



Appeal Decision

Inquiry held on 30 November, 1-3 & 7-10 December 2021

Accompanied site visit made on 16 December 2021

by Matthew Nunn BA BPI LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2022

Appeal Ref: APP/P1940/W/21/3280443

Killingdown Farm, Little Green Lane, Croxley Green, WD3 3JJ

- 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 Hill Residential Ltd against the decision of Three Rivers District Council.
- The application Ref 20/1881/FUL, dated 26 August 2020, was refused by notice dated 28 May 2021.
- The development proposed is described as 'demolition of existing buildings for residential development comprising two-storey and three-storey blocks of flats (160 dwellings in total), together with car parking, landscaping and other associated works'.

Decision

1. The appeal is allowed and planning permission granted for the demolition of existing buildings for residential development comprising two-storey and three storey blocks of flats (160 dwellings in total), together with car parking, landscaping and other associated works at Killingdown Farm, Little Green Lane, Croxley Green, WD3 3JJ, in accordance with the terms of the application Ref 20/1881/FUL, dated 26 August 2020, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal scheme was recommended for approval for Council officers¹, but refused by the relevant Council Committee². Two planning obligations dated 21 December 2021 in the form of Unilateral Undertakings (UUs) have been completed by the appellant in favour of Three Rivers District Council (the Council) and Hertfordshire County Council (the County Council). The first UU relates to provision of affordable housing, and the second to provision of a travel plan. The Council has since confirmed³ that refusal ground No 3 relating to the lack of mechanism to provide a travel plan has now fallen away following the completion of the UU. I deal with the planning obligations in the body of my decision.
3. I held a case Management Conference (CMC) on 12 October 2021. At the CMC, arrangements were agreed regarding how the evidence would be dealt with and presented; who would appear at the Inquiry; the running order and timings; a timetable for document submission, and the likely main issues.

¹ Planning Committee Report [CD4.F]

² Planning Committee Minutes [CD4.G]

³ Email from the Council dated 13 January 2022

4. A 'Rule 6' Party appeared at the Inquiry and gave evidence, representing the collective views of Croxley Green Parish Council, Little Green Residents' Association, Croxley Green Residents' Association, as well as local residents.

Main Issues

5. The main issues are:

- (i) the effect of the proposal on the character and appearance of the area, including the landscape;
- (ii) the effect on heritage assets;
- (iii) the effect on the living conditions at No 5 Little Green Lane; and
- (iv) the overall planning balance.

Reasons

Planning Policy Context

6. The relevant legislation⁴ requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan comprises the Core Strategy (CS), adopted in October 2011; the Development Management Policies (DMP), adopted in July 2013, and Site Allocations (SA), adopted November 2014). There is also a Croxley Green Neighbourhood Plan (NP), adopted 2018.
7. The National Planning Policy Framework ('the Framework') sets out the Government's planning policies and is a material consideration in planning decisions. The Framework requires that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by economic, social and environmental dimensions and the interrelated roles they perform. There is no dispute that the Council cannot demonstrate a deliverable supply of housing as required by the Framework. The Council's position is that it can demonstrate a 1.9 year supply of housing, although the appellant says it is less at 0.94 years. However, for the purposes of this appeal, the appellant says little turns on the difference and accepts the Council's figure⁵.
8. The Framework is clear that where a local planning authority cannot demonstrate a five year supply of deliverable sites, policies which are 'most important for determining the application' are rendered out of date⁶. The policies relied on in the Council's reasons for refusal must self-evidently fall within that category and so must be considered out of date. Importantly, however, the Framework does not change the statutory basis of the development plan for decision making, and the fact that policies are deemed 'out of date' does not mean they should carry no weight or be disregarded.
9. The Council's reasons for refusal cite Policies CP1 (Overarching Policy on Sustainable Development) and CP12 (Design of Development) of the CS; and Policies DM1 (Residential Design and Layout) and DM3 (The Historic Built Environment of the DMP, including Appendix 2 (Design Criteria)).

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004

⁵ SoCG Paragraph 6.1(vii) [CD7.B]

⁶ Footnote 8 of the Framework

10. Policy CP1 provides a range of criteria against which proposals will be assessed to achieve sustainable development. Policies CP12 and DM1⁷ set out the criteria in respect of the design of development to achieve high quality schemes. The overall approach of these policies is generally consistent with the Framework and they can be given significant weight in this appeal. Policy DM3 provides advice on heritage assets, including listed buildings and conservation areas. While this policy is generally consistent with the underlying aims of the Framework in respect of the historic environment, it does not refer to the weighing of public benefits in assessing harm. However, caselaw has established the absence of an explicit reference striking a balance between 'harm' and 'public benefits' in local plan policies does not put them into conflict with the Framework⁸. There is no reason, therefore, why this policy should not continue to carry significant weight.
11. Although not specifically cited in the Council's reasons for refusal, Policy PR01 of the NP is relevant. This relates specifically to Killingdown Farm and states that, having regard to the appeal site's previous status as Green Belt, any scheme should preserve or enhance the character and appearance of the Conservation Area, and the setting of listed buildings. Again, this policy does not specially refer to 'public benefits', but its terms are largely congruent with statutory duty relating to conservation areas and listed buildings. It can therefore be given significant weight.
12. Where there is an absence of a five year supply of housing, the Framework requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole⁹. However, this so called 'tilted balance' in favour of granting permission may be 'disengaged' where specific policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. Those relating to designated heritage assets are one such category¹⁰. I return to this matter later.
13. Of critical importance in this case is that the appeal site is identified within the SA as a housing allocation under Policy SA1 (Housing Site Allocations) and Site Ref H(10) 'Killingdown Farm, Croxley Green'. The allocation identifies the site as having a capacity of 140-180 dwellings and requires, amongst other things, that any development 'would need to relate to the Conservation Area and listed building'. Therefore, and very importantly for this appeal, the principle of extensive residential development has been established on the site.
14. A new Local Plan is currently being prepared, and a Regulation 18 consultation¹¹ has recently taken place on the Preferred Policy Options and Sites for Potential Allocation¹². The new Local Plan is still at a very early stage and has yet to be submitted to the Secretary of State for Examination. Having regard to advice within the Framework¹³, it cannot attract any significant weight at this stage. Nonetheless, it is notable that the appeal site continues

⁷ Policy DM1 also refers to more detailed design criteria in Appendix 2 of the Plan

⁸ Bramshill v SSHCLG [2021]

⁹ Paragraph 11(d)(ii)

¹⁰ Footnote 7

¹¹ Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012

¹² CD10.P & CD10.F

¹³ Paragraph 48

to be allocated within the emerging plan, albeit with a significantly increased capacity of 267 dwellings.

Character and Appearance, including Landscape

15. The appeal site comprises an irregularly shaped area of some 7.5 hectares forming a series of relatively flat pastoral fields that form part of Killingdown Farm. The appeal site wraps around, but excludes, the complex of farm buildings which include Killingdown Farmhouse (Grade II listed). Much of the site is edged by mature hedgerows and established trees, which reinforce the rural character of the locality. The western and northern boundaries are delineated by Little Green Lane; the eastern boundary is bounded by a public right of way, and the southern and south-eastern boundaries abut residential properties of Grove Crescent, Lovatts, Dugdales and properties on Little Green Lane.
16. The site also includes an ancillary area of open land to the north, separated from the main site by Little Green Lane. This area, designated as Green Belt, would be free of housing development, but would incorporate a drainage attenuation basin, relocated badger sett and ecological enhancements. Indented to the north-west boundary of the appeal site is a group of residential properties fronting on to a pond. These include Nos 1, 2 and 3 Little Green Lane, statutorily listed at Grade II. Little Green Lane continues along the northern boundary of the main site as an unmade public highway comprising a narrow lane lined by hedgerows and trees. In the wider area, to the west of the appeal site is a large swathe of open land known as 'Croxley Green' which is crossed by a number of roads.
17. There is clearly a degree of overlap between landscape and heritage impacts. Matters arising in respect of heritage impacts are dealt with in the next section. At a national level, the appeal site falls within National Character Area 115 – Thames Valley. Key characteristics of this large area include flat flow lying land, with limited farming. The field patterns are described as medium scale and irregular, along with urban influences. At a county level, the site is identified as within the 'Sarratt Plateau' Character Area¹⁴. The appeal site and its surroundings exhibit a number of the characteristics of this area including farms and pastoral land use, a range of vernacular buildings, and settlements around greens or fronting commons.
18. At a more local level, the NP has designated twelve individual character areas¹⁵, and the site falls within 'Area 9'¹⁶. This is one of the rural character areas and comprises 'mostly pasture with high hedges' and 'is crossed by several footpaths and valued for informal recreation and dog-walking'. The NP also refers to 'high mixed deciduous hedges screening small fields' and the hedgerows 'containing sizeable deciduous trees which are vital to the feeling of natural enclosure'¹⁷.
19. Whatever character label is attached, I consider the appeal site can be regarded as forming part of an attractive pastoral landscape that remains largely intact and unspoilt in this locality. The predominant impression walking along Little Green Lane in the vicinity of the appeal site is of being in a

¹⁴ Hertfordshire Landscape Character Assessment (2003)

¹⁵ Croxley Green Neighbourhood Plan, Page 25 [CD6.AJ]

¹⁶ Although the undeveloped northern portion falls outside this area

¹⁷ Paragraph B.11.1, Page 68, Appendices to Neighbourhood Plan [CD6.AK]

primarily rural area, notwithstanding the presence of individual properties. The Council's key objection relates to the effect on the wider landscape of the development on the western edge of the site, and the loss of hedgerow.

20. Both the appellant and Council agree that, overall, there would be a 'moderate adverse' effect on landscape character. I concur with that assessment. It is clear that adverse impacts would arise from the two new accesses into the site from Little Green Lane, and the associated loss of sections of hedgerow. The new northern access route into the site, along with the carriageway widening and realignment, including the pedestrian footway, would inevitably create a more suburban appearance, impairing the existing pleasant rural character. Similarly, the new site access route and associated footway to the south of Killingdown Farm serving a new cul-de-sac would result in the loss of a section of hedgerow and erode the rural appearance of the lane. The intensification of the use of Little Green Lane by vehicular traffic would diminish the rural tranquillity of the immediate locality. Furthermore, the construction of a substantial number of new dwellings where currently there is open pasture would inevitably erode the pastoral rural character.
21. However, as previously noted, the site is now allocated for housing development within the development plan. The likely effects of residential development were considered in some detail during the plan making process, when the site was removed from the Green Belt. The Examining Inspector¹⁸ acknowledged the disappointment of many in the locality regarding the site's proposed allocation but nonetheless noted that Little Green Lane 'would form a sufficiently robust and logical boundary to the Green Belt at this point and the use of the site in its entirety would facilitate the best layout to address the conservation area, the listed building and vehicular and pedestrian access arrangements'¹⁹. I note that the appeal site is not covered by any specific landscape designation. In addition, the site itself is reasonably well contained by boundary vegetation, and it abuts urban development on the south-eastern and southern sides. It is also notable that the Council's reports to committee assessing the scheme record that the Landscape Officer did not raise objections to the scheme.²⁰
22. The adverse effects on the rural character of landscape described above are consistent with circumstances where a greenfield site is proposed for residential development. The appellant has agreed to maintain hedgerow 'H007' on the western edge fronting Little Green Lane to a minimum height of 5 metres (rather than 3 metres as originally proposed) to provide a greater degree of screening of the development when viewed from Croxley Green, and to assist in mitigating impacts of the proposed new residential properties. Other mitigation measures include the retention of existing landscape features where possible, including hedgerow, and new native tree planting. New lengths of hedgerow are also proposed²¹. Clearly, it will take time for the new planting to become established, but as it does, the adverse effects of the proposal will diminish.

¹⁸ Inspector's Report of Examination into Site Allocations Plan, Paragraphs 120-122 [CD9.E]

¹⁹ Ibid Paragraph 120

²⁰ Planning Committee Report Paragraph 4.1.9 [CD4.F]

²¹ The factual position regarding hedges is set out at ID8

23. Overall, I consider that some harm would arise to landscape character. To that extent, the proposal would be contrary to Policy CP1(f) of the CS insofar as it would fail to protect or enhance the natural environment.

Effect on Heritage Assets

24. In terms of designated heritage assets affected by the development, these include the Croxley Green Conservation Area; and various Grade II statutorily listed buildings including Killingdown Farmhouse, Nos 1-3 Little Green Lane, and Croxley House²².
25. Listed Buildings: Dealing with the listed buildings first, the listing description identifies Killingdown Farmhouse as a timber framed, two storey building, dating from the early 17th century, altered in the 19th century and extended in the 20th century. The exterior walls are clad in stock brick with inserted thin timbering, and the tiled roof has a large central chimney. The building comprises three bays and a central gabled two storey projection with an open porch over the entrance. The immediate setting of this heritage asset has undergone some changes, including the loss of buildings contained within the historic farmstead, and the construction of several modern agricultural buildings. Nonetheless, Killingdown Farmhouse remains an attractive building essentially located in a wider relatively open agrarian setting that has been little changed for many years. Its significance derives primarily from the building's aesthetic and architectural composition, and historic built fabric. The attractive rural setting also contributes to its significance.
26. The residences at Nos 1-3 Little Green Lane are described as dating from the 16th century, altered in 17th century and extended in the 18th and 19th centuries. The building is timber framed, with red brick nogging, and has a tiled roof, with brick chimneys. At the time of listing (1985) the building contained three dwellings but is now divided into two. Again, the rural and agrarian setting of the building has little changed over time, although the adjacent house at No 4-5 Little Green Lane is early twentieth century. It appears the listed building was historically in the same ownership as Killingdown Farm, comprising tenements for agricultural workers. Again, its significance primarily derives from the building's aesthetic architectural composition and historic built fabric, but also from its attractive rural setting.
27. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced, and notes its extent is not fixed and may change as the asset and its surroundings evolve²³. I consider the appeal site makes an important contribution to the setting and significance of both Killingdown Farmhouse and Nos 1-3 Little Green Lane in forming part of their rural and undeveloped 'backdrop'. In both cases, a significant and irreversible change in setting would result from the development. The appeal scheme would mean that these buildings are no longer perceived within a rural landscape but within a more suburban context, detracting from their setting. I also accept that, although not now in common ownership, the historical connection between Killingdown Farmhouse and Nos 1-3 Little Green Lane would be compromised by the intervening housing.

²² There is also an ancillary Grade II listed open fronted building 'Well House' which was constructed as a means of supplying water to the house and grounds at Croxley House. However, it is agreed by the parties that this would not be affected by the proposal.

²³ Glossary to the Framework

28. Croxley House dates from around 1770 and is a good example of a large, well detailed, rural Georgian house. It has been adapted and extended over time, including in the late 19th century and 20th century. It is an imposing building of two storeys with red brick elevations and a hipped slate roof. It stands in a prominent position at the northern end of Croxley Green, and is visible in long range views. Its significance derives from its historical and architectural interest, and its setting on the edge of Croxley Green. The partial suburbanisation of the western edge of the appeal site would certainly alter the wider views of Croxley House from footpaths on Croxley Green. However, because of the greater distance of Croxley House from the appeal site, the effect of the proposal would be commensurably less.
29. The relevant legislation requires that when considering whether to grant permission for a development that affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting²⁴. In my judgement, the appeal proposal would result in a degree of harm to the setting of both Killingdown Farmhouse and Nos 1-3 Little Green Lane, in that their immediate rural backdrop would be lost. Therefore, the scheme would fail to preserve their setting, contrary to the relevant legislation. In respect of Croxley House, the development would not be seen in its immediate context. Therefore, I do not consider the proposal would significantly change the setting of the building or undermine the ability to appreciate and understand the asset's significance as a large rural residence. I find any effect on its setting would be very marginal.
30. Croxley Green Conservation Area: The western part of the appeal site is located within the Conservation Area with the remainder immediately adjacent and thus forming part of its setting. The Conservation Area is large (some 48.5 hectares) and so the appeal proposal would only affect a minor part of it. However, that does not mean that there would be no effect on its significance. The significance of the Conservation Area relates to the locality's historic and architectural interest as an agricultural settlement with medieval origins. It contains a wide range of building types that employ a variety of building materials. This permits an understanding of the growth of this agrarian settlement over an extended period.
31. As the Character Appraisal notes, the Conservation Area is 'overwhelmingly green and open in character and appearance'²⁵. This document also emphasises that the surviving open green spaces of the Conservation Area are a vital element of its special interest. The Character Appraisal notes the broad division within the Conservation Area between the 'built up' area to the south and 'open' area to the north²⁶ where the appeal site is located. I noted that 'Area C'²⁷ has a very open and rural character, with Croxley Green being a dominant feature. The roughly triangular Green becomes much wider and more expansive in this part of the Conservation Area. Croxley House is an imposing and prominent feature in views across the Green. Killingdown Farmhouse also contributes to its rural character. The part of the Conservation Area to the north of the appeal site, 'Area D', containing Nos 1-3 Little Green Lane also has a distinct rural character and contains a small pond. It is less

²⁴ S66(1) of the Planning (Listed Building and Conservation Areas) Act 1990

²⁵ Croxley Green Conservation Area Appraisal, Paragraph 5.1 [CD6.AD]

²⁶ Ibid, Paragraph 5.5

²⁷ Croxley Green Conservation Area Appraisal Map [CD6.AG]

- open than 'Area C' and has an intimate and pleasing character, with long established trees and hedges.
32. There has been some modern incursion of development in the vicinity of the appeal site which is less sympathetic to the Conservation Area, for example the houses fronting Little Green Lane to the south of appeal site. The Character Appraisal notes the 'unsympathetic mid-twentieth century development to the north of the Grove'²⁸. There is other more modern development within the wider Conservation Area, for example at Whitegates Close and Parrotts Close, but these developments are considerably further to the south falling in 'Area A' and they do not form part of the immediate character. The overall character of the Conservation Area in the vicinity of the appeal site remains largely intact. In my judgement, the appeal site contributes positively to the significance of the Conservation Area as a remnant of the open agrarian landscape adjacent to Croxley Green.
33. The introduction of a modern housing estate cannot be said to be 'characteristic' of this part of the Conservation Area, nor does it reflect other development patterns nearby. The proposal would result in the coalescence of Killingdown Farmhouse and Nos 1-3 Little Green Lane with existing residential development to the south. The proposal would have an urbanising effect along the western edge of the appeal site, especially in terms of the new site accesses, the widening of Little Green Lane, the provision of a new footpath, potential street lighting, and the loss of hedgerow. There would also be views of the houses and rooftops immediately beyond the retained hedgerow. In addition, the new residential housing would abut Nos 1-3 Little Green Lane, destroying the open rural backdrop stretching back towards Killingdown Farm, thereby impinging negatively on the character of the Conservation Area.
34. All that said, it must be reiterated that the principle and acceptability of residential development comprising up to 180 units has already been established on the site by virtue of Policy SA1 and the Site Ref H(10) allocation. This being so, it seems inevitable that a more urbanised feeling will be created somewhat at odds with the historic grain of the area. The relevant legislation requires that, in exercising planning powers in Conservation Areas, special attention shall be paid to the desirability of preserving or enhancing the character of appearance of that area²⁹. Given my findings above, the scheme would fail to preserve its character, contrary to the relevant legislation.
35. Conclusion on heritage assets: it is agreed by all parties that the proposal would cause 'less than substantial' harm in terms of the Framework. Although there are no formal 'sub-categories' within the 'less than substantial' category, it is not uncommon to seek to place the harm as falling at a lower, mid-point, or upper point within that range. I accept the appellant's point that these 'sub-categories' are not defined in policy or law³⁰ and cannot be rigidly applied. However, it can be helpful to make a planning judgement as there may be a number of types of harm that fall into the 'less than substantial' category.
36. In terms of the listed buildings, I find any harm to Croxley House would be negligible, whereas the harm to both Killingdown Farmhouse and Nos 1-3 Little Green Lane would be of a greater magnitude, probably at the lower to middle

²⁸ Ibid, Paragraph 5.52

²⁹ S72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

³⁰ James Hall v City of Bradford Metropolitan District Council [2019] EWHC 2899 (Admin)

part of the 'less than substantial' spectrum, because of the significant change to their settings. In terms of the Conservation Area, because of the resulting changes to its character, I find similarly find a low to middle level of harm.

37. It follows that there would be some conflict with Policies CP1(f) of the CS to the extent the proposals would fail to protect and enhance the natural, built and historic environment; Policy DM3 of the DMP in terms the scheme's failure to sustain, conserve and where appropriate enhance the significance, character and setting of heritage assets and surrounding historic environment. It would also conflict with Policy PR01 of the NP to the extent the scheme would fail to preserve or enhance the character of the conservation Area, and the setting of listed buildings. In accordance with the Framework, the 'less than substantial harm' needs to be weighed against the public benefits of the proposal.

Living Conditions

38. The Council, along with the Rule 6 Party, have expressed concerns in terms of the effect on living conditions at No 5 Little Green Lane. Specifically, it is alleged that the closest proposed house and garage at Plot 26 would result in an overbearing, visually intrusive and unneighbourly form of development. Plot 26 would contain a two-storey detached dwelling with an 'L'-shaped footprint and a single storey double garage. Clearly, the development of the site would fundamentally alter the outlook and views from No 5. At present, there are pleasing open and expansive rural views of pastoral fields, delineated by established hedgerow and mature trees. The impression one has when looking out of various windows of that property, especially to the east and south, both at ground and first floor level, is of being surrounded by an attractive rural landscape, with an absence of built form. Indeed, panoramic views can be gained across the countryside. Quite understandably, this open aspect is highly valued by the current owners of the property.
39. The proposed scheme would create an essentially suburban character, with close range views of individual houses. This would be a significant and no doubt very unwelcome change for the occupiers of the property. However, once again, of considerable relevance is that the principle and acceptability of extensive residential development surrounding No 5 has already been established on this site by virtue of Policy SA1 and Site Ref H(10) of the SA. The principle of residential development around its curtilage cannot therefore be in dispute. It is inevitable that a more urbanised and enclosed feeling will be created, with a less attractive outlook.
40. However, I am satisfied that the intervening distances between the proposed new dwellings, in particular at Plot 26 and No 5 Little Green Lane, are such as to avoid unacceptable dominance. According to the Council, the new dwelling would be sited some 11.5 metres from the shared boundary, with a total separation distance of around 14 metres between the dwellings³¹. The dwelling at Plot 26 has been orientated so that its flank elevation would face No 5, thereby avoiding direct overlooking or loss of privacy. Accordingly, I do not find the objections on this ground to be sufficiently well founded for the appeal to fail. Nor do I find any conflict with Policies CP12 of the CS or Policy DM1 and Appendix 2 of the DMP which together seek to protect residential amenity ensuring, amongst other things, adequate levels of privacy and prospect.

³¹ Council's Committee Report, Paragraph 7.7.7 [CD4.F]

Other Matters

41. The Rule 6 Party has presented an alternative 'Design Parameter' which sets out an alternative approach to designing the scheme³². The plan proposes, amongst other things, no development in the northern portion of the site between the Farmhouse and properties at 1-5 Little Green Lane and an alternative access point from Grove Crescent. My attention has also been drawn to an earlier 'Masterplan' which shows an alternative disposition of housing, including a lesser access off Little Green Lane, and two access points from Grove Crescent³³.
42. The adopted site allocation policy does not specify that accesses should be located in any fixed location, nor does it set any particular layout for development. In terms of an alternative access from Grove Crescent, the appellant has presented evidence that it is not a practical option for various reasons³⁴. In any event, no objections have been raised in highway terms regarding the proposed access from Little Green Lane. There may be other ways of developing the appeal site, but these are not formally before me. For the avoidance of doubt, I have assessed the appeal scheme before me on its merits.
43. As noted previously, the appeal site also includes an area of land to the north of Little Green Lane which is designated as Green Belt, and which falls outside the residential allocation. No housing development is proposed in this area, and it would be preserved for ecological enhancements and drainage attenuation. The Council is satisfied that this would not constitute inappropriate development within the Green Belt and has raised no objection on this basis³⁵. I see no reason to take a different view.
44. Concerns have been raised regarding the loss of hedgerows from an ecological perspective, although the Council did not object on this basis. It is the case that some of the hedgerows surrounding the site are species rich³⁶ and considered 'important' under the Hedgerow Regulations³⁷. Whilst it is acknowledged that there would be some loss of hedgerow to facilitate new accesses to the site, new hedgerow planting is proposed. According to ecological documents provided, mitigation measures are proposed to ensure a net biodiversity gain from the development³⁸.

Planning Obligations

45. Two planning obligations in the form of UUs have been completed, both dated 21 December 2021. The first secures the provision of affordable housing (a total of 72 units) to be provided as both shared ownership housing and affordable rented housing. The UU sets out, amongst other things, a requirement for a proportion of affordable units to be provided before the market dwellings can be occupied and precludes the affordable dwellings from being used for any other purpose in perpetuity. The UU also sets out a detailed schedule of the types of units for each category of affordable housing.

³² Rule 6 Party Statement of Case [CD7.E]

³³ Bidwells Masterplan [CD9.1] - an illustrative scheme produced by the landowner as part of the Local Plan Examination Process

³⁴ See Paragraphs 6.24-6.34 of Mr Campbell's Proof [CD11.E]

³⁵ Statement of Common Ground, Paragraph 6.1(ii) [CD7.B]; and Planning Committee Report, Section 7.3

³⁶ See Paragraphs 6.15-6.19 of Mr Campbell's Proof [CD11.E]

³⁷ Hedgerow Regulations 1997

³⁸ Ecology Impact Assessment Report

46. The second UU makes provisions for a travel plan to be submitted for approval to the County Council – a written plan setting out a scheme to encourage, regulate and promote sustainable travel measures for those living at the site, as well as visitors. It requires the appointment of a Travel Plan Coordinator to monitor progress to ensure the Travel Plan meets its objectives. It includes a 'Evaluation and Support Contribution' of £6,000 (index linked).
47. I have no reason to believe that the formulas and charges used by the Council and County Council to calculate the contributions and provisions of the UUs are other than soundly based. I am satisfied that the provisions of the obligations are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework³⁹ and Community Infrastructure Levy Regulations⁴⁰. I have taken the planning obligations into account in my deliberations.

Planning Balance and Overall Conclusions

48. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise⁴¹. In this instance, the appeal proposal conflicts with certain policies of the development plan but complies with others. I find no conflict with policies in relation to the effect on living conditions at No 5. However, the scheme would fail to preserve the character of the Conservation Area and the setting of various listed buildings, contrary to the relevant legislation. It would also cause some harm to the landscape. In this regard, there would be conflict with Policies CP1(f) and CP12 of the CS, Policy DM3 of the DMP and Policy PR01 of the NP.
49. On the other hand, and very importantly, the proposal would comply with Policy SA1 and Site Reference H(10) of the SA which specifically allocates the site for housing. This policy is an especially important mechanism for delivering the overall vision and objectives for the spatial development of the area as set out within the CS. The policy enshrines the principle that particular forms of development can be located on identified sites. The Policy is of the utmost importance for delivering the aims and objectives of the CS. It is imperative these are delivered as the CS provides the over-arching strategy and long-term vision for the district, including in respect of housing provision.
50. As previously mentioned, in situations where Councils are unable to demonstrate a five year supply of housing, Paragraph 11 of the Framework states that the most important policies for determining the application are deemed out of date. However, even where policies are rendered out of date, they may remain potentially relevant and they should not be disregarded. In this case, given their general congruence with the Framework, I find the cited policies continue to carry significant in the planning balance. However, the Framework also makes clear that an absence of five year housing supply means permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits. In other words, the so called 'tilted balance' is engaged. Alternatively, in certain circumstances,

³⁹ Paragraph 57

⁴⁰ Regulation 122

⁴¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 & Section 70(2) of the Town and Country Planning Act 1990

specific policies within the Framework, such as those relating to heritage assets, may provide a clear reason for refusing the development.

51. In terms of public benefits, the scheme would secure a high quality, modern housing development for which there is a clear need, in a sustainable location. The proposal would provide much needed private and affordable housing for local people. A total of 160 dwellings are proposed, of which 72 would be affordable. Such provision would be a very weighty benefit for the area where increasing the supply of market and affordable homes is an urgent and pressing issue. The site is locationally accessible and close to local amenities of Baldwins Lane to the south comprising a local parade with a range of commercial units, including a convenience store, greengrocer, newsagents and chemist.
52. The scheme would boost supply in accordance with the Framework⁴² in an area where there is a very significant ongoing housing shortfall. The scheme would create additional housing choice and competition in the housing market. The scheme would have economic benefits: it would create investment in the locality and increase spending in local shops⁴³. It would create new jobs⁴⁴ including during the construction phase. It would deliver a housing allocation identified within the development plan, thus fulfilling the Government's aim that the planning system should be genuinely plan-led⁴⁵. All these benefits carry significant weight.
53. The dwellings would be of high quality and employ a varied and attractive palette of materials. The dwellings would incorporate sustainable measures, including 'carbon savings' to be achieved by construction techniques, including air source heat pumps and electric heating. Electric vehicle charging points would be included within the scheme. The Council has acknowledged that the approach to sustainable construction would exceed current policy requirements⁴⁶. Biodiversity enhancements are proposed throughout the scheme, including the provision of native planting, new hedgerow planting, bat and bird boxes, and reptile hibernacula. Indeed, the evidence indicates that the proposal would result in improvements to biodiversity.⁴⁷ I am satisfied that the planning obligations accord with the Framework, and I have taken them into account in my deliberations.
54. I have found that the proposal would result in harm to heritage assets. Paragraph 202 of the Framework requires any harm to the significance of heritage assets to be balanced against the public benefits of the scheme. In addition, Paragraph 199 requires that, when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to their conservation. I have found that the harm overall should be placed at the low to middle point of the 'less than substantial' spectrum. In this case, however, I find that harm to heritage assets, even giving great weight to their conservation, would be outweighed by the scheme's considerable public benefits. Therefore, the adverse impacts do not provide a clear reason for refusing the proposed development. Accordingly, I find the

⁴² Paragraph 60

⁴³ The appellant estimates that the scheme would generate over £4 million of household expenditure per annum

⁴⁴ The appellant estimates the proposal would support between 384 and 496 jobs

⁴⁵ Paragraph 15 of the Framework

⁴⁶ Committee Report, Paragraph 7.5.15

⁴⁷ See Biodiversity Net Gain Assessment (August 2020) CD1 EF

so called 'tilted balance' of Paragraph 11 would not be displaced in this instance.

55. To sum up, the proposal would accord with the allocation within the development plan as envisaged by Policy SA1 and Site Ref H(10). This policy specifically proposes residential development of between 140 and 180 dwellings. This scheme would deliver 160 dwellings – squarely at the mid-point of the capacity range. Given that the proposal complies with the overall strategic approach of the development plan in terms of delivering dwellings on an identified site for housing, and notwithstanding some conflict with certain policies, I consider that the proposal would comply with the development plan as a whole. In these circumstances, the Framework is clear that development should be approved without delay⁴⁸. Even if that is not the case, and the development is considered to be in conflict with the development plan, I find that applying the so called 'tilted balance', the adverse effects of the development would not significantly and demonstrably outweigh the benefits⁴⁹. On either basis, I conclude that the appeal should be allowed.

Conditions

56. I have reviewed the agreed list of suggested conditions in the light of the discussion at the Inquiry and advice in the Planning Practice Guidance. The Framework is clear that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects⁵⁰. Where necessary I have reworded the conditions for simplicity and clarity. The numbers in brackets relate to the conditions in the schedule.
57. A commencement condition is necessary to comply with the relevant legislation (1). A condition requiring compliance with the approved plans is necessary for certainty and to ensure a satisfactory form of development (2). Conditions requiring a Construction Management Plan, a Construction Environment Management Plan and a Site Waste Management Plan are necessary to minimise disturbance to local residents, to ensure highway safety, to protect biodiversity and ensure a sustainable form of development (3, 4, 5).
58. Conditions are necessary to ensure adequate drainage of the scheme and to prevent flooding (6, 7, 8, 9). A condition is necessary to ensure items of archaeological interest are adequately dealt with (10). In the interests of pedestrian and highway safety, conditions are required in respect of the following: provision of various off-site highway works; details for the future management and maintenance of the streets within the development; details of the phased delivery of internal access roads, parking and turning areas; provision of a parking management plan; retention of garages for parking of vehicles; and the provision of visibility splays (11, 12, 13, 14, 15, 16).
59. Conditions requiring electric vehicle charging points and energy efficiency measures within the dwellings are required to ensure a sustainable and energy efficient form of development (17, 18). Conditions requiring the approval of external materials and boundary treatments are necessary to ensure a high quality scheme and to ensure the privacy of existing residents (19, 20).

⁴⁸ Paragraph 11(c)

⁴⁹ Paragraph 11(d)

⁵⁰ Paragraph 56

Conditions relating to tree protection measures, provision of hard and soft landscaping, and ecological enhancements as per the Ecological Impact Assessments, are necessary to ensure high quality landscaping and to enhance the biodiversity of the site (21, 22, 23). A condition relating to external lighting, including streetlighting, is necessary in the interests of visual amenity and to protect biodiversity (24).

60. A condition relating to the provision of obscure glazing is necessary to protect the privacy of residents (25). A condition relating to a play space area is required to ensure the provision of such facilities (26). A condition is required relating to fire hydrants to ensure a satisfactory form of development (27). A condition restricting permitted development rights is necessary to protect the character and appearance of the site, and the living conditions of future occupiers (28).
61. A number of the conditions relate to pre-commencement activities. In each case, the requirement of the condition is fundamental to make the scheme acceptable in planning terms. Subject to the imposition of these conditions, I conclude that the appeal should be allowed.

Matthew Nunn

INSPECTOR

APPEARANCES

FOR THE APPELLANT

James Maurici	of Queens Counsel, Landmark Chambers
Charles Bishop	of Counsel, Landmark Chambers
They called	
Colin Pullan	Design
Hannah Hamilton Rutter	Heritage
Ian Grimshaw	Landscape
Colin Campbell	Planning

FOR THE COUNCIL

Timothy Comyn	of Counsel, Francis Taylor Building
He called	
Maria Kitts	Heritage
Francis Caldwell	Planning

FOR THE RULE 6 PARTY

John Snow

He called

Bridget Sheppard

INQUIRY DOCUMENTS

1. Appellant's Opening Statement
2. Council's Opening Statement
3. Rule 6 Party's Opening Statement
4. Andrew Britton's Statement
5. Barry Grant's Statement
6. Location of Images in Mr Campbell's Rebuttal Proof
7. Note on Appellant's plan drawing conventions; 7(i) Pre-application Site Plan; 7(ii) Comparison between pre-application and application plan
8. Note on hedges; 8(i) Plan showing existing and removed hedges; 8(ii) Plan showing new hedge length; 8(iii) Revised AIA Plan; 8(iv) updated Masterplan; 8(v) updated landscape details; 8(vi) amended Landscape Management Plan
9. Route plan for site visit

- 10.Dictionary definitions
- 11.City and Country Bramshill Ltd v SSHCLG [2019] EWHC 3437
- 12.Regina (Mount Cook Land Ltd and another) v Westminster City Council [2003] EWCA Civ 1346
- 13.Peel Investments v SSHCLG [2020] Civ 1175
- 14.Updated Conditions Schedule
- 15.Closing Statement of the Council
- 16.Closing Statement of the Rule 6 Party
- 17.Closing Statement of the Appellant
- 18.Planning Obligations (two UUs) dated 21 December 2021

Richborough Estates

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 108 PS 008 B; 108 PS 009 B; 108 PS 010 I; 108 PS 013 D; 108 PS 501 B; 108 PS 502 B; 108 PS 503 B; 108 PS 504 B; 108 PS 505 B; 108 PS 506 B; 108 PS 507 B; 108 PS 508 B; 108 PS 509 B; 108 PS 510 B; 108 PS 511 C; 108 PS 512 C; 108 PS 520 C; 108 PS 521 C; 108 PS 522 C; 108 PS 523 C; 108 PS 524 C; 108 PS 525 C; 108 PS 526 C; 108 PS 527 C; 108 PS 528 C; 108 PS 529 C; 108 PS 530 D; 108 PS 531 D; 108 PS 532 C; 108 PS 533 C; 108 PS 540 C; 108 PS 541 C; 108 PS 542 C; 108 PS 543 C; 108 PS 544 C; 108 PS 545 C; 108 PS 546 C; 108 PS 547 C; 108 PS 548 C; 108 PS 549 C; 108 PS 552 C; 108 PS 553 C; 108 PS 560 C; 108 PS 561 C; 108 PS 562 C; 108 PS 563 C; 108 PS 580 C; 108 PS 581 C; 108 PS 582 D; 108 PS 583 D; 108 PS 584 C; 108 PS 585 C; 108 PS 586 E; 108 PS 587 E; 108 PS 588 C; 108 PS 589 C; 108 PS 600 D; 108 PS 601 D; 108 PS 602 C; 108 PS 603 C; 108 PS 604 C; 108 PS 605 C; 108 PS 606 C; 108 PS 607 C; 108 PS 608 C; 108 PS 612 D; 108 PS 613 D; 108 PS 614 D; 108 PS 619; 108 PS 620 D; 108 PS 621 D; 108 PS 622 C; 108 PS 623 C; 108 PS 640 B; 108 PS 641 B; 108 PS 642 B; 108 PS 643 B; 108 PS 644 B; 108 PS 645 B; 108 PS 646 B; 108 PS 647 B; 108 PS 648 B; 108 PS 649 C; 108 PS 650 C; 108 PS 660 C; 108 PS 661 C; 108 PS 662 C; 108 PS 663 C; 108 PS 664 C; 108 PS 665 C; 108 PS 680 B; 108 PS 681 B; 108 PS 700 A; 108 PS 701 A; 108 PS 702 A; 108 PS 703 A; 108 PS 704 B; 108 PS 705 A; 108 PS 706 A; 108 PS 800 C; 108 PS 801 C; 108 PS 802 C; 1945-GUA-DR-L-004 Rev 5; 1945-GUA-DR-L-005 Rev 6; 1945-GUA-DR-L-006 Rev 7; 1945-GUA-DR-L-007 Rev 6; 1945-GUA-DR-L-008 Rev 5; 1945-GUA-DR-L-009 Rev 6; 1945-GUA-DR-L-010 Rev 6; 1945-GUA-DR-L-011 Rev 7; 1945-GUA-DR-L-012 Rev 6; 1945-GUA-DR-L-013 Rev 5; 1945-GUA-DR-L-014 Rev 8; 1945-GUA-DR-L-015 Rev 7.
- 3) No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following details: construction vehicle numbers, type and routing; access arrangements to the site; traffic management requirements; construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas); siting and details of wheel washing facilities; cleaning of site entrances, site tracks and the adjacent public highway; timing of construction activities (including delivery times and removal of waste); provision of sufficient on-site parking prior to commencement of construction activities; post construction restoration / reinstatement of working areas and removal of any temporary accesses to the public highway. The approved CMP shall be adhered to throughout the demolition and construction period.
- 4) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for Biodiversity (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following: risk

assessment of potentially damaging construction activities; identification of 'biodiversity protection zones'; practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (this may be provided as a set of method statements); the location and timings of sensitive works to avoid harm to biodiversity features; the times during construction when specialist ecologists need to be present on site to oversee works; responsible persons and lines of communication; the role and responsibilities on site of an ecological clerk of works or similarly competent person; the use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the demolition and construction period in accordance with the approved details.

- 5) No development shall take place until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the Local Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including types of waste to be removed from the site and where that waste will be taken. The development shall be carried out in accordance with the approved SWMP.
- 6) The development shall be carried out in accordance with the amended submitted Flood Risk Assessment (PEP Civil & Structures Ltd, Ref: 481819-PEP-00-XX-RP-C-6200, Rev: P04, dated 28 January 2021) along with the following mitigation measures: (i) Implementing drainage strategy based on deep borehole soakaway as shown on drawing 481819-PEP-00-XX-SK-C-1830 Rev P06; (ii) Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event; (iii) Implementing appropriate Sustainable Drainage System (SuDS) measures to include dry pond, detention basin with reno mattress, filter drain and tanked porous paving. The measures shall be fully implemented prior to occupation of the dwellings or in accordance with a timetable agreed in writing by the local planning authority.
- 7) Upon installation of the deep borehole soakaways at the site, further infiltration testing shall be completed to confirm the infiltration rates and these shall be submitted to and approved in writing by the Local Planning Authority in order to confirm installation is adequate and meets the design requirements for the drainage system being installed.
- 8) No development shall take place until the submission of a Surface Water Management Plan for the Construction Phase of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Management Plan and in accordance with the timing arrangements embodied within the scheme, or in accordance with a timetable agreed by the local planning authority.
- 9) Upon completion of the drainage works for the site, a management and maintenance plan for the Sustainable Drainage Systems (SuDS) features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The management and maintenance plan shall

include: (i) Provision of a complete set of built drawings for site drainage; (ii) Maintenance provisions and operational requirements for the installed drainage system; (iii) Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime. The management and maintenance plan shall be adhered to throughout the lifetime of the development.

- 10) No demolition or development other than enabling works shall take place within the Archaeological Areas identified in hatching on Plan Ref AC25684.03 Rev 2.0 until an Archaeological Written Scheme of Investigation (WSI) for a further programme of archaeological works has been submitted to and approved in writing by the Local Planning Authority. The WSI shall include an assessment of archaeological significance and research questions; and (i) a programme and methodology of site investigation and recording; (ii) a programme for post investigation assessment; (iii) provision to be made for analysis of the site investigation and recording; (iv) provision to be made for publication and dissemination of the analysis and records of the site investigation; (v) provision to be made for archive deposition of the analysis and records of the site investigation; (vi) nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological WSI. The development shall be carried out in complete accordance with the WSI so approved. (For the purposes of this condition, 'enabling works' are defined as ecological and vegetation clearance as per the Arboricultural Impact Assessment and Ecological Documents, and attenuation pond work, specifically borehole work for the additional drainage investigations required under the relevant conditions.
- 11) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme for the necessary offsite highway improvement works as indicated on Drawing No. 1908-012 PL06 G has been submitted to and approved in writing by the Local Planning Authority. These works shall include: (i) A 2 metre wide footway (or the maximum achievable width) on the east side of the carriageway along Little Green Lane from the junction with The Green running north to the main site access junction; (ii) Any widening of the carriageway along Little Green Lane to increase the width of the carriageway to at least 4.8 metres; (iii) Details of any necessary street lighting along Little Green Lane; (iv) Details of works to create the main vehicular access into the site ('northern access') / alterations to the existing route along Little Green Lane, which would also include the dedication of additional land as highway (pursuant to a Section 38 highways agreement); (v) New bellmouth entrance to the 'southern access' to the proposed cul-de-sac including tactile paving and pedestrian dropped kerbs on either side; (vi) Any alterations required to the existing entrances into Killingdown Farm including tactile paving and pedestrian dropped kerbs; (vii) Any necessary highway works required at the junction of Little Green Lane and The Green including a new kerbed edge of carriageway line on the west side and tactile paving on both sides; the kerb line may require widening as there is evidence that vehicles oversail the highway verge at this location; (viii) Details of a pedestrian crossing point with pedestrian dropped kerbs and tactile paving from the proposed footway on the east side of Little Green Lane to the common land. The offsite highway

improvement works above shall be completed in accordance with the approved details prior to the first occupation of the development hereby permitted.

- 12) No construction of estate roads, apart from construction access, shall commence until full details in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 and/or a Private Management and Maintenance Company has been established.
- 13) Prior to the first occupation of the development hereby permitted, details of the phased delivery of the proposed internal access roads, on-site car parking and turning areas shall be submitted to and approved in writing by the Local Planning Authority. These shall be laid out, demarcated, surfaced and drained in accordance with the approved plan(s) and phasing details and retained permanently thereafter for that specific use.
- 14) Prior to the first occupation of the development hereby permitted, a Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the allocation of vehicle parking spaces and cycle storage spaces within the development; management and allocation of parking spaces for mobility impaired persons; and long term management responsibilities and maintenance schedules for all communal parking areas. The parking management plan shall be carried out in accordance with the approved details for the lifetime of the development.
- 15) The garages (both those permitted as integral garages and detached garages) serving the residential dwellings hereby permitted, shall be permanently retained for the garaging of private vehicles. No alterations both externally or internally shall be carried out to the garages such as to prevent their use for garaging private vehicles.
- 16) Prior to the first occupation of the development hereby permitted, visibility splays shall be provided in accordance with the details indicated on the approved plan numbers 1908-012 VS02 and 1908-012 VS03 A (attached to Appellant's Response to Highways Comments 1908-012/DE/00 dated 22 October 2020). The splays shall thereafter be retained at all times free from any obstruction between 600mm and 2 metres above the level of the adjacent highway carriageway.
- 17) Prior to the first occupation of each house with garage or driveway within the development hereby permitted, provision shall be made for that house to be provided with electric vehicle charging provision. This shall include charging cabling to a dedicated socket fixed to the house or garage, of sufficient capacity to enable as a minimum Mode 3 at 3.7 kW (16A). Flatted accommodation shall incorporate appropriate installation of groundwork ducting for future installation.

- 18) Prior to the first occupation of each dwelling, the energy saving and renewable energy measures detailed within the approved amended Energy Statement (NRG Consulting PP1584/ES/KF/202007-EC Revision C, dated 4 January 2020), shall have been provided. The energy saving measures shall be permanently retained thereafter.
- 19) Prior to the commencement of any buildings above ground floor slab level, details of the materials (including samples where appropriate) to be used on the external surfaces of the building, including external facing brickwork, external cladding materials, windows, doors, roof materials, and external rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried in complete accordance with the approved details and permanently retained thereafter.
- 20) Prior to the first occupation of the development hereby permitted, boundary treatments for the dwellings shall be provided in accordance with a scheme previously submitted to and approved in writing by the local planning authority. The submitted scheme shall indicate the positions, design, materials and type of boundary treatment to be erected. The approved scheme shall be permanently retained thereafter.
- 21) Before any equipment, machinery or materials are brought on to the site for the purposes of development, the protective measures, including fencing, shall be implemented in accordance with the approved Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement & Tree Protection Plan Rev A, dated 16 April 2021, and Plan 7539-D-AIA Rev A. The measures shall be maintained as approved during course of development works until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10 metres of an area designated as being fenced off or otherwise protected in the approved scheme.
- 22) Hard and soft landscaping shall be provided in accordance with the approved details set out on the following approved plans/schedules: 1945-GUA-DR-L-004 Rev 5; 1945-GUA-DR-L-005 Rev 6; 1945-GUA-DR-L-006 Rev 7; 1945-GUA-DR-L-007 Rev 6; 1945-GUA-DR-L-008 Rev 5; 1945-GUA-DR-L-009 Rev 6; 1945-GUA-DR-L-010 Rev 6; 1945-GUA-DR-L-011 Rev 7; 1945-GUA-DR-L-012 Rev 6; 1945-GUA-DR-L-013 Rev 5; 1945-GUA-DR-L-014 Rev 8; 1945-GUA-DR-L-015 Rev 7. Prior to the first occupation of the development hereby permitted, details of the phased delivery of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be implemented in accordance with the approved details, and in accordance with a timetable agreed with the Local Planning Authority, and shall be permanently retained thereafter. The approved Landscape Management Plan (1945-GUA-DOC-L-002 Rev P07) shall thereafter be carried out as approved. Any trees or plants which within a period of five years after planting die, are removed or are seriously damaged or defective shall be replaced in the next planting season

- (November to March) with others of a similar size and species, unless the Local Planning Authority gives written approval to any variation.
- 23) The development hereby permitted shall be carried out in accordance with the recommendations in the approved Ecological Impact Assessments (Report Refs. C140/R5/v4 and C140/R6/v3 dated August 2020).
- 24) Prior to the occupation of the dwellings hereby permitted, details of an external lighting strategy to ensure adequate illumination of roads, footpaths and buildings within the scheme and avoiding unnecessary light pollution shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved in accordance with an agreed timetable. No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details.
- 25) Before the first occupation of the relevant dwellings hereby permitted, the windows listed below shall be fitted with obscured glazing and shall be top level opening only at 1.7 metres above the floor level of the room in which the window is installed. The window(s) shall be permanently retained in that condition thereafter: Dwelling 1 (Plot 1) – first floor northern flank window facing Nos 1-3 Little Green Lane; Dwelling 10 (Plot 10) – first floor northern flank window facing No. 5 Little Green lane; Apartment Block 2 – first floor south-eastern flank window facing Grove Crescent; Apartment Block 3 – first and second floor south-eastern flank windows facing Grove Crescent; Dwelling 3 (Plot 3) – first floor western flank window; Dwelling 5 (Plot 5) – first floor eastern flank window; Dwelling 8 (Plot 8) – first floor southern flank window; Dwelling 29 (Plot 29) – first floor southern flank window; Dwelling 49 (Plot 49) – first floor northern flank window; Dwelling 57 (Plot 57) – first floor northern flank window; Dwelling 66 (Plot 66) – first floor western flank window; Dwelling 88 (Plot 88) – First floor western flank window.
- 26) The Play Areas shall be provided in accordance with the details on the approved plan numbers 1945-GUA-DR-L-004 Rev 5; 1945-GUA-DR-L-005 Rev 6; 1945-GUA-DR-L-007 Rev 6; 1945-GUA-DR-L-008 Rev 5; 1945-GUA-DR-L-009 Rev 6; 1945-GUA-DR-L-010 Rev 6; 1945-GUA-DR-L-011 Rev 7; 1945-GUA-DR-L-012 Rev 6; 1945-GUA-DR-L-013 Rev 5; 1945-GUA-DR-L-014 Rev 8; 1945-GUA-DR-L-015 Rev 7 so as to co-ordinate with the occupation of the residential development, and shall thereafter be retained, kept open, managed and maintained in accordance with the approved Landscape Management Plan (1945-GUA-DOC-L-002 Rev P06).
- 27) In the event they are required, details for fire hydrants serving the development as incorporated into the provision of the mains water services for the development (whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus) shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of development. The fire hydrants shall thereafter be implemented in accordance with the approved details prior to

occupation of any building forming part of the development, and permanently retained thereafter.

- 28) On implementation of this planning permission, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place within the site: Part 1 Class A - enlargement, improvement or other alteration to the dwelling; Class B - enlargement consisting of an addition to the roof; Class C - alteration to the roof; Class D - erection of a porch; Class F - any hard surface.

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