and Poole for example which are financial and digital magnets.

47. I looked at Wincombe on my site visit as requested by the parties. This is one of the largest industrial areas in Shaftesbury. I noted that it had a predominance of small units and in a variety of uses which include retail and health. Some large units may be necessary bearing in mind the size of the allocated site and some of the uses did not appear to be traditional B Use Class employment. Consequently, I did not find that Wincombe presented any reassurance for the Use Class B employment development of the appeal site.
48. In conclusion, I find that there is considerable uncertainty over the likelihood of implementation of the allocation.

Benefits of the scheme

49. Aside from the one seventh of the site that would be developed for employment, and the employment offered by the school, retail and care home, the proposal would provide 135 dwellings. This would be a substantial contribution to housing land supply, particularly as it is only about 3.3 years as agreed at the hearing.
50. The site has contamination, expensive infrastructure and needs a comprehensive development as the LEP plan identifies. The residential element being high value and of predictable demand would help support the delivery and provision of infrastructure for the other uses in the proposal.
51. The proposal would provide 30% of the dwellings as affordable housing. This would provide homes for those who are in substandard living conditions. It is notable that in North Dorset, housing tends to be on small sites for which affordable housing may not often be delivered due to minimum thresholds.
52. The care home would provide purposeful accommodation for those in need. The appellant raised the potential for dementia care which would be particularly welcome. The facility would also be part of an extensive mixed use area and so the occupants would not be isolated and feel part of the community.
53. The 72-bedroom hotel would offer tourist accommodation and business activity which would support the local economy. The retail element was the subject of a submitted impact assessment and found not to be harmful to the town. It would offer a shop to local people which would discourage some trips elsewhere.
54. A 2 form entry primary school is also proposed. The Statement of Common Ground confirms that an additional school is very likely to be needed within the next 5 years. The council officer for education in his e-mail describes the site as ideal. It would be readily accessible to the community: there is new housing to the north, 55 dwellings with planning permission¹ to the west of the appeal site as well as the 135 houses proposed here. Whilst there was mention at the hearing about another possible site, and the Council as the Local Planning Authority question the need for the school now, the proposal would offer certainty for the planning of community infrastructure.

¹ Appeal decision APP/N1215/W/19/3227559

55. Cranborne Chase AONB is close by and its escarpment edge is inter-visible with the appeal site. The officer representing the AONB partnership has expressed concern about the development. However, this proposal would provide extensive open space and the indicative layout demonstrates that there would be opportunities for tree and hedge planting. The proposal includes school playing fields which result in more open space than would be expected with the allocation. The proposal also provides housing towards the southern edge, this would ensure low heights and a domestic scale and bulk which would be likely to be lesser than traditional Use Class B buildings. Consequently, the proposal would be sensitive to the landscape, including the views to and from Cranborne Chase AONB.
56. The appeal site is quantified in the Statement of Common Ground as 1.5km from the town centre. There are wide, tarmacked floodlit footpaths which provide a conducive and pleasant walk to the town centre as I found on my site visit. The development would be in an accessible location, whereby the new residents would be likely to support the town centre facilities, which would have social and economic benefits. The construction of the scheme would also bring economic benefits.
57. The proposal would provide some community facilities and a mix of uses. These would provide opportunities for social mixing and contribute to the vitality and viability of Shaftesbury.
58. The NP has a heading: 'Shaftesbury has had its fair share of new homes', which was repeated by some of the local residents at the hearing. However, the 135 dwellings proposed here would be a small increase in the population and would not overwhelm the town. Additionally, the residential element is part of a mixed use scheme, thereby providing a balance of uses with the benefits described above.

Other matters

59. The Council's statement mentions the loss of grade 2 agricultural land, although does not elaborate this as a particular concern. The appeal site is in part landfill/tip so the amount of loss would not be significant in terms of food production and resilience. Moreover, the appeal site is allocated for development and so this loss has been long accepted.
60. An updated ecological survey was undertaken on 9 August 2021, which informed the submissions of an Ecological Impact Assessment and Biodiversity Metric Assessment. Indeed, the above show that much of the site is improved grassland and the impact would include loss of hedgerow and some scrub. The Council and appellant agreed during the hearing that the proposal in principle would not be harmful and mitigation /habitat promotion measures were achievable, including new hedgerow and scrub planting, bat and bird boxes and wildflower seeding. As the proposal is in outline the details of landscaping are not known, and the mitigation and habitat promotion measures need to be considered in conjunction with tree/shrub planting, so a condition would be warranted. Maintenance and management after implementation would also be needed.
61. There is a gypsy/traveller site adjacent to the appeal site and they share the same point of access on to the Salisbury Road. Both parties agree that there is

no incompatibility with the proposal, albeit that their access must be maintained.

62. Both main parties provided appeal cases to support their stances. The appellant produced a decision² at Stalbridge dated 23 September 2021 for 114 dwellings and up to 2,000sqm for employment space. This decision concluded a housing land supply of (about) 3.3 years, which was agreed at this hearing. Four linked appeal cases³ in 2019 from Kent, involved the use of employment land for housing. Whilst these are not comparable in terms of the site's characteristics, it nonetheless shows a methodology of the consideration, which is useful. An appeal⁴ in 2018 for a retail outlet in Gillingham (Dorset) was allowed approximately 1.4km from the town centre but the Council advise that this was not a key employment site. There are both similarities and differences with this appeal and this does not lead me to a particular conclusion.
63. The Council reproduced an allowed appeal⁵ for affordable housing which off-set various elements of harm, which is suggested indicates that this is only the type of housing that would be appropriate. However, affordable housing delivery would not be likely to achieve the numbers required to meet the 5 year housing land supply. The Council also supplied (another) appeal⁶ at Stalbridge for 90 dwellings, which was dismissed in February 2021 for harm to the character of the area, including the landscape and Conservation Area. However, that is a very different context to this appeal site.
64. Paragraph 14 of the Framework, states conflict with the NP is likely to significantly and demonstrably outweigh the benefits, where all 4 of the following criteria are met: less than 2 years old, the NP contains policies and allocations to meet its identified housing requirement, the local planning authority has at least a 3 year supply of deliverable housing sites and housing delivery was at least at 45% for the previous 3 years. However, the NP here does not contain policies and housing allocations. Additionally, the NP confirms on page 12 that it only covers the Shaftesbury Parish boundary and page 35 shows that only the frontage of the allocation /appeal site (not the residential element) would be within its remit: the wording of the relevant Policy SFHE3 refers to 'in so far as it relates to the Parish'. Both main parties at the hearing confirmed that the intent of paragraph 14 would not apply in this case.

Planning Balance

65. The proposal would be in conflict with the Development Plan, particularly the residential element in relation to policy 11 of the 2016 Local Plan. The other uses, except for the employment would also conflict with the policy, albeit that conflict is less pronounced as there would be some employment.
66. The extent of employment provided by the proposal is expected to be less than that of a wholly policy compliant proposal. Also, the proposal is taking up land with some uses which could be located within a suburban (residential) area, rather than an industrial estate, so the proposal would reduce the efficacy of the allocation.

² APP/D1265/W/20/3265743

³ APP/H2265/W/19/32355165, APP/H2265/W/19/3235166, APP/H2265/W/3235167, APP/H2265/W/19/3235171

⁴ APP/N1215/W/18/3195092

⁵ APP/D1265/W/20/3263781

⁶ APP/D1265/W/20/3262267

67. The aim of the DP strategy is to reduce out-commuting and car use by balancing housing growth and employment in Shaftesbury. The proposal would provide some employment which would reduce the current level of out-commuting and carbon emissions. Thus, the conflict with the DP is only limited as the proposal would have a beneficial effect albeit less so than the LP allocation.
68. There is also considerable uncertainty whether the site would ever be implemented in accordance with the LP allocation. The site has been marketed for many years without success and the site has significant constraints. This proposal would allow the opportunity to provide some employment on the site and achieve some reduction in outward commuting.
69. The other aim of the DP is to provide sufficient employment land for the economic prosperity of the FEMA. The proposal would lead to a reduction in potential employment land, but a substantial surplus would remain, particularly so given the take up rates of development. Thus, in this respect the conflict with the DP would be insignificant.
70. Both parties accept that there is about 3.3 years housing land supply and paragraph 11(d) of the Framework applies as the site is not within a protected area as described in footnote 7. The inadequate housing supply means that the housing strategy and those associated policies are out of date. The shortage of housing places emphasis on the need to find sites for development. The principle of development is accepted here, the only dispute is the uses.
71. The pressing need for housing, a substantial shortfall in housing supply, the need for affordable housing, the vacancy of the site for nearly 20 years despite marketing, questions the appropriateness of the DP allocation for employment.
72. The 2016 Local Plan Inspector whilst being supportive of the Plan, recommended an early review particularly due to housing numbers. No early review happened due to local government reorganisation in Dorset. Similarly, the Dorset Council Local Plan is an emerging plan and the options have not been fully assessed yet. Consequently, its allocation for the site has not been rigorously appraised yet.
73. Paragraph 8 of the Framework provides the three overarching objectives of the planning system: economic, social and environmental. The proposal would provide 135 dwellings which would have economic benefits from their construction and the residents would be well placed to support local services and facilities. The new dwellings would make a substantial contribution towards the 5 year housing land supply requirement. The affordable housing provision would alleviate those in substandard conditions and help to retain local people within the community. The intended occupants would also help the vitality of the area and the support to local services would be a social benefit. The proposal would also provide community uses. In respect of the environmental objective, the proposal would not harm the character and appearance of the area. It would provide housing in an accessible location and some employment provided (albeit less than the potential allocation) which would discourage out commuting and carbon emissions.
74. In the light of the above, I therefore conclude that the adverse impact of the proposal would not significantly outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Planning Obligation

75. This provides for promotion of the employment starter units and defines the range of potential uses. This would maximise the implementation of the employment element. As confirmed at the hearing the inclusion of the builders merchant was recommended by the Council.
76. The obligation provides the measures for the delivery of the affordable housing and school and open space. It also provides for a primary care services contribution. These contribute to the planning benefits of the scheme and mitigate the impacts of the residential development.
77. A contribution towards the improvement of public rights of way would improve pedestrian accessibility and promote non vehicular movement to/from the development.
78. I therefore conclude that the obligation would meet the tests in paragraph 57 of the Framework.

Conditions

79. Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. There is broad agreement between the parties on the conditions after substantial collaboration.
80. The main disagreement is the Council's suggestion on the minimum internal sizes for the dwellings. The appellant comments that this would increase costs, there is no DP policy and is unnecessary. An appeal case in Poole⁷ is provided whereby such a condition was not imposed. I note the absence of a policy requirement and find a lack of evidence why it would be necessary. Accordingly, it is not imposed.
81. Conditions on the list of approved plans, requirements of reserved matters and timings help provide clarity and are so imposed.
82. A condition to limit the retail use to comparative goods only is necessary to protect the town centre.
83. A condition is necessary to ensure that access to the gypsy/travellers site is kept free during construction. The wording of the suggested condition has been changed to providing restorative landscaping, if rather than when, that site ceases, to avoid prejudicing its future consideration. Conditions on the construction management are necessary to safeguard living conditions and highway safety as well as promote non vehicle movement. The wording is amended to require wheel washing to be undertaken and the requirement of the frequency of vehicles to be provided is deleted because this may vary with operational circumstances. As I found earlier a condition is necessary to promote biodiversity of the site, requiring the submission and approval of mitigation /improvement habitat measures. The tree protection measures are similarly needed. The provision of electric charging points would also help the wider environment.
84. Highway and site access conditions are necessary in the interests of safety and the promotion of walking and cycling. The treatment of surface water ensures that this basic infrastructure is provided. Conditions on plant and acoustic

⁷ APP/V1260/W/20/3264947

glazing are necessary for the living conditions of the occupants. A precautionary condition on contamination is also warranted for amenity. Measures to control emissions from any commercial kitchen are also necessary safeguards.

85. The wording of the condition on landscaping submissions is amended, in the interests of clarity. The submitted Noise Assessment recommends acoustic double glazing for the care home due to the A30. A condition is accordingly so imposed albeit the wording has been amended in the interests of clarity.

Conclusion

86. I therefore conclude that the appeal should be allowed subject to the conditions in the conditions annexe below.

John Longmuir

INSPECTOR

Conditions annexe

1. No development within a phase shall commence on site until details of the appearance, landscaping, layout and scale, in respect of which approval is expressly reserved and are hereinafter called "the reserved matters" have been submitted to, and approved in writing by, the Local Planning Authority for that phase. The development shall be carried out in accordance with the approved details.
2. Application for approval of the first reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission, with details of the school to be provided within a further 7 years. The development hereby permitted shall be begun either before the expiration of 2 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved whichever is later. All details of the school are to be provided 10 years from the date of this permission.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan ref: 420-LOC1 prepared by Persimmon Homes at a scale of 1/2500@A3, Site Access General Arrangement Plan ref: 18058/001 Rev B prepared by Milestone at a scale of 1:500@A3, Land Use Parameter Plan ref: 420-LUP01 Rev D prepared by Persimmon Homes scale of 1/2000@A3, Access and Movement Parameter Plan ref: 420-AMP01 Rev E prepared by Persimmon Homes at a scale of 1/2000@A3, Building Heights Parameter Plan ref 420-BHP01 Rev E prepared by Persimmon Homes at a scale of 1/2000@A3.
4. No development within any Phase shall take place until a scheme for the phasing of the development has been submitted to and approved in writing by the Local Planning Authority. The Phasing Plan should refer to the requirements set out in the Section 106 Agreement. The development shall thereafter be carried out in accordance with the approved phasing scheme.

5. If during preliminary works, including the erection of hoardings, intrusive ground survey, formation of a construction compound, mobilisation and formation of the approved access as shown on approved plan 18058/001 Rev B prepared by Milestone, or works thereafter, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved

6. Prior to the commencement of the primary school site as shown Land Use Parameter Plan (Reference: 420-LUP01Rev D): a detailed assessment of ground conditions shall be undertaken (including drainage and topography) and a detailed design scheme for the playing field (including appropriate drainage where necessary and details and timetable for completion of works) shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, works shall be carried out and completed in accordance with the approved detailed design scheme.

7. The playing field within the primary school site, as shown Land Use Parameter Plan (Reference: 420-LUP01Rev D), shall be used for Outdoor Sport and for no other purpose (including without limitation any other purpose in Class D2 Use Classes Order 2005, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

8. Prior to the commencement of development of the care home specification of the glazing shall be submitted to the local planning authority for approval. The glazing shall be implemented in accordance with the approved and thereafter maintained in accordance with the approved specification.

9. No soil shall be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material shall be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by risk assessment) and source material information. The testing shall then be carried out in accordance with the agreed methodology and results submitted to and approved in writing by the Local Planning Authority.

10. All plant shall be constructed in accordance with details submitted to and approved by the local authority beforehand.

11. For any building that is not a dwellinghouse, before installation of any extraction plant and associated ductwork. An odour report shall be submitted to and agreed in writing by the local planning authority. The report should follow the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems, produced by DEFRA. Details of the method of emission treatment, and filtration should also be submitted to ensure no loss of amenity.

12. For any building that is not a dwellinghouse and is to be fitted with a commercial kitchen, details of a suitable and sufficient grease trap shall be submitted to and agreed in writing by the local planning authority. Prior to use or occupation, the development shall be carried out and completed in accordance with the agreed detail and effectively maintained thereafter.

13. Prior to the commencement of each phase of development a detailed surface water management scheme for that phase, based upon the hydrological and hydrogeological context of the development, and including clarification of how surface water is to be managed during construction, shall be submitted to, and approved in writing by the local planning authority. The development of that particular phase shall be carried out in accordance with the approved details.

14. Prior to the commencement of each phase of development details of maintenance & management of both the surface water sustainable drainage scheme and any receiving system for that phase have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details for that phase. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

15. Prior to approval of any Reserved Matters application for layout, BRE365 tests shall be undertaken in all areas where infiltration features are proposed, and calculations in support of the proposed SuDS scheme shall be updated by and submitted to and agreed in writing by the local planning authority. The surface water scheme shall be fully implemented in accordance with the submitted details before the development is completed.

16. Notwithstanding the details on the approved plans, prior to the occupation of any phase, precise details of the access, geometric highway layout, turning and parking areas for that phase of development shall be submitted to and agreed in writing by the local planning authority. The phase of development shall be completed in accordance with the agreed details, maintained, kept free from obstruction and made available for the purposes specified in-perpetuity.

17. Prior to the use or occupation of any phase of development, a scheme showing precise details of the proposed cycle parking facilities within that phase shall be submitted to and approved in writing by the Local Planning Authority. The phase of development shall be completed in accordance with the approved scheme and, thereafter, must be maintained, kept free from obstruction and available for the purpose specified.

18. Within 3 months of the date of this permission, detailed specification of the following works shall be submitted to the Local Planning Authority for approval. The existing footway on the northern side of the A30 shall be signed and marked out as shared use footway/cycleway with vertical signage and thermoplastic on-path shared use markings at each end. The existing puffin crossings shown on drawing 18058/SK01 shall be converted to toucan crossings and the approaches shall be widened to a minimum of 3.00m. Dropped kerbs to enable cyclists to transition for the shared use path into Greenacre Way and Allen Road and vice versa, with appropriate stop lines and re-join carriageway signage to be provided. The development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby approved.

19. Prior to occupation of any dwelling hereby approved is occupied the following works must have been constructed to the agreed specification of the Local Planning Authority: the proposed access arrangements from the existing

signalised junction with Alen Road (A30) Salisbury Road, as shown on drawing 18058/001 Rev B.

20. Prior to commencement of each phase of development on site, a Construction Traffic Management Plan (CTMP) for that phase shall be submitted and approved in writing by the Local Planning Authority. The CTMP must include: construction vehicle details, the programme of construction works and deliveries, the timings of deliveries, a framework for managing abnormal loads, site compound, wheel washing facilities and details of their use on exit from the site, a scheme for vehicle signage to the site, a route plan for contractors and temporary traffic management measures where necessary. The development shall thereafter be carried out in accordance with the agreed Construction Traffic Management Plan.

21. Prior to occupation of any dwelling hereby approved, a Travel Plan shall be implemented in accordance with details submitted to and approved by the Local Planning Authority beforehand.

22. Prior to the construction of any part of the development above damp proof course level, a scheme showing full details of the number, location and rating of charging points for plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations within the development (along with a timetable for their provision), shall be submitted to and agreed in writing by the Local Planning Authority. (As a minimum, all dwellings with on-plot parking shall be enabled for electric charging). Thereafter the development shall be carried out in accordance with the agreed details and timetable.

23. A biodiversity improvement plan shall be submitted in conjunction with each and every landscaping reserved matters application to the local planning authority for approval, including a timetable for implementation. The improvement measures shall be implemented in accordance with the agreed measures as set out in the approved timetable.

24. Prior to commencement of any works on-site a landscape and ecological management plan (LEMP) for the entire site shall be submitted to and agreed in writing by the local planning authority. The content of the LEMP shall include the following: description and evaluation of features to be managed, ecological trends and constraints on site that might influence management, aims and objectives of management, appropriate management options for achieving aims and objectives, prescriptions for management actions, preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period), details of a body or organisation for implementation of the plan, ongoing monitoring and remedial measures. The LEMP shall also include the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the relevant management body(ies) responsible for its delivery. The plan shall set out where the results from monitoring show that the conservation aims and objectives are not being met, how contingencies and/or remedial action will be identified, agreed and implemented so that development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The above shall be implemented in accordance with timescales submitted to and approved by the local planning authority.

25. Prior to commencement within each phase (to be approved through a phasing scheme pursuant to the Phasing condition), a lighting strategy and detailed design for that phase shall be submitted to and approved in writing by

the Local Planning Authority. The lighting strategy shall thereafter be carried out in accordance with the approved scheme.

26. The following landscaping details shall accompany the reserved matters application: the proposed finished levels/contours, the means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials, street furniture and play equipment, proposed and existing functional services, retained landscape features, the timetable for implementation.

27. A Landscape Management Plan shall accompany reserved matters application(s) covering landscaping, including long term design objectives, management responsibilities, maintenance schedules and a timetable for implementation and/or all landscape areas (other than small, privately owned domestic gardens). Thereafter the Landscape Management Plan shall be implemented as approved.

28. Prior to the commencement of any development phase hereby approved a detailed Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include details of how the existing trees are to be protected and managed before, during and after each development phase and shall include information on traffic flows, phased works and construction practices near trees. The development for each phase shall thereafter be carried out in accordance with the approved Statement.

29. The approved Use Class E(a) retail floorspace shall only be used for the sale of comparison (non food) goods only.

30. For the duration of the lawful use of the adjacent traveller site (labelled as such on the Constraints and Opportunities Plan 420 COP01RevB and located to the east of the site and accessed off the A30 Salisbury Road via Orchid View) the existing access to the highway shall remain open to pedestrian and vehicular traffic, in accordance with details of measures to provide such access and restoration /landscaping of said access if the use ceases which shall be submitted to and approved by the local authority prior to first occupation of the hereby approved development and completed within 6 months of approval of submitted details.

End of conditions annexe

Appearances:

For the Appellant:

Paul Cairnes QC

Brett Spiller BA(Hons) BTP MARTPI MCIWWM

Steven Bainbridge BSc(Hons) MSc MRTPI

David Buczynskyj BA(Hons) MSc

No.5 Chambers

Chapman Lily

Chapman Lily

Persimmon Homes

For the Council:

Robert Lennis BSc MURP MRTPI

Dorset Council

Philip Reese BA(Hons) MA
Joanna Rufus BA(Hons)

Dorset Council
Dorset Council

Interested parties:

Phil Proctor, Town Councillor
Karen Tippins, Town Councillor
Tim Cook, Town/County Councillor
John Lewer, Town Councillor

Richborough Estates