



Appeal Decision

Inquiry Held on 28-31 March 2023

Site visit made on 13 April 2023

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2023

Appeal Ref: APP/R1038/W/22/3310461

Land between Green Lane and Upperthorpe Road, Westthorpe, Killamarsh

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Harworth Group against the decision of North East Derbyshire District Council.
 - The application Ref 18/01003/OL, dated 5 October 2018, was refused by notice dated 27 May 2022.
 - The development proposed is the erection of up to 397 dwellings and associated access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 397 dwellings and associated access at land between Green Lane and Upperthorpe Road, Westthorpe, Killamarsh, in accordance with the terms of the application, Ref 18/01003/OL, dated 5 October 2018, subject to the conditions in the attached schedule.

Application for Costs

2. At the Inquiry an application for costs was made by Harworth Group against North East Derbyshire District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. The appeal is submitted in outline with only access to be determined at this stage. However, an Illustrative Masterplan (ref: n2000 05B) and Parameter Plan (ref: n2000 004B) were submitted with the application showing, amongst other things, the location of dwellings, open spaces, and surface water attenuation. I have considered the Masterplan and Parameter Plan on an illustrative basis only.

Main Issue

4. The Council's decision notice sets out seven reasons for refusal. However, upon reviewing its case, the Council decided to pursue only reason for refusal 2. It is not necessary, therefore, for me to take these matters further. In respect of reason for refusal 2 it is common ground that the reference here to Policy ID10 of the North East Derbyshire Local Plan 2014-2034 (LP) is erroneous.

5. The main issue in this case, therefore, is whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

Background

6. The majority of the appeal site is allocated for residential development under Policy LC1 of the LP. The relevant site is KL1 Land at Westthorpe, Killamarsh indicated as having an approximate capacity within the plan period of 330 dwellings. As established previously by an Inspector¹ this policy should not be interpreted as placing a cap or limit on the number of dwellings to be brought forward on the site.
7. For the most part the appeal site falls outside of designated Green Belt. Part of the southern extent of the site, however, falls within the Green Belt.

Green Belt

8. As set out in Policy SS10 of the LP and the Framework, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Following on from this, new buildings are to be regarded as inappropriate in the Green Belt subject to certain exceptions.
9. The Illustrative Masterplan submitted to the Inquiry shows that 397 dwellings could be laid out, outside of the parameters of the Green Belt. Within the Green Belt parameters only part of the surface water attenuation would be located.
10. The surface water attenuation would comprise basins and form part of works to manage surface water run-off from the site. The basins would be created by reshaping the site's existing terrain. Associated with the attenuation scheme to which they would form a part would also be underground works and ancillary equipment. In my view, this would constitute engineering works.
11. It is agreed between the parties that Policy SS10 3 b. and paragraph 150b) of the Framework apply which set out that engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
12. Whilst the attenuation basins would be a manmade structure in the Green Belt the evidence before me shows relatively low gradients tied into the existing topography of the area in order to form the basins. These works would therefore preserve openness, both spatially and visually. The presence of water in these basins when required, in an area currently prone to flooding, would similarly preserve such openness. It has also been suggested that all ancillary equipment associated with the attenuation basins could be sited outside of the Green Belt which would further preserve openness, and this could be controlled by condition.
13. It is also part of the Council's case that the proposed works constitute a material change in use of land under paragraph 150e) of the Framework. I am clear, for the reasons already set out, that the attenuation basins themselves

¹ Costs Decision APP/R1038/W/22/3291220 and APP/R1038/W/21/3287384

constitute engineering operations. Were there to be public access around the attenuation basins this might constitute a material change of use of the land. However, the presence of people in an area already accessible by public rights of way would, in any event, preserve the openness of this area.

14. The Council further make the case that as 'material change of use' does not appear in the list of development included under Policy SS10 3. it should be considered 'inappropriate development'. However, it does appear in the current Framework under para 150e) as a form of development which is not inappropriate subject to the previously stated provisos. Whilst planning law requires that applications for planning permission be determined in accordance with the development plan, the Framework is a material consideration to which I give significant weight given it is Government's planning policies. Consequently, this matter does not alter my findings above.
15. For the same reasons as those given in my consideration of openness, I also find that the attenuation basins would not conflict with the purposes of including land within the Green Belt as set out at paragraph 138 of the Framework. Specifically, by virtue of the nature of the construction of the basins and their potential use they would not constitute unrestricted sprawl of the built-up area, or encroachment into the countryside, nor would they result in the merging of Killamarsh and the neighbouring village of Spinkhill.
16. For these reasons I am satisfied that the proposed development could be accommodated on the site without resulting in inappropriate development in the Green Belt. As such I find no conflict with the Framework or Policy SS10 of the LP.

Other Matters

17. Various heritage assets located in the wider vicinity of the appeal site are referred to by the Council in their committee report. Having regard to my statutory duties in relation to designated heritage assets, I am satisfied, having visited the site, that, given the distances involved and intervening development, the setting of these assets would be preserved. Furthermore, there is no known historic association between the appeal site and any of these heritage assets. My findings are broadly in line with the Council's Conservation Officer on these matters.
18. Concerns were raised by local residents in respect of highway capacity and safety, accessibility for future residents, ecology, release of Green Belt land, and historic mining activity at the site. These matters were considered as part of the Local Plan process to allocate the appeal site for housing and this application includes further relevant assessments following on from the Local Plan process². I am satisfied, on the substantive evidence before me on these matters, that they do not need to be taken any further.
19. Having regard to the submitted Parameter Plan and Illustrative Masterplan, I am satisfied that a layout of development could be progressed at reserved matters stage which would protect and enhance public rights of way (PRoW) across the site in line with paragraph 100 of the Framework. It is useful to note that any grant of planning permission does not authorise any obstruction to, or interference with, a PRoW which is subject to separate legislation. For the same

² Report on the Examination of the North East Derbyshire Local Plan (CD 4.1.2)

reasons I am satisfied that the living conditions of occupiers of neighbouring properties would not be materially harmed. I am also satisfied that, subject to suitable conditions, there would be no increase in flooding in the area.

20. The viability of the development has been questioned but no substantive evidence has been put to me such that I could conclude that this should be a reason to refuse planning permission.
21. The Council raised no objection on air quality grounds. The appellant has submitted an Air Quality Statement which considered baseline conditions and potential air quality effects as a result of the development. These were found to be acceptable, subject to suitable conditions, and I find no reason to disagree.
22. The appeal was screened for an Environmental Impact Assessment (EIA) and found to not be EIA development.
23. No substantive evidence is before me to lead me to conclude that the appeal site is a 'valued landscape' for the purposes of the Framework.
24. Any mitigation required in respect of impacts of the development on local schools and surgeries would need to be assessed against the relevant tests as considered below.

S106 Agreement

25. A signed and dated Agreement and Planning Obligation has been submitted to the Inquiry. It provides for various obligations to North-East Derbyshire District Council and Derbyshire County Council. In line with Regulation 122(2) of the CIL Regulations 2010 (as amended) the Framework explains in paragraph 57 that planning obligations must only be sought where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. It is therefore necessary for me to consider these obligations in detail and reach a finding on them having regard to the above tests. I consider these in turn below.
26. The first schedule sets out the Owners' Planning Obligations with the Council. The first of these obligations requires the developer to submit an Affordable Housing Scheme providing for 20% affordable housing on site. This is in line with Policy LC2 of the LP. In the event that it is not possible or appropriate to provide affordable housing on site then an Affordable Housing Contribution is to be paid to be used to provide or improve affordable housing within the District. This is calculated in general accordance with the methodology set out in the Council's Affordable Housing Supplementary Planning Document. I am satisfied this obligation meets the relevant tests.
27. The second obligation is a contribution of £55,314.00 to provide a cricket pitch at Killamarsh Junior Athletics Club and Institute, and £111,730.00 towards the life cycle cost of the pitch. Policy ID10 of the LP sets out that financial contributions will be sought for formal sports sites (off-site) where a proposal is for 10 or more dwellings. The cricket pitch at Killamarsh Junior Athletics Club and Institute is identified in the Playing Pitch Strategy and Action Plan 2017 as having the highest level of overuse in the District. These contributions would mitigate sporting need arising from the development and have been calculated using the Sport England's Playing Pitch Demand Calculator, the details of which are before the Inquiry. This contribution therefore meets the relevant tests.

28. The third obligation is a contribution towards healthcare of £900.45 per dwelling. This would be used to provide additional capacity at identified doctors' surgeries in the vicinity of the appeal site as all existing consulting rooms and treatment rooms are currently fully utilised. Policy ID1 of the LP sets out that development will only be permitted where it can be made acceptable through the provision of necessary infrastructure and suitable measures to mitigate impacts and that this can be achieved through financial contributions. A detailed calculation for the contribution sought has been supplied. This contribution meets the relevant tests.
29. The fourth obligation is for a contribution of £25,769.00 towards a 3G play pitch at Killamarsh Sports Centre and £9,170.00 towards the life cycle costs of the pitch. As set out above, Policy ID10 provides support for such a contribution. Demand for this pitch has been identified at Killamarsh Sports Centre as set out in the Playing Pitch Strategy and Action Plan 2017. The financial contribution has been calculated again using the Sport England Playing Pitch Demand Calculator and is relative to the additional number of residents that the development will give rise to. I am satisfied that this obligation meets the relevant tests.
30. The Second Schedule sets out the Owner's Planning Obligations with the County Council. The first of these is a contribution of £727.63 per dwelling for special education needs and disabilities provision. Whilst the County Council has confirmed that there is sufficient capacity within local schools to meet the needs of the development, they have indicated that special schools and enhanced resourced schools in the area are operating at or above capacity. The contribution has been calculated based on the scale of development proposed. Policy ID1 of the LP again supports the provision of necessary infrastructure and mitigation through financial contributions. I am satisfied this contribution meets the relevant tests.
31. The second is a Library Contribution of £27,960 towards purchasing additional library stock for Killamarsh Library. Again, Policy ID1 is relevant. Derbyshire County Council confirm that library stock levels are only adequate to meet the existing catchment population. The contribution has been calculated using the National Library Standard recommendation for stock level per 1,000 population and the likely additional residents as a result of the development. This contribution therefore meets the relevant tests.
32. Finally, is an obligation to pay the Travel Plan Monitoring Fee of £5,500 to support the development and monitoring of a Travel Plan for five years, and this fee is in line with publicised monitoring fees. The Travel Plan itself would be secured by a planning condition. This is necessary to ensure the public benefits of sustainable travel are realised and accounted for and is in line with Policy ID3 of the LP. Travel Plan Monitoring is over a long period of time and is specialist work, beyond the everyday functions of a Local Planning Authority. On the evidence before me this obligation meets the relevant tests.
33. In summary all the obligations meet the tests of the Framework and fully comply with the requirements of Regulation 122(2) of the CIL Regulations 2010.
34. The Agreement also provides for monitoring fees for the above obligations and legal fees for the completion of the Agreement. In my view, monitoring the various obligations requested, with the exception of the Travel Plan Monitoring

for the reasons previously set out, and completing a legal agreement, would be within the reasonable everyday function of the Council/County Council. I therefore find that these requested monitoring and legal fees are not necessary to make the development acceptable.

Conditions

35. I have attached standard conditions requiring details of the reserved matters to be submitted for approval, specifying when the reserved matters application must be submitted by, and when the development permitted must be commenced by (Conditions 1-3). I have also included a plans condition as this provides certainty (Condition 4). This does not include the parameter plan which is dealt with separately at Condition 5.
36. To make the development acceptable in Green Belt terms it is necessary to include a condition specifically requiring that no new buildings or above ground level ancillary equipment or structures be erected in the part of the site which falls within the Green Belt (Condition 6). It is not necessary, however, given my findings above in respect of Green Belt, to restrict footpaths or cycle tracks in this part of the site.
37. To inform the principle of development a condition restricting the number of houses is also necessary (Condition 7). Furthermore, Condition 8, requiring the submission of a Phasing Plan, is necessary to ensure a satisfactory development with all essential components is delivered in a timely manner. This includes the provision of a cycle route where the Council's proposed cycle network crosses the site. This is necessary as Policy ID3 of the LP promotes sustainable travel and, specifically, the provision of new cycling networks.
38. Conditions 9-13 deal with access and highway safety matters for approval at outline stage. Condition 12, specifically, refers to significant effects in line with the Framework.
39. Condition 14 is necessary to protect sewage infrastructure. Conditions 15, 16, 17 and 18 concern health and safety and are necessary given the previous use of the site for mining. Conditions 19 and 20 are also necessary to ensure adequate investigation of the site's archaeology.
40. Conditions 21 and 22 concern surface water drainage works and are necessary not only to ensure a satisfactory form of development but also to protect the Green Belt. To protect biodiversity I have also included Conditions 23, 24, 25, 26 and 27. Condition 23, which concerns the submission of a landscape and ecology management plan, includes the provision of bat boxes etc to be installed within an agreed timescale and having regard to the phasing plan secured under Condition 8. Consequently, a separate condition to provide bat boxes etc within the housing phases is not necessary.
41. To ensure local employment benefits I have also included Condition 28. Again, in the interest of highway safety Conditions 29 and 30 deal with the construction phases of development.
42. To protect the living conditions of future occupiers Condition 31 requires a scheme of sound insulation to be submitted, and to promote sustainable travel I have included Condition 32 to secure a Travel Plan. In accordance with Policy LC1 of the LP Condition 33 is necessary to off-set the effect of removing land from the Green Belt to facilitate the housing allocation.

43. Condition 34 is necessary to ensure accessible and adaptable dwellings. Finally, conditions 35, 36 and 37 clarify what is required at reserved matters stage with respect to matters of layout, appearance, and landscaping.
44. I have not included the plan in respect of off-site works at the Sheffield Road/Walford Road Roundabout as part of the plans condition (Condition 4) as this concerns land not in the control of the appellant. It is therefore included separately as a Grampian condition at Condition 13. There is nothing before me to conclude that it is unlikely or uncertain that these works will come forward within the relevant time scales imposed.
45. Condition 24, which relates to Biodiversity Net Gain, also needs to be a Grampian condition as it concerns off-site works. The land in question is currently in the control of appellant, therefore I am satisfied that it is reasonable that these works will come forward within the relevant time limits.
46. Protection of trees and hedgerows can be dealt with under reserved matters 'landscaping' as can timing of planting, seeding or turfing of any landscaping works. Full details of footpaths, cycle routes, open space, play facilities etc should also be dealt with under their respective reserved matters. Finally, details of boundary treatments would also come under reserved matters.

Conclusion

47. I have found that the development would not be inappropriate development in the Green Belt. Having had regard to all other material considerations, the appeal is allowed.

Hayley Butcher

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Howlett

He called:

Councillor Mark Foster

FOR THE APPELLANT:

Richard Sagar, assisted by Robert Moore and Rebecca Delaney

He called:

David Rolinson BA (Hons) MRTPI, Diploma in Planning and Environmental Law

Stewart Friel MSc BSc (Hons) MEnvSc

Jethrow Redmore BEng MSc CEnv MIAQM MEnvSc PIEMA

Peter Blair BEng CEng FICE FCIHT

Andrew Baker BSc (Hons) FCIEEM

Richard Walshaw MA

INTERESTED PERSONS WHO SPOKE AT THE INQUIRY:

Steve Clough

Paul Johnson

Alun Whittake

Matthew Evans

Eva Thompson

Stephen Thompson

Bridie Mahoney

Klair Cooper

Alex Platts

Chris Curzon

Chris Broadhead

Mel Hardy

Wendy Tinley

Lee Rowley MP

DOCUMENTS SUBMITTED DURING THE INQUIRY

ID1 Agreed and contested planning conditions

ID2 Appellant's Appearance List

ID3 Appellant's Opening Submissions

ID4 Attenuation Area Illustrative Long Section

ID5 Listing descriptions and Conservation Area

ID6 Conservation Officer's comment

ID7 Air Quality Note

ID8 Mining Note

ID9 Flood Risk and Drainage Note

ID10 Urban Design Note

ID11 Ecology Note

ID12 Highways and Transportation Note

ID13 RAGE Closing Statement

ID14 Summary of S106 Agreement

ID15 Council's Closing Statement

ID16 Appellant's Costs application

ID17 Appellant's Closing Statement

Schedule of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters"), shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Applications for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall start not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (CP-001-001), Existing Site Plan (CP-001-002), and Proposed Site Access on Upperthorpe Road A101182-P002, Proposed Northern Site Access on Upperthorpe Road SK001 Rev PO1 and Proposed Site Access on Green Lane A105669-P003 Rev A, only insofar as they relate to the position of the site accesses.
- 5) Any reserved matters application shall be submitted in general conformity with the Parameter Plan n2000 004 Rev B.
- 6) The part of the site which falls within the Green Belt shall be developed only for the provision of attenuation basins, footpaths, and cycle track(s). No new buildings, above ground level ancillary equipment, or structures associated with the attenuation basins shall be constructed in the Green Belt.
- 7) The site shall be developed for no more than 397 dwellings.
- 8) Before submission of the first reserved matters application a Phasing Plan shall have been submitted to and approved in writing by the local planning authority. The Phasing Plan shall include details of the maximum number of dwellings and other development to be implemented on-site within each phase, timescales for their delivery, be in general accordance with the Parameter Plan n2000 004 Rev B, and include the following essential components:
 - a) 3 no. access points into the site in the locations approved under this permission;
 - b) Surface water drainage;
 - c) Attenuation basins;
 - d) Footpaths including public rights of way;
 - e) Cycle route along the line of the Key Cycle Network;
 - f) Landscaping;
 - g) Retained trees and hedgerows;
 - h) 1 no. locally equipped area of play;
 - i) 4 no. local areas for play, and;
 - j) Minimum of 3.12ha communal green space(s) incorporating an outdoor youth facility.

- Any reserved matter application shall be submitted in accordance with the agreed Phasing Plan and the development shall be carried out as approved.
- 9) Before any works for the approved vehicular access points into the site are commenced full design details of each of the vehicular accesses shall have been submitted to and approved in writing by the local planning authority. The vehicular access points shall be provided in accordance with the approved details and the timescales approved as part of the Phasing Plan.
 - 10) Any sight lines agreed under condition [9] shall be maintained and retained thereafter as approved and kept clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
 - 11) Before the Green Lane access is brought into use Green Lane shall have been widened in accordance with details that shall have first been submitted to and approved in writing by the local planning authority and in general accordance with Plan A105669-P003A.
 - 12) Before 200 dwellings are occupied an assessment of operational capacity projected to the time of completion of the development at the Bridge Street/Sheffield Road priority junction shall have been submitted to and approved in writing by the local planning authority. If, following this assessment, it is shown to be necessary to mitigate any significant impacts from the development, before 200 dwellings are occupied, a mitigation scheme and timetable for implementation shall be submitted to and approved in writing by the local planning authority. The mitigation scheme and timetable shall be implemented in accordance with the approved details.
 - 13) Development shall not begin until the off-site works at the Sheffield Road/Walford Road Roundabout have been completed in accordance with plan A105668-P001.
 - 14) No buildings, structures or landscaping features shall be located within 3 metres of any sewer crossing the site, or, if diverted, within 3 metres of its diverted location.
 - 15) No built development shall take place within the zones of influence of any identified mine shafts.
 - 16) No development shall commence until the following requirements have been met:
 - a) Further intrusive site investigations to locate mine entry: 445379-009 shall have been undertaken and a report of those investigations and findings shall have been submitted to and approved in writing by the local planning authority. The report shall include recommendations for any remedial works required resulting from the findings;
 - b) A layout plan identifying the locations of all identified mine entries and the recommended 'no-build' zones shall have been submitted to and approved in writing by the local planning authority;
 - c) A written commentary on the condition and treatment details for the adit, to demonstrate that this area is, or can be made, safe, stable, and secure for its intended purpose as communal greenspace, shall

have been submitted to and approved in writing by the local planning authority;

- d) Remedial works as identified in Section 7 of the Technical Note and Drawing No. 16458-RLE-18-XX-DR-O-007 Rev A prepared by Rodgers Leask Environmental Ltd, together with any further remedial works identified pursuant to steps (a) and (c) above shall have been carried out;
- e) A validation report confirming that the site has been satisfactorily remediated and is safe for development shall have been submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved details.

- 17) No development shall commence until a land contamination Remediation Strategy for the site has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall provide for:
 - a) Details of further investigative works and gas monitoring that has been carried out;
 - b) Land remediation works in relation to the intended use of the land after remediation;
 - c) Gas protection measures on parts of the site;
 - d) 14 days' notice to be given to the local planning authority prior to commencing works in connection with the Remediation Strategy;
 - e) No dwelling to be occupied until the land has been remediated as set out in the Remediation Strategy; and
 - f) Timescale(s) for the carrying out of the remediation works.

The development shall be carried out in accordance with the approved Remediation Strategy, and upon completion, a validation report shall be submitted to and approved in writing by the local planning authority before the development is first occupied.

- 18) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. The schemes shall be carried out as approved before the development is resumed.
- 19) No development shall commence until a Written Scheme of Investigation (WSI) for archaeological work has been submitted to and been approved in writing by the Local Planning Authority.

The first (evaluation) stage of the WSI shall take place in accordance with the Westthorpe Colliery, Killamarsh, Written Scheme of Investigation for Archaeological Evaluation – Wessex Archaeology Document Ref: 205023.01 March 2022. The scheme shall include an assessment of significance and research questions; and

- a) The programme and methodology of site investigation and recording;
 - b) The programme for post investigation assessment;
 - c) Provision to be made for analysis of the site investigation and recording;
 - d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e) Provision to be made for archive deposition of the analysis and records of the site investigation;
 - f) The nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- 20) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition [19].
- 21) No development shall commence until a scheme for surface water drainage works has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) Details of the design of the scheme which shall be a sustainable drainage scheme unless an assessment of ground conditions has shown that to be impracticable;
 - b) Details of the assessment of ground conditions undertaken;
 - c) Details of the design of the attenuation basins to be in broad accordance with the "surface water attenuation" area shown on Parameter Plan n2000 004 Rev B;
 - d) Plans showing the existing and proposed topography/land levels in the area shown to be for the accommodation of the attenuation basins;
 - e) Details for the proposed culvert/swale connecting the on-site ditch to the Park Brook and any associated easement/mitigation requirements;
 - f) A management and maintenance plan and scheme which shall include the arrangements for adoption by any public body or statutory undertaker, and/or any other arrangements to secure the effective management, maintenance and operation of the drainage scheme throughout the lifetime of the development.
- The scheme for surface water drainage works shall be implemented in accordance with the approved details and timescale approved pursuant to the Phasing Plan approved under condition [8]. Thereafter the drainage scheme shall be managed and maintained in accordance with the approved details.
- 22) No more than 200 dwellings shall be occupied until a verification report carried out by a qualified drainage engineer has been submitted to and approved in writing by the local planning authority. The report shall demonstrate that the drainage system has been constructed in accordance with the approved scheme, provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 23) No development shall commence on any phase until a landscape and ecological management plan (LEMP) for that phase has been submitted to

and approved in writing by the local planning authority. The LEMP should combine both the ecology and landscape disciplines and shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan and details of legal and funding mechanisms;
- h) Ongoing monitoring visits, targets, and remedial measures when conservation aims of the LEMP are not being met;
- i) Locations of bat boxes, bird boxes, hedgehog holes and habitat piles etc (including specifications/installation guidance/numbers);
- j) Details of sensitive lighting;
- k) Details of SuDS design and how this will benefit wildlife;
- l) Details of amphibian safeguarding measures e.g. offset gullies and drop kerbs;
- m) Timescales for implementation of the LEMP having regard to the approved Phasing Plan under Condition [8] and ongoing management and maintenance.

The LEMP shall be implemented, managed, and maintained in accordance with the approved details and timescales.

- 24) Development shall not begin until a scheme for off-site habitat and biodiversity enhancements on land immediately to the south of the appeal site has been submitted to and approved in writing by the local planning authority. The scheme shall, along with on-site measures, deliver net gain for biodiversity by reference to the Defra metric 3.1 and shall include a timescale for implementation, and an ongoing management and maintenance plan with timescales. The scheme shall be implemented, managed and maintained in accordance with the approved details and timescales.
- 25) No development, site clearance, or preparatory work on any phase shall commence on any phase of development until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of "biodiversity protection zones";
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be

provided as a set of method statements and include a summary of protected species licensing requirements);

- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs.

The CEMP shall be implemented in accordance with the approved details throughout the construction period of that phase of the development.

- 26) No removal of any hedgerow, trees, or shrubs shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist. If nesting birds are present, an appropriate exclusion zone(s) shall be defined and monitored until the chicks have fledged. No works shall be undertaken within any exclusion zone(s) whilst nesting birds are present.
- 27) Concurrent with the submission of any reserved matters application, for each phase of development, a detailed lighting strategy shall be submitted to and approved in writing by the local planning authority. The lighting strategy shall be fully implemented before that phase of development is brought into use and shall be permanently retained thereafter.
- 28) Prior to the commencement of development a scheme to enhance and maximise employment and training opportunities during any construction phase, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall then be implemented in accordance with the approved timetable.
- 29) No development shall commence on any phase of development until details of measures for the avoidance of surface water run-off from the site during construction for that phase has been submitted to and approved in writing by the local planning authority. Development of that phase shall be carried out in accordance with the approved measures for the duration of construction.
- 30) No development shall commence on any phase of development until a Construction Management Plan (CMP) for that phase has been submitted to and approved in writing by the local planning authority. The CMP shall provide for:
 - a) Construction access;
 - b) Parking of vehicles of site operatives and visitors;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used in constructing the development;
 - e) The erection and maintenance of security hoardings/fencing;

- f) Wheel washing facilities;
- g) Measures to control the emission of dust and dirt during construction;
- h) A scheme for recycling/disposing of waste resulting from construction works;
- i) Delivery and construction working hours;
- j) Access to the site for construction traffic;
- k) Routes for any construction traffic to the site, including abnormal loads/cranes etc;
- l) Method of preventing debris being carried on to the highway;
- m) Pedestrian and cyclist protection; and
- n) Any proposed temporary traffic restrictions.

The CMP shall be implemented in accordance with the approved details throughout the construction period of that phase of development.

- 31) For each phase of the development a scheme of sound insulation shall be submitted to and approved in writing by the local planning authority and any sound insulation measures contained therein shall be fully implemented before occupation of that phase of development and shall be permanently retained thereafter.
- 32) No dwelling shall be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals (including a timetable for implementation), to promote travel by sustainable modes. The approved Travel Plan shall be implemented in accordance with the details and timetables set out therein. Reports demonstrating the implementation of the Travel Plan shall be submitted annually, on each anniversary of the date of the planning permission, to the local planning authority, for five years following the date at which the first dwelling is occupied.
- 33) No dwelling shall be occupied until a scheme for improvements to the environmental quality and accessibility of Green Belt land in the vicinity of the site to the south (the general extent of which is shown on the Accessibility Enhancement Plan n2000) has been submitted to and approved in writing by the local planning authority. The scheme shall include a timescale for implementation and details of ongoing management and maintenance. The scheme shall be implemented, managed, and maintained in accordance with the approved details.
- 34) A minimum of 20% of the dwellings hereby approved shall be accessible and adaptable dwellings and shall comply with requirement M4(2) of the Building Regulations 2015 or any equivalent government standard.
- 35) Any reserved matters application shall include plans for the internal layout and design of the streets and all on-site parking provision, for that phase of development.
- 36) Any reserved matters application shall include details of proposed finished floor levels of all buildings and proposed finished ground/land levels of the site relative to a fixed datum, for that phase of development.

- 37) Any reserved matters application shall include full details of footpaths, cycle routes, LEAP, LAPs, communal green spaces, outdoor youth facility, and structural landscaping as may be relevant for that phase of development, including details of funding and delivery mechanisms and arrangements for ongoing maintenance and management, for that phase of development.

Richborough Estates