



Appeal Decision

Hearing held on 8 August 2023

Site visits made on 7 and 8 August 2023

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2023

Appeal Ref: APP/U4610/W/23/3319687

A444 Land at Wilsons Lane, Coventry, CV6 6HN

- 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 L&Q Estates Ltd against the decision of Coventry City Council.
- The application Ref OUT/2020/1505, dated 25 June 2020, was refused by notice dated 7 October 2022.
- The development proposed is outline application for the demolition of existing buildings and the erection of up to 73 dwellings and up to 55,750 sqm of employment/commercial floor space (comprising of 50,000 sqm of B8 use (including 2,500 sqm ancillary E(g)(i) office) and 5,750 sqm of B2/B8/E(g)(iii) uses (including 300 sqm ancillary E(g)(i) office)), complete with access, local area for play (LAP), land remodelling, landscaping, attenuation and the diversion of the Public Right of Way (REF B25) with all matters reserved except for access.

Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of existing buildings and the erection of up to 73 dwellings and up to 55,750 sqm of employment/commercial floor space (comprising of 50,000 sqm of B8 use (including 2,500 sqm ancillary E(g)(i) office) and 5,750 sqm of B2/B8/E(g)(iii) uses (including 300 sqm ancillary E(g)(i) office)), complete with access, local area for play (LAP), land remodelling, landscaping, attenuation and the diversion of the Public Right of Way (REF B25) with all matters reserved except for access. at A444 Land at Wilsons Lane, Coventry, CV6 6HN in accordance with the terms of the application, Ref OUT/2020/1505, dated 25 June 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by L&Q Estates Ltd against Coventry City Council (CCC). This application is the subject of a separate Decision.

Preliminary Matters

3. The proposed development forms part of a cross boundary planning application with Nuneaton and Bedworth Borough Council (NBBC). The appeal scheme, which is within the administrative area of CCC forms a small section of the wider scheme, with majority of the proposed development to be located within the administrative area of NBBC.
4. In such circumstances the Planning Practice Guidance¹ (PPG) states that:

'Where a site which is the subject of a planning application straddles one or

¹ Paragraph: 011 Reference ID: 14-011-20140306

more local planning authority boundaries, the applicant must submit identical applications to each local planning authority’.

5. Whilst the PPG does not provide any guidance on scenarios where local planning authorities reach different conclusions on a cross boundary planning application, CCC does not have the ability to determine any part of the wider scheme under the jurisdiction of NBBC. I too, do not have any such jurisdiction. Thus, the determination of this appeal is against the decision made by CCC on the application (the CCC application) listed in the banner heading above.
6. Before the close of the hearing, it was agreed with all parties that the interested parties present at the event could submit written comments only in relation to objections received on the planning application after the hearing had closed. Following this written process, the appellant was given the opportunity to respond to the comments received. The parameters of this process was clearly explained at the event, including the relevant deadlines for submissions, and all parties acknowledged and agreed to these terms at the event. I have taken these additional comments received into consideration in the determination of this appeal.
7. Additionally, due to an increase in cost of a residential parking scheme (RPS) being provided orally at the event by the Council, contrary to previous advice provided to the appellant, a written process was also agreed. This process allowed the Council to substantiate the increase in cost and gave the appellant the opportunity to decide whether they wished to potentially pursue the funding of a RPS, secured through a Unilateral Undertaking (UU). I consider these further below and will not prejudice any party by taking this approach.
8. Outline planning permission is sought, but with all matters reserved, except for access. During discussions at the event, the Council advised that it considered that the scheme was no longer in conflict with Policy AC2 of the Coventry City Council Local Plan, 2017 (LP). Furthermore, the National Design Guide (NDG) has been referred by the Council in its decision notice, who also sought to justify its inclusion at the event. However, given the nature of the application and the matters under consideration, I find the NDG is not directly applicable to the case before me. Additionally, it is common ground between the main parties that the submitted Masterplan² (the Masterplan) is for indicative purposes only. I have determined the appeal on this basis.

Main Issues

9. Following, the matters raised in the Council’s refusal reason on its decision notice, the main issues are whether the proposed development:
 - would create any highway safety issues; and,
 - would affect the living conditions of existing neighbouring residents, with particular regard to vehicle movements/parking.

Reasons

Background

10. The NBBC application³ that comprises majority of the cross boundary

² BIR.4240_008_01 REV W

³ 037237

application had a resolution for approval on 24 May 2022, and the decision notice was issued on 21 March 2022. The CCC application, subject of this appeal was recommended by its officers for approval on 2no. occasions. However, following an initial deferral on 19 September 2022 to enable Members to carry out a site visit, CCC resolved at Planning Committee on 6 October 2022 to refuse the application.

Highway safety

11. The Council have confirmed in its submission that the refusal reason does not relate to the technical trip generation and highway capacity modelling data that was provided and assessed at application stage by CCC Local Highway Authority (LHA) in partnership with Warwickshire County Council (WCC), who are the LHA for the majority of the wider site under the administration of NBBC. Highways England were also involved to provide a co-ordinated approach and agreed mitigation for the strategic road network, Junction 3 of the M6 and the Longford roundabout.
12. The Council confirms in its statement that its refusal reason relates to residents living very locally around Wilsons Lane and Old Farm Lane and the impact of employee parking/drop offs/pick-ups. At the event an interested party mentioned that residents on Rowley's Green Lane should be considered too. However, after visiting all of the aforementioned roads and the discussions at the event, I do not consider it to be likely that Rowley's Green Lane would be affected through the vehicular activities, subject of this appeal, particularly given the distance from the site. The Council's concerns are heightened in this regard due to the potential 24-hour operation of the commercial element of the proposed development and the resultant shift patterns.
13. The Council do not dispute the findings of the detailed Transport Assessment⁴ (TA) and accepts that CCC and WCC LHAs, and Highways England do not object to the proposed development, considering that any issues could be mitigated through the imposition of suitably worded conditions and/or Section 106 agreements. This is a material consideration of significant weight in the overall balance.
14. I accept that the exact number of employees at this stage is unknown, but note that the projections advanced by the appellant have been accepted by CCC and WCC LHAs, and Highways England. In the absence of alternative figures to the contrary, I am satisfied that the data supplied by the appellant is an accurate reflection of the likely impact from the proposed development with regard to highways matters. The Council do not dispute the figure of 8% quoted in the TA for employees travelling to work as a passenger and that a maximum of 15no. employees would arrive in a single hour as a vehicle passenger during the 2no. peak periods⁵. Whilst this does not cover the hours of 19:00 to 07:00, I accept that the maximum figure for a single hour is unlikely to be greater.
15. Furthermore, the TA has demonstrated that the site is sustainably located, providing opportunity for the future residents and employees to be less reliant on the use of the private car. Whilst a pedestrian/cycle track is likely to be incorporated within the proposed development from Old Hall Lane, the

⁴ The Transport Assessment (May 2021, Ref: 16117-TA-01)

⁵ 07:00 – 10:00 and 16:00 – 19:00 Table MPG1 of the Transport and Highways Appeal Statement by Jubb dated May 23

appellant is of the view through a journey time assessment that it would be quicker to drive to the main employment access off Pickards Way, than to drive to Wilsons Way and Old Farm Lane. This itself would reduce the likelihood of employees being picked up and dropped off.

16. I consider this likelihood would be further increased, when introducing the 'human factor' during periods of inclement weather or during hours of darkness, including night shift operations. Overall, I am confident that a satisfactory level of vehicle parking within the site and a dedicated drop off/pick up area could be secured at reserved matters stage, in conjunction with a Green Travel Plan to promote sustainable transport. Given the previous collaboration between the appellant, CCC, NBBC, WCC and Highways England, I have no doubt that further successful collaboration would occur in the future to prevent highway safety issues on Wilsons Way and/or Old Farm Lane.
17. For the reasons given above, I conclude the proposed development would not give rise to conditions prejudicial to highway safety with particular regard to Wilsons Lane and Old Farm Lane. Consequently, the proposed development accords with the highway safety aims of LP Policies H3, JE5, and AC3, which require conformity with all other relevant plan policies, have good access to a primary route on the highway network and an acceptable impact on the capacity of that network and a requirement to provide Transport Assessments/Travel Plans, amongst other things. The proposed development would also not conflict with the requirements of the National Planning Policy Framework (the Framework).

Living conditions

18. My conclusion on the previous main issue has a direct bearing on the findings on this matter. I have already accepted the details supplied by the appellant in relation to vehicle movements. I consider that such movements in relation to employee pick up/drop off, and parking on Wilsons Lane and Old Farm Lane will not be excessive, if at all. However unlikely, if any employees in private vehicles are attracted to Wilsons Lane or Old Farm Lane, the Council's Environment Protection Officer does not object to the scheme, which is a material consideration of significant weight.
19. In the event that people are dropped off on Wilsons Lane or Old Farm Lane, the appellant has demonstrated that only in the event of car doors slamming would there be any adverse impact with regard to noise, which I consider would be an extreme occurrence. At the event, concerns were raised surrounding loud voices and music from car audio systems. However, whilst indicative, the layout of the Masterplan would mean that any vehicle movements relating to pick ups and drop offs would be away from existing properties and opposite the proposed residential units within the administration of NBBC. Regardless of the location of potential vehicle movements, I am satisfied that any adverse issues could be adequately addressed through the imposition of suitably worded conditions to ensure that otherwise unacceptable development could be made acceptable.
20. For the reasons given above, I conclude the proposed development would not unacceptably harm the living conditions of residents, with particular regard to those present on Wilsons Lane and Old Farm Lane. Consequently, the proposed development accords with the amenity aims of LP Policies H3 and JE5, which require conformity with all other relevant plan policies, would not result in

significant harm to the amenities of persons occupying nearby residential property or other land occupied by uses sensitive to environmental pollution, amongst other things. The proposed development would also not conflict with the requirements of the Framework.

Other Matters

21. I have had regard to the considerable number of objections received from local residents and others, including local councillors as part of this appeal. I also note the views expressed by those interested parties who attended the hearing, some of whom spoke as representatives of local and regional interest groups, expressing a wide range of concerns including, but not limited to the following: the principle of development; the wider highway network; safety of pedestrians, particularly school children; air quality; living conditions of residents elsewhere in the locality; fire safety; flooding; public footpaths and the validity of the NBBC application, including its legal agreement, amongst other things.
22. However, I note that these matters were considered where relevant by the Council at its meeting on 6 October 2022. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
23. The appellant has offered a UU to facilitate an expansion of the existing RPS on Old Farm Lane to support their submission. This has not been requested by the Council. However, for the reasons set out above, I do not consider that such an extension to the RPS is required. Thus, the UU is not necessary to make the development acceptable in planning terms.

Conditions

24. I have considered what planning conditions would be appropriate in light of the discussion at the hearing, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the PPG. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans/documents is necessary.
25. Pre-commencement conditions relating to the submission of a Construction Management Plan; Construction Ecological Management Plan; Biodiversity Enhancement and Management Plan; Arboricultural Method Statement; Construction Environmental Management Plan; Geotechnical Consultant; surface water drainage scheme; site levels and finished floor levels are all reasonable and necessary in the interest of the living conditions of neighbouring occupiers, highways safety and the environment.
26. Pre-occupation conditions relating to signalised junctions; access to Sowe Meadows local wildlife site; green travel plan; maintenance plan; lighting; emergency link to Wilsons Lane: footway and cycle connections; flood plain storage; electric vehicle charging points, dropping off and picking up areas for vehicles are all reasonable and necessary in the interests of highway safety, sustainable travel, flooding and the environment.
27. Other conditions have been included surrounding location of employment area;

Toucan crossings; Landscape and Ecology Management Plan; external materials, sustainable construction; mobile plant and vehicles; noise assessment; details of the fixed plant and/or machinery; NOx emission rate; access; specifications of footpaths and cycle routes; location of parking, loading bays, manoeuvring and dock areas; landscaping; external storage; parking restrictions and boundary treatments. These are all reasonable and necessary in the interests of highway safety, the environment, character and appearance and living conditions.

28. The Council raised concerns in its submission in respect of Condition 15 vii) (originally suggested condition 20 vii)) as they did not consider it to be sufficient. Thus, both parties provided an additional condition (suggested Conditions 40) for consideration to elaborate on the thrust of Condition 15 vii). There was agreement orally between the main parties at the event that both the suggested Conditions 40 were acceptable and enforceable. Therefore, whilst I have kept the wording of Condition 15 vii), similar to that originally suggested, I have also included the suggested Condition 40 (Condition 23) from the Council. Whilst both suggested Conditions 40 were accepted, the Council's version is more succinct.

Planning Balance and Conclusion

29. Given my findings above, the proposed development accords with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It also complies with the requirements of the Framework.
30. For the reasons given above, I conclude that the appeal should succeed.

W Johnson

INSPECTOR

SCHEDULE OF CONDITIONS

Time Limit

- 1) Approval of the details of the appearance, landscaping, layout and scale (hereinafter called ""the reserved matters"") shall be obtained from the local planning authority in writing before any development is commenced and the development shall be carried out in full accordance with those reserved matters as approved.
- 2) Application for approval of the reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.
- 3) The development hereby permitted shall begin within 3 years of the date of this permission or within 2 years of the final approval of the reserved matters, whichever is the later.

Approved drawings

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: BIR.4240_02 Rev E, BIR.4240_021_01 Rev Q, BIR.4240_26 REV L, SK_T_093 (P1) in Transport Assessment Addendum March 2022, SK_T_086 Rev P10 in Transport Assessment Addendum March 2022, SK_T_026 (P8) in Transport Assessment Addendum March 2022, 16117_SK_T_77 P 2 in Transport Assessment Addendum March 2022.

Pre-commencement

- 5) No development (including any demolition) shall take place unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of: i) hours of work; hours of deliveries to the site; the parking of vehicles of site operatives and visitors during the demolition/construction phase; the delivery access point; the loading and unloading of plant and materials; anticipated size and frequency of vehicles moving to/from the site; the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during demolition and construction; measures to control the presence of asbestos; measures to minimise noise disturbance to neighbouring properties during demolition and construction; details of any piling together with details of how any associated vibration will be monitored and controlled; and a scheme for recycling / disposing of waste resulting from demolition and construction works.

Thereafter, the approved details within the CMP shall be strictly adhered to throughout the construction period and shall not be amended in any way.

- 6) No development including site clearance, groundworks and demolition shall commence for that particular phase for either the a) employment, b) residential area or (c) signalised junction on to the B4113 (as listed in

condition 13), until a Construction Ecological Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority for that phase. The approved CEMP shall contain details of:

- i. Timing, method, forms of and extent of vegetation clearance.
- ii. Any pre- construction checks required including for the demolition.
- iii. Site clearance/demolition methods.
- iv. The species safeguards to be employed
- v. Extent of buffer zones and stand offs for retained habitat and sensitive ecological features.
- vi. Any temporary lighting to include a scheme to outline how the lighting scheme avoids potential negative effects upon the habitats used by foraging and commuting bats as evidenced by a suitably qualified and experienced ecologist and will demonstrate the full prevention of light spill into open space and ecological areas on lighting contour diagrams and to ensure no impact to neighbouring residential properties.
- vii. Timetable for presence of ecologist for key operations as applicable such as vegetation and tree clearance / demolition of farm buildings, works to existing Suds.
- viii. Details of protective fencing and stand offs to sensitive ecological and water areas.
- ix. What to do if protected species are discovered during construction.
- x. Badger Mitigation Strategy: A detailed Badger Mitigation Strategy will be produced, informed by updated badger survey work on-site. The strategy will include impact avoidance and mitigation measures and the necessity for a Natural England derogation licence, as necessary.
- xi. Details of the body or organisation responsible for the implementation and ongoing management, monitoring and remedial actions of the plan, including the mechanism for funding.

The CEMP shall be adhered to throughout the clearance/construction period as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

- 7) No development including site clearance shall commence for that particular phase of either the a) employment, b) residential area or (c) the signalised junction on to the B4113 (as listed in condition 13) until a Biodiversity Enhancement and Management Plan has been submitted to and approved in writing by the Local Planning Authority for that phase. The content of the management plan shall include the:

- i. Purposed and objectives for the proposed mitigation works.
- ii. Detailed design and/or working method(s) necessary to achieve stated objectives
- iii. Traditional hedge laying and gapping up with wide range of native shrub species.
- iv. Details of retained ecological areas and extent and location of proposed works shown on appropriate scale maps and plans.
- v. Details of provision of bird and bat boxes and hedgehog friendly fencing.
- vi. Marginal and Emergent Pond planting for the Suds and pond features.

vii. Timings for implementation and grassland creation methods.

viii. Future management plan to sustain created habitat for the lifetime of the development.

ix. Timetable for ecologist monitoring visits to check habitat creation, establishment and ongoing management and maintenance to ensure BIA targeted habitat conditions and time to targeted conditions are met and sustained.

The works shall be carried out in strict accordance with the approved details and shall be retained in that manner thereafter.

- 8) No development including site clearance shall commence in either a) employment, b) residential or (c) the signalised junction on to the B4113 (as listed in condition 13) until a scheme for that phase has been submitted to and approved in writing by the Local Planning Authority for an Arboricultural Method Statement giving details of all existing trees and hedgerows on the site and any to be retained. No tree or hedgerow other than those shown within the Arboricultural Impact Assessment (April 2022) shall be removed unless otherwise agreed. The Method Statement scheme shall show the typical canopy extent of the retained trees at maturity. The scheme shall also include details of the gapping of the hedgerows and measures for the protection of the trees and hedgerows in the course of the development in accordance with BS 5837:2012. No construction including site clearance shall commence unless the approved measures for the protection of the trees and hedgerows have been provided and are maintained during the course of development.
- 9) No groundwork including site clearance and demolition shall commence or continue without the attendance of a Geotechnical Consultant present for the groundwork in that phase. If during implementation of this development, contamination is encountered which has not previously been identified, then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority before the additional remediation works are carried out. The remediation strategy shall be implemented as approved.
- 10) No development including site clearance and demolition shall commence for that particular phase of development for either the a) employment, b) residential area or (c) the signalised junction on to the B4113, until a Construction Environmental Management Plan has been submitted to and approved in writing for that phase by the Local Planning Authority in conjunction with the Environment Agency and Lead Local Flood Authorities at Warwickshire County Council and Coventry City Council. The content of the management plan shall include the details for the wider environmental controls and best practice construction management and avoidance methods. Details to include the protection of waters including the river, ditches and existing Suds during the proposed works and provisions made to the drainage of the site to ensure there are no temporary increases in flood risk, on or off site, during the construction phase. This must include the planned demolition/construction works and the deposition of silts and cementitious materials. The works shall be carried out in strict accordance with the approved details.

- 11) No development shall commence for that particular phase for either a) employment or b) residential area, until a detailed surface water drainage scheme has been submitted to and approved for that phase by the Local Planning Authority in conjunction with the Environment Agency and Lead Local Flood Authorities at Warwickshire County Council and Coventry City Council. The scheme is to be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme to be submitted shall include the following information:
- i) Finished floor levels shall be set no lower than 600mm above the relevant 100 year flood event plus relevant climate change percentage uplift.
 - (ii) All built development shall be sited within Flood Zone 1.
 - (iii) There shall be no ground level raising within Flood Zones 3 or 2.
 - (iv) Demonstrate that the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753 through the submission of plans and cross sections of all SuDS features.
 - (v) Limit the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 79.8 l/s.
 - (vi) Demonstrate the provisions of surface water run-off attenuation storage are provided in accordance with the requirements specified in 'Science Report SC030219 Rainfall Runoff Management for Developments'.
 - (vii) Demonstrate detailed design (plans, network details and calculations) of the surface water drainage scheme including details of all attenuation and outfall arrangements. Calculations should demonstrate the performance of the designed system for the critical storm duration for at least the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods. The calculations should be supported by a plan of the drainage network with all manholes and pipes labelled accordingly.
 - (viii) Provide plans and details showing the allowance for exceedance flow and overland flow routing. Water must not be directed toward properties nor flow onto third party land. Overland flow routing should look to reduce the impact of an exceedance event.
 - (ix) Evidence must be provided to show the management of overland flow routes in the event of exceedance or blockage of the drainage system. Details should include demonstration of how the buildings will be protected in such an event.
 - (x) Details of a scheme to install vehicular traffic pollution control measures within the car parking facilities, shut-off valve together with oil and petrol separators with high level alarm.
 - (xi) Provide evidence to show an agreement from Environment Agency to connect to the outfall from the development into the River Sowe.
 - (xii) Provide evidence to show an agreement from Severn Trent Water to connect to the outfall from the development into their mains foul drainage. The scheme shall subsequently be implemented in accordance with the approved details before the areas come into use.
- 12) No development shall commence until full details of the site levels and finished floor levels on that particular phase of either the a) employment, b) residential area or (c) the signalised junction on to the B4113 has been submitted to and approved in writing by the Local Planning Authority. No construction work shall be carried out other than in accordance with the

approved details unless otherwise agreed in writing by the Local Planning Authority.

Prior to occupation

- 13) There shall be no occupation of the employment area of the site until the signalised junction on the B4113 has been completed to the satisfaction of the planning authority in consultation with the Highway Authority, broadly in accordance with Drawing No. SK_T_086 Rev P10. Should the Highway Authority formally make the TROs for the reduction in speed limit on the B4113 and the HGV signage scheme in broad accordance with Drawing No. SK_T_094 Rev P2, the installation of the associated signage shall also be completed.
- 14) No dwelling shall be occupied until the location, gates and track details into the Sowe Meadows Local Wildlife Site, suitable for a tractor has been submitted and approved in writing by the Local Planning Authority. This shall be created prior to the first occupation of any dwelling to provide direct access from the southern boundary to allow access into the Local Wildlife Site for maintenance. The gate and access are to be retained for the lifetime of the development for the use of the Council.
- 15) No employment units shall be occupied until a Green Travel Plan (to promote sustainable transport choices to the employment site) has been submitted to and approved in writing by the Local Planning Authority. The approved measures (and any variations so approved) shall continue to be implemented in full at all times. The plan shall include:
 - i) Specify targets, measures, ways of monitoring and support for employees and visitors traveling to and from the site to be encouraged to travel by foot, cycle, public transport, shared vehicles and other modes of transport which reduce emissions and the use of non-renewable fuels.
 - ii) Set out measures designed to achieve those targets together with timescales and arrangements for their monitoring, review and continuous improvement.
 - iii) Identify a senior manager of the business using the site with overall responsibility for the plan and a scheme for involving employees of the business in its implementation and development.
 - iv) Monitored Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies.
 - v) Measures to support an Electric Vehicle Plan.
 - vi) Designated parking spaces and differentiated parking charges for low emission vehicles.
 - vii) A dedicated area within the employment site for vehicles dropping off and picking up employees (Also see Condition 23).
- 16) There shall be no occupation or subsequent use for that particular phase of either the a) employment or b) residential area until a detailed long-term inspection and maintenance plan, written in accordance with CIRIA C753, is implemented and provided in writing to the Local Planning Authority for approval. Details within the management plan are to include how surface

water systems shall be maintained and managed for the lifetime of the development including the installation of vehicular traffic pollution control measures within areas for parking including shut-off valves together with oil and petrol separators with high level alarm along with a periodic maintenance plan. This must include the name of the party responsible, including contact name and details. The details should also mention any notable Health and Safety or specialist training, and special equipment required as part of the routine maintenance. The approved maintenance plan shall be carried out for the lifetime of the development.

- 17) No development shall be occupied until a scheme for the permanent lighting to be used on that particular phase of either the a) employment, b) residential or (c) the signalised junction on to the B4113 area has been submitted to and approved in writing by the Local Planning Authority for that phase. This scheme should outline how the lighting scheme avoids potential negative effects upon the habitats used by foraging and commuting bats as evidenced by a suitably qualified and experienced ecologist and will demonstrate the full prevention of light spill into open space and ecological areas on lighting contour diagrams as well as impact to residential properties. The development shall not be carried out other than in accordance with the approved details.
- 18) No development shall be occupied on that particular phase of either the a) employment or b) residential area until full details of the boundary treatments necessary for that particular phase, including new walls and fences (including acoustic fences) have been submitted to and approved in writing by the Local Planning Authority. No unit shall be occupied on that phase until the boundary treatments have been provided in accordance with the approved details. This is to include: i) For the employment phase, acoustic fences between the proposed employment uses and existing and proposed residential properties. ii) For the residential phase, close boarded/acoustic fence to Gallagher Business Park.
- 19) No employment unit shall be occupied until the emergency link connecting the employment site to Wilsons Lane has been completed. (NB. Access to Wilsons Lane is shown on plan: SK_T_026 (P8) Combined Pedestrian / Cycle Path & Emergency Access off Wilsons Lane.
- 20) Neither the employment area or residential area shall be occupied until the footway/cycleway connections is constructed broadly in accordance with Drawings 16117_SK_T_069 Rev P2 and 'Bedworth to Coventry Cycle Route Sheet 6 of 6 to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.
- 21) No employment unit shall be occupied until ground levels within Flood Zone 3 of the River Sowe will be lowered to create an additional 650 cubic metres of fluvial floodplain storage, as detailed in drawing SK_C_034 Rev P4; SK_C_033 Rev. P5, and the submitted flood risk assessment ref: 16117-FRA&DS-01 v10 dated May 2021, to benefit areas downstream of the site. The measures shall be retained and maintained thereafter throughout the lifetime of the development.
- 22) No dwellings or employment units shall be occupied until electric vehicle (EV) charging points are provided for that phase, at a rate of; Residential: 1

charging point per unit (dwelling with dedicated parking) or 1 charging point per 10 spaces (unallocated parking) and ensure appropriate cabling is provided to enable increase in future provision.

Commercial/Retail: 10% of parking spaces (32 amp) which may be phased with 5% initial provision and the remainder at an agreed trigger level. At least 1 charging unit should be provided for every 10 disabled parking spaces. Where 50 parking spaces or more are provided then 1 rapid charging unit (43kW/50kW) per 50 spaces shall be provided.

Industrial: 10% of parking spaces which may be phased with 5% initial provision and the remainder at an agreed trigger level. At least 1 charging unit should be provided for every 10 disabled parking spaces. Where 50 parking spaces or more are provided then 1 rapid charging unit (43kW/50kW) per 50 spaces shall be provided.

In addition, at that time, the developer is to ensure appropriate cabling is provided to enable increase in future provision.

- 23) No employment units shall be occupied until a plan showing a dedicated area within the employment site for vehicles dropping off and picking up employees and a Management Plan has been submitted to and approved in writing by the Local Planning Authority.

The Management Plan shall be specific to Old Farm Lane/Wilsons Lane to ensure the Management Plan will be implemented and ensure no employees are using Farm Lane/Wilsons Lane for pick up, drop off or parking. All details should be implemented for the life of the development.

Other

- 24) At reserved matters stage the buildings within Employment Area 1 and Employment Area 2 on the approved land use plan Dwg No.BIR.4240_021_01 Rev Q shall be located a minimum of 20 metres from existing dwellinghouses.
- 25) The Toucan crossings shall be constructed in general accordance with Drawing 'Proposed Dual Toucan Crossing' and the specification of the Highway Authority as part of the Section 278 works to construct the Longford Road roundabout mitigation scheme.
- 26) No development above ground level shall commence for that particular phase of either the a) employment, b) residential area or (c) the signalised junction on to the B4113 until a Landscape and Ecology Management Plan (LEMP) and habitat establishment plan has been submitted and approved in writing by the Local Planning Authority for that phase. The Plan is to indicate a scheme for the long-term management and details of the future management organisation including open space, green infrastructure and planting within the public realm and details of biodiversity management. This will need to provide details of the competencies of these management bodies. The open space, green infrastructure and planting shall thereafter be managed in accordance with the approved Landscape Management Plan for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

- 27) No built development above slab level shall commence for that particular phase for either the a) employment or b) residential area, until full details and samples of materials proposed to be used in the external parts of any building have been submitted to and approved in writing by the Local Planning Authority for that phase. The development shall not be carried out other than in accordance with the approved details.
- 28) No development above ground level for that particular phase of either the a) employment or b) residential area, shall commence until details of the following are submitted and approved in writing by the Local Planning Authority for that phase:
- i) Open Air storage or attenuation in the form of a wet pond, dry basin, swale or other similar surface feature, aimed at managing water quantity, quality and introducing biodiversity at the ground surface.
 - ii) Rainwater harvesting systems.
 - iii) Use of water quality control medium such as permeable paving, filter drains, rain gardens, ponds or swales aimed at improving the quality of water passing through the system either above or below ground.
 - iv) The use of grey water systems where appropriate.
 - v) Maximise the use of green roof technology on suitable roof structures within the development. No unit shall be occupied until the agreed system has been provided in accordance with the approved details. (Failure to make the most of these water saving devices/water brakes will need written justification).
- 29) No mobile plant or vehicles used within the employment site and controlled by the operator shall be used on the site unless fitted with broad band 'white' noise reversing alarms and maintained in accordance with the manufacturer's recommendations.
- 30) Any reserved matters submission pertaining to scale and layout, for the employment development, shall be supported by a Noise Assessment undertaken in accordance with BS4142:2014+A1:2019 'Method for Rating and Assessing Industrial and Commercial Sound'. The report shall be undertaken by a competent person and evidence of their qualifications shall be included (a list of acoustic consultants can be obtained from the Institute of Acoustics - www.ioa.org.uk). The assessment shall include all activities including: potential noise resulting from activity of the employment development, use of service yards and associated vehicle movements (HGV's, delivery vehicles, shunters, forklifts etc.) parking areas, building services, plant and machinery. Background levels shall be measured over two separate 24 hour periods to be agreed with the Local Planning Authority prior to monitoring being undertaken. The report shall provide a scheme of noise mitigation measures, as necessary, detailing works required to safeguard the amenity of residents in the adjacent residential properties. A map of monitoring points should be included together with full justification as to why these locations were selected. Calibration certificates for equipment used in the noise assessment must be submitted in the report. Thereafter the approved details shall be carried out strictly in accordance with all the recommendations contained within the approved noise report prior to first occupation of the phase of development and mitigation

measures shall be maintained in accordance with the approved details thereafter and shall not be removed or altered in any way.

- 31) No fixed plant and/or machinery shall be operated at any industrial unit unless and until details of the fixed plant and/or machinery, including any mitigation measures for each industrial unit, has been submitted to and approved in writing by the Local Planning Authority. The rating level of the noise emitted from the plant and machinery shall not exceed the current background noise level at the nearest off-site residential receptor. The noise levels shall be determined by measurements or calculations at the nearest off site, noise sensitive premises. The measurements and assessment shall be made according to BS 4142:2014. All details shall be carried out as approved prior to first occupation of the development and any mitigation measures shall remain in place thereafter and shall not be removed or altered in any way.
- 32) Any gas boilers installed within the residential dwellings hereby approved shall have a dry NOx emission rate of no more than 40mg/kWh.
- 33) Access to the residential development shall be in general accordance with Drawing SK_T_093 (P1) Residential Site and 16117_SK_T_077 Rev P2. No dwelling shall be occupied until the access has been completed to the satisfaction of the Local Planning Authority in consultation with the Highway Authority; including infrastructure required for the Traffic Regulation Order for event / matchday parking restrictions.
- 34) Prior to 40% occupation of the employment area of the site (27,875sqm) the developer shall undertake the construction of the Longford Road roundabout mitigation scheme in general accordance with Drawing No's SK_T_088 P2, SK_T_089 P6, SK_T_90 P1 and SK_T_091 P1 and to be technically approved by Warwickshire County Council as the Highway Authority.
- 35) Notwithstanding the approved Land Use Plan, the position, width and material of the proposed footpaths and cycle routes will need to be agreed during the Reserved Matters stage for that phase of work. This is to include the provision up to the boundary of the application site to connect into the proposed new cycle route within the Local Wildlife Site through the residential area and connection to the highway. The details will also include details of motorcycle barriers.
- 36) For the submission of the Reserved Matters, the employment area will need to demonstrate that all parking, loading bays, manoeuvring and dock areas are on the opposite side of the proposed buildings to residential properties
- 37) The details required by condition 1(Landscaping) shall be carried out within 12 months of occupation of the relevant development phase and subsequently maintained in the following manner: Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the local planning authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS 8545:2014 Trees: from nursery to independence in the landscape

- Recommendations and BS4428 - Code of Practice for General Landscape Operations.

- 38) There shall be no external storage (including fuel storage) associated with the employment units to be situated between the employment buildings and residential properties.
- 39) The employment site shall not be used for matchday, or event parking associated with the adjacent arena, currently known as the Coventry Building Society Arena.
- 40) The reserved matters to be submitted in accordance with Condition 1 shall include details of boundary treatment and access to the site from the residential development to the employment site to ensure it is restricted to pedestrians and cyclists.

****End of Conditions****

APPEARANCES

FOR THE APPELLANT:

Mr K Garvey of Counsel

Instructed by Mr D Onions

Mr D Onions BA (Hons) Dip.TP MRTPI

Pegasus Group

Mr M Grist BSc (Hons) Dip.UD MCIHT MCILT

Jubb

Mr D Sutton MSc Bsc MIOA MIEEnvSC MIAQM

Air & Acoustic Consultants Ltd

Mr P Wakefield

Shakespeare Martineau

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Tew

Senior Planner at CCC

Mr N Benison MICE,

Transport Planning Manager at CCC

INTERESTED PARTIES:

Cllr L Bigham

Coventry City Council

Mr M Sullivan

CPRE Warwickshire

Mr D Parr

Ash Green Residents Assoc.

DOCUMENTS SUBMITTED IMMEDIATELY PRIOR TO, OR AT THE HEARING

The following documents were submitted and accepted at the Hearing:

ON BEHALF OF THE APPELLANT:

- Appearances on behalf of the Appellant
- A reply to the Council's comments on the Cost Claim.

ON BEHALF OF THE LOCAL PLANNING AUTHORITY:

- N/A

ON BEHALF OF INTERESTED PARTIES:

- Further representations (x3) from those interested parties attending the event.
- The statement read out at the event by Cllr Bigham

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE HEARING

- Further representations (x3) from the interested parties who attended the event in relation to objections received on the planning application.
- Justification from Coventry City Council surrounding the cost of a residents parking scheme.
- Cover letter from the appellant for the response to the further comments received from interested parties and the amended UU.
- Response from the appellant to the further representations received from interested parties attending the event.
- Completed/signed UU, dated 22 August 2023

****End****



Costs Decision

Hearing held on 8 August 2023

Site visit made on 7 and 8 August 2023

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2023

Costs application in relation to Appeal Ref: APP/U4610/W/23/3319687 A444 Land at Wilsons Lane, Coventry, CV6 6HN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by L&Q Estates Ltd for a full award of costs against Coventry City Council.
 - The appeal was against the refusal of outline planning permission for the demolition of existing buildings and the erection of up to 73 dwellings and up to 55,750 sqm of employment/commercial floor space (comprising of 50,000 sqm of B8 use (including 2,500 sqm ancillary E(g)(i) office) and 5,750 sqm of B2/B8/E(g)(iii) uses (including 300 sqm ancillary E(g)(i) office)), complete with access, local area for play (LAP), land remodelling, landscaping, attenuation and the diversion of the Public Right of Way (REF B25) with all matters reserved except for access.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. A successful application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense and parties in the appeal process are normally expected to meet their own expenses.
3. The PPG states¹ that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; refusing planning permission on a ground capable of being dealt with by conditions and where it is concluded that suitable conditions would enable the proposed development to go ahead.
4. The Council refused the application for reasons relating to highway safety and living conditions, contrary to the recommendations of its officers. The Council is not duty bound to follow the advice of its professional officers. However, if a

¹ Paragraph 049 Reference ID: 16-049-20140306

different decision is reached then the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. The Council's refusal reason on its decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan which it would be in conflict with, and cites conflict with the National Planning Policy Framework. It also refers to the National Design Guide. An appeal statement has also been submitted to support these reasons for refusal.

5. Nonetheless, the application subject of this appeal has benefitted from a substantial amount of supporting technical evidence, which resulted in the support of the planning application from the Council's professional officers. I accept that local knowledge is also important in the determination of planning applications, but given the technical evidence has been produced by suitably qualified authorities, and in the absence of equivalent evidence to the contrary on the part of the Council, I have given this significant weight.
6. Additionally, whilst the Council disregarded the recommendations of its officers, paragraph 48 of the PPG also advises that the refusing of planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead. During discussions at the event, it became apparent that additional wording/condition could be provided to that originally proposed in suggested Condition 20 vii), which would address the concerns raised in the Council's refusal reason.

Conclusion

7. For the above reasons, I find that unreasonable behaviour by the Council, resulting in unnecessary expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Coventry City Council shall pay to L&Q Estates Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Coventry City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

W Johnson

INSPECTOR