



Appeal Decision

Hearing held on 14 January 2025

Site visit made on 14 January 2025

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2025

Appeal Ref: APP/J3720/W/24/3352679

Land off Wheelwright Way, Wellesbourne CV35 7SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Dalscote Little LLP against the decision of Stratford-on-Avon District Council.
 - The application Ref is 23/01477/OUT.
 - The development proposed is residential development of up to 20 dwellings (Class C3 Use) with access from Wheelwright Way, and associated infrastructure works (all matters reserved except for access).
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 20 dwellings (Class C3 use) with access from Wheelwright Way, and associated infrastructure works (all matters reserved except for access) at land off Wheelwright Way, Wellesbourne CV35 7SZ in accordance with the terms of the application, Ref 23/01477/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal as described on the application form sought outline planning permission for up to 25 dwellings. However, prior to the Council's determination, the proposal was amended to provide a maximum of 20 dwellings. In the interests of accuracy, I have amended the development description.
3. In December 2024, government published a revised National Planning Policy Framework (the Framework). During the appeal, the main parties were invited to comment on the implications for the appeal proposal. In my decision I have had regard to the revised Framework and the parties' written responses.
4. The fourth and fifth reasons for refusal, as set out at the Council's Decision Notice, concern the absence of a mechanism to secure affordable housing and planning obligations toward a range of local infrastructure. During the appeal a deed pursuant to section 106 of the Town and Country Planning Act 1990 as amended (hereafter 'the s106 agreement') was submitted containing planning obligations relating to such matters. In my reasoning, I have considered the planning obligations against the statutory tests at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regs).
5. The planning obligations would come into effect on grant of planning permission. However, where I conclude a planning obligation would not comply with the

statutory tests, it ceases to have effect, and the owners shall be under no obligation to comply with the obligation(s).

Main Issues

6. The main issues in this appeal are:

- Whether the proposed development would be in a suitable location, having regard to the local development strategy;
- Whether the design and layout of the proposed development would be of a suitable standard;
- Whether the proposed development would make suitable provision for public open space; and
- Whether the proposed development would secure the provision of affordable housing and local infrastructure, including off-site public open space, sustainable travel, road safety, bus stop improvements, education, and health.

Reasons

Whether in a suitable location

7. The appeal site is an enclosed parcel of land which abuts modern housing development at Wheelwright Way. The southern boundary adjoins Loxley Road, which provides a connection between the village of Loxley and the A429 at Wellesbourne. To the west and north of the site is an aerodrome comprising open land with surface infrastructure such as runways, and some distant buildings.

Whether previously developed land

8. The site is vacant with no current, active use. However, the parties agree the site was within the curtilage of Wellesbourne Distribution Park prior to its redevelopment for housing, retail, and warehousing.
9. The Framework provides a definition of previously developed land, that is “land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed...”.
10. Signposts and security lighting columns remain on the site, which is therefore occupied by permanent structures. A tarmac road extends part way across the middle of the site from the boundary with Wheelwright Way, and the majority of the site’s surface appears laid with crushed gravel stones. Taking account the size of the site area that is substantially occupied by hardstanding, I consider the site comprises a large area of fixed surface infrastructure.
11. The site was formerly used for the open storage of cars, and I have been provided no evidence of any intervening use. Details of the site’s planning history dates to 2013 and does not positively confirm the former storage use had the benefit of planning permission. However, for the purposes of an application for a certificate

of lawfulness¹, the Council's delegated report confirms the car storage use existed for more than 10 years. I have no compelling reason to consider the site to be anything other than lawfully developed.

12. The Framework's definition of previously developed land contains certain exclusions, including where the remains of the permanent structure or fixed surface structure have blended into the landscape, and land in built-up areas such as parks and recreation grounds.
13. The vegetated earth bank and trees and hedges along the boundaries provide visual separation between the site and the wider landscape beyond the built area. The appeal site and adjacent housing development have coterminous boundaries with the aerodrome and Loxley Road, and the site's tarmac roadway is aligned with Wheelwright Way's carriageway. Therefore, there is visual continuity between the housing estate and appeal site. A mix of ruderal plant species have begun to colonise the site. However, exposed areas of hardstanding remain, and the site has a vacant, unmanaged appearance. It does not have the landscaped appearance of an open space associated with a housing development and is starkly different in appearance from the adjoining public open space which comprises mown grass, pathways, planted borders, and play equipment. Therefore, the site has not blended into its landscape context.
14. The appeal site is within the site boundary of both the outline and reserved matters applications for the adjoining housing development². The proposals did not indicate development on the appeal site. It is my understanding that development within the area of the appeal site was omitted due to the need for independent assessment regarding the proximity to the aerodrome.
15. The planning layout³ for the reserved matters application shows the site as undeveloped land with some tree planting, separated from development at Wheelwright Way by a post and rail fence. However, whilst the landscape proposals⁴ show retention of existing trees along the boundary to Loxley Road, most of the appeal site is shown as a featureless area of white land. Therefore, the landscape proposals do not imply the appeal site is safeguarded as a recreation area or landscape buffer.
16. At present the site is secured by a tall fence and locked gate. It is inaccessible and offers no recreation opportunities for occupants of the adjoining housing development. Neither the planning layout nor landscape proposals for the former reserved matters application identify the appeal site as having any specific function. Furthermore, the previous planning permissions contained no planning obligations or conditions to secure the appeal site as open space for any purpose. I have no evidence before me to suggest the appeal site serves any function associated with the adjoining housing development.
17. At Map 10, the Wellesbourne and Walton Neighbourhood Plan 2018 (WWNP) indicates the appeal site is "retained open space associated with approved planning permissions". The map shows the extent of new developments approved in the area, along with areas assessed as potential sites for more housing. There is no policy corresponding to the Map 10 demarcation, and the WWNP does not

¹ LPA ref: 17/03473/LDE

² LPA refs: 13/00510/OUT & 14/03428/REM

³ Drawing no. P/LR-W/01 F 28.10.2014 (14/03428/REM)

⁴ Drawing no. MILL19611-11 December 2014 (14/03428/REM)

designate the site as a Local Green Space. Therefore, the site does not comprise open land in a built-up area, such as a park or recreation ground.

18. The Council asserts the site cannot be previously developed land since the former storage use has been extinguished by the grants of planning permission for residential development. However, this reason does not fall within the exclusions provided by the Framework's definition of previously developed land.
19. In the delegated report for the outline application for the wider housing estate development, the Council considered the site to be previously developed land. This included the area of the appeal site. I have found no reason why the appeal site should be afforded different status when considered in isolation.
20. As set out above, the site is occupied by permanent structures and large areas of fixed surface infrastructure that has been lawfully developed and comprises land within the curtilage of developed land. The site has not blended into the landscape and is not a park or recreation ground in a built-up area. The site therefore meets the Framework's definition of previously developed land.

Strategy for distribution of development

21. Policy CS.15 of the Stratford-on-Avon District Core Strategy 2016 (CS) sets out the distribution of development across the district through a pattern of balanced dispersal, including to Main Rural Centres and large rural brownfield sites.
22. The site adjoins the built area of Wellesbourne. Policy CS.15 identifies Wellesbourne as a Main Rural Centre and a suitable location for housing development. However, Policy CS.15(B) directs development to site allocations and land within the built-up area boundary (BUAB). The site adjoins but lies outside the BUAB and is therefore in the countryside. Policy AS.10 applies to development in areas outside BUABs and it is not disputed that the proposed development would not be of a type supported by criteria (a)-(v) of Policy AS.10.
23. CS Policy CS.15(E) directs development to large rural brownfield sites in accordance with CS Policy AS.11, which sets out criteria for the re-use and redevelopment of extensive previously developed sites in the countryside. The proposed development would comprise major development, would be outside the BUAB and comprises previously developed land. The provisions of Policy AS.11 therefore apply to the appeal proposal.
24. Policy AS.11 recognises the Framework encourages the re-use of previously developed, provided that it is not of high environmental value. Paragraph 124 of the Framework indicates the development strategy should make as much use as possible of previously developed land. In addition, the provision of new dwellings would contribute toward the government's objective to significantly boost the supply of homes, described at paragraph 61 of the Framework. Therefore, the proposed development would be in the national or local interest, as required by criterion (a) of Policy AS.11.
25. The Council can demonstrate in excess of a five-year supply of housing land. Therefore, it is likely that development of the proposed form and scale could be accommodated elsewhere. However, criterion (b) does not preclude development for this reason, and the effects in respect of Policy AS.11(b) are therefore neutral.

26. The site is vacant land and its former use for open storage has ceased. Therefore, the social and economic benefits associated with the provision of housing development would exceed the existing use and condition of the site. The proposal would therefore contribute positively to criterion (c) of Policy AS.11.
27. The Landscape and Visual Appraisal concludes that the proposals will be extremely localised and well contained, confined to the immediate areas enclosing the site by reason of the intervening vegetation and undulating terrain. Therefore, the proposal would not harm the character of the local area. In addition, no adverse impact on the living conditions of existing occupiers has been identified, and the proposal would not therefore harm the amenity of local communities. Therefore, the proposal would comply with criterion (d) of Policy AS.11.
28. No features that are statutorily protected or of local importance would be affected by the proposal, thus complying with criterion (e) of Policy AS.11.
29. Access to the site is from Wheelwright Way to the east, which connects to Loxley Road via Horseshoe Crescent. The area is served by pedestrian footways and street lighting and there are a range of services and facilities including a primary school, medical centre, supermarket, employment, and recreational facilities within acceptable walking and cycling distance. There are nearby bus stops with regular services to major centres including Stratford-upon-Avon, Warwick, and Leamington Spa, and the proposal would also secure bus stop improvements. The proposal would therefore be located so as to minimise the need to travel and promote the use of transport other than the private car, thus complying with criterion (f) of Policy AS.11.
30. The site is in flood zone 1, and therefore is at lowest risk from flooding, and therefore would satisfy criterion (g) of Policy AS.11.
31. The site is not within any of the three areas identified for major housing development by WWNP Policy WW7. Therefore, the WWNP does not positively support development in this location. However, the proposal would comply with criteria (a) to (g) of CS Policy AS.11.
32. The proposal would provide effective use of a large rural brownfield site, as supported by CS Policy CS.15. Having regard to the local development strategy, the proposed development would therefore be in a suitable location.

Design and layout

33. The 'Testing Layout Option 4' plan provides an indicative layout of the development, including the siting of dwellings, car parking spaces, internal access road, public open spaces, SuDS, and landscaping. It also conveys information of house types, tenures, bedroom numbers, and garden sizes. The Council duly assessed the indicative layout and identified key concerns.
34. In summary, the Council's concerns include: the visual impacts of the layout, such as dwellings having a cramped appearance, visual prominence of hardstanding, and lack of visual gaps; provision of private amenity spaces, and daylight and outlook at some plots; and potential for conflict between refuse vehicles and a visitor parking space. The Council consider the indicative layout would not comply with the Development Requirements Supplementary Planning Document's design standards. However, the proposal seeks outline permission, with all matters except

access reserved for later determination. Therefore, details of layout, scale and appearance are not before me.

35. The indicative layout represents a moderate density of 33 dwellings per hectare. The site is somewhat constrained by the fixed location of the access and the retention of a vegetated bank. However, the description of development is for up to 20 dwellings. This is a maximum and not a minimum figure, and the number of units could be reduced to accommodate physical or policy constraints.
36. Whilst Testing Layout Option 4 was assessed by the Council, the appellant also prepared a range of indicative layouts, suggesting other options exist. Furthermore, requirements for parking, open space, and garden sizes could be altered through changing the house types proposed.
37. I am satisfied the site is capable of accommodating the level of development proposed, and there is sufficient flexibility to achieve a design and layout that would be compatible with the character and appearance of the area and be suitable in all other regards. In so far as it is relevant at this outline stage, the proposal would provide a suitable standard of development.
38. The proposal would therefore comply with CS Policy CS.9 which requires development reflect the character and distinctiveness of the locality.

On-site provision of public open space

39. The open space needs of the proposed development would be met through a combination of on-site provision of public open space and financial contributions toward off-site provision.
40. Part L of the Development Requirements SPD was adopted by the Council in April 2024. It provides area standards per population for the provision of open space. To calculate the population arising from a development, the 2024 SPD applies average occupancy rates derived from 2021 census data.
41. However, the Council advise its transitional arrangements support the assessment of the proposal against the requirements of the previous 2018 version of Part L. Application of the 2018 SPD's open space standards would generate a marginally greater requirement for open space provision.
42. A planning obligation to secure the higher rate of open space provision required by the 2018 SPD would not be fairly or reasonably related in scale to the proposed development, since it would rely on outdated assumptions of average occupancy rates. Consequently, in such circumstances, the planning obligation would fail to comply with the statutory tests. Therefore, the appellant has not erred in utilising the 2024 SPD's formulae to calculate the required provision of on-site open space within typology 'Children and Young People's Equipped Play Facilities'.
43. The on-site provision and transfer of ownership of the open space would be secured through planning obligations within the s106 agreement. Therefore, I am satisfied the proposed development would include suitable on-site provision of Children and Young People's Equipped Play Facilities.
44. The Council raised a range of concerns regarding the siting and layout of an area of open space within typology 'Parks & Gardens and Amenity Space', as shown on

the indicative layout plan. Notably, the Council considered the inclusion of an attenuation basin for drainage would impede the function of the open space.

45. The proposal no longer includes on-site provision of this typology. Rather, the s106 agreement contains planning obligations to secure a contribution for off-site provision of Parks & Gardens and Amenity Space, which would be used for the purpose of upgrading and maintaining existing parks and gardens and amenity space in Wellesbourne.
46. In addition, the s106 agreement secures financial contributions towards upgrading and maintaining existing unrestricted natural accessible greenspace, allotments and community gardens in Wellesbourne, and have been calculated in accordance with the Development Requirements SPD 2024. The contributions would therefore comply with the statutory tests.
47. For these reasons, I am satisfied the proposal would secure suitable provision of public open space.
48. The proposal would therefore comply with CS Policy CS.9 which requires development include appropriate landscaping, enhance green infrastructure in the locality, and provide a good standard of space and amenity for occupiers.

Provision of affordable housing, local infrastructure and facilities

49. Affordable housing: Planning obligations within the s106 agreement would secure a minimum of 35% of the total number of dwellings as Affordable Housing. The parties agree the scale of provision and the indicative stock mix would be appropriate. The planning obligations are necessary to provide a mix of housing to meet identified local needs in accordance with the affordable housing thresholds set out in CS Policy CS.18.
50. Health services: South Warwickshire University NHS Foundation Trust indicate the existing service delivery infrastructure for acute and planned health care would be unable to meet the additional demand generated as a result of the proposed development. The Trust asserts that demand for acute and planned health care associated with the population increase would have an adverse effect on its ability to provide on-time care delivery due to inadequate funding to meet demand. The Trust estimates the proposed development's population would generate 156 interventions for the Trust and requests a financial contribution be secured.
51. The Trust has provided details of their funding arrangements, and indicate it is commissioned by the Coventry and Warwickshire Integrated Care Board (ICB) to provide acute and community healthcare services to the population of South Warwickshire via a service level agreement (SLA) that is agreed on an annual basis. The Trust explain that any additional expenditure in the current year is not recovered in future years. Therefore, since the Trust's SLA is agreed annually, any funding gap associated with additional demand for healthcare services arising from the development would be experienced within the first year of occupation only.
52. The matter of whether a Hospital Trust can seek contributions based on a concern over residential development and a short-term funding gap was addressed in *The University Hospitals of Leicester NHS Trust, R (On the Application Of) v Harborough District Council* [2023] EWHC 263 (Admin), which found the claimant had failed to explain in its representations why the annual negotiations for a block

contract for the next financial year do not, or could not, take into account population growth during that year.

53. The Trust explain it would need to engage agency staff at a premium cost to meet projected demand for healthcare from the proposed development, until it is in receipt of ICB funding. However, population increase would not arise from the point of grant of planning permission but there would be an inherent lag, measurable in years, as the proposal proceeds through the reserved matters and construction phase of development. Like the High Court case discussed above, the Trust's representations do not explain why population growth within the contract year could not be accounted for within the terms of the SLA. Therefore, adequate evidence that harm would occur has not been provided.
54. On this basis, the NHS acute contribution planning obligation would not be necessary to make the development acceptable and would not satisfy the statutory tests. The planning obligation should therefore cease to have effect, and the appellant should not be required to comply with its terms.
55. Sustainable transport: The s106 agreement provides planning obligations to secure financial contributions for the provision of a pair of new bus shelters on Loxley Road, and cleaning and maintenance. In addition, the proposal would provide financial contributions toward road safety initiatives and education, and information on sustainable modes of travel. The planning obligations are necessary in the interests of promoting sustainable transport.
56. Education: The s106 agreement includes planning obligations which would secure financial contributions paid to Warwickshire County Council (WCC), as local education authority, toward the provision of primary and secondary education. Using WCC's Developers' Guide to Contributions for Education and Early Years Provision December 2023, the contributions have been calculated from the number of eligible units proposed, and therefore the scale of the contribution is based on relevant evidence. The planning obligations would be necessary to mitigate the proposed developments effects on the provision of school places.
57. Monitoring: The monitoring fee is necessary to ensure the development complies with the obligations in the s106 agreement.
58. As discussed above, the NHS Acute Contribution is not justified by evidence of need and would not comply with the statutory tests. However, I am satisfied that all other planning obligations sought would comply with the statutory tests. The proposed development would therefore secure suitable provision of affordable housing and local infrastructure.
59. The proposal would therefore comply with CS Policy CS.19 which requires new dwellings contribute to the creation of balanced and sustainable communities by meeting identified local and district housing needs in terms of mix, size, tenure and type, and CS Policy CS.18 which requires the development include on-site provision of affordable housing. In addition, the proposal would comply with CS Policy CS.9 which requires proposals encourage walking and cycling, provide for or be close to community facilities, and have good access to public transport.

Other Matters

60. The Physical Safeguarding Assessment, Cyrrus 2022, investigated the effects of the proposed development on Wellesbourne aerodrome, including its obstacle limitation surfaces. The assessment concluded that any proposed residential units at a maximum height of 10m will not infringe the transitional, take-off climb and approach surfaces of the aerodrome. The maximum height of buildings can be secured through imposition of a planning condition.
61. As discussed above, the proposal would secure financial contributions toward a range of local infrastructure. Concerns were also raised regarding the effects of the proposed development on other infrastructure including water supply, the local highway network, and the existing open space maintained by a management fee. However, there is no substantive evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council or statutory consultees in regard to these matters. Therefore, none of the concerns raised provide a compelling reason why planning permission should not be granted.
62. Some local residents raised concerns regarding effects on wildlife and ecology. The proposal development would be required to provide a Biodiversity Enhancement Management Plan and wildlife enhancement plan.

Conditions

63. The Council has provided a list of suggested conditions which I have considered against the Framework's tests. The appellant has confirmed their agreement to all pre-commencement conditions contained in the attached Schedule of Conditions.
64. In the interests of certainty, I have included a condition to specify the dates by which the details of reserved matters should be submitted, and by which the development should commence. In addition, I have specified the reserved matters and identified the approved plans. I have not included the indicative layout, landscaping, or vehicle tracking plans within the list of approved plans, since these design elements would comprise reserved matters.
65. To ensure the delivery of appropriate and essential infrastructure, I have included conditions requiring details of utilities connections prior to construction, and provision of superfast broadband in advance of occupation.
66. To maintain the character and appearance of the area, I have attached conditions requiring submission and approval of details of hard and soft landscape works. For the same reason, I have attached conditions requiring submission of details of existing site and proposed finished floor levels, and a schedule of external materials and finishes. To protect trees of amenity value, I have included a condition requiring submission of an Arboricultural Method Statement and Tree Protection Plan. In addition, I have included a condition requiring submission of details to protect the proposed landscape buffer zones from unauthorised vehicular movement and parking prior to the commencement of development.
67. To enable the recording of any items of historical or archaeological interest, I have included a condition requiring submission of a programme of archaeological evaluation and works.

68. In the interests of maintaining living conditions, public safety and the environment during construction, I have included a condition requiring submission of a Construction Management Plan. To protect human health and the environment, I have included conditions requiring a Site Investigation be carried out, and setting out action to be taken in the event contaminated land is discovered. To mitigate the scheme's impacts on air quality, I have included a condition requiring the scheme provide adequate air quality mitigation in accordance with CS Policy CS.9.
69. To reduce risk of flooding, protect water quality and safeguard against pollution, I have attached conditions requiring submission of schemes for surface water drainage, and foul water and effluent disposal.
70. In the interests of conserving and enhance the biodiversity value of the site and avoid harm to protected species in accordance with CS Policy CS6, I have included conditions requiring submission of a Biodiversity Enhancement Management Plan and wildlife enhancement plan, and implementation of recommendations of the Ecological Appraisal. To conserve biodiversity and the rural character of the area, I have included a condition requiring submission of details of any external lighting to be installed.
71. To ensure a satisfactory standard and amount of public open space in accordance with CS Policies CS.9 and CS.25, I have included conditions requiring submission of landscape details of the open space, its on-going maintenance, and completion.
72. In the interests of highway safety, I have included a condition to secure the provision of bus stops prior to occupation. In addition, I have specified the load capacity of driveways and required submission of details of on-site vehicle parking and secure cycle storage.
73. To avoid adverse impact of the operation of the adjoining Wellesbourne Mountford Airfield, I have included a condition specifying maximum building heights.
74. To ensure a satisfactory standard of affordable housing and stock mix in accordance with CS Policies CS.18 and CS.19, I have imposed a condition requiring the development be delivered in line with submitted SGP Revised Statement (December 2023).
75. To ensure adequate on-site provision for refuse storage, which maintains the character appearance of the area and provides suitable living conditions, I have included a condition requiring submission of details of bin storage.
76. To conserve water resources and mitigate climate change in accordance with CS Policies CS.4, CS.1, CS.2 and CS.9, I have included conditions requiring provision of water butts and sustainability measures.
77. I have not imposed the suggested condition to remove permitted development rights. Paragraph 55 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Such a condition would not be necessary to make the appeal proposal acceptable in planning terms and would not comply with the Framework.
78. I have not included the suggested conditions relating to noise mitigation measures in the event development at the adjacent airfield site had been granted planning permission. Such circumstances have not arisen, and the parties agree that such conditions would not be necessary.

Conclusion

79. For the reasons given above, having regard to the development plan taken as a whole, and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

Richborough

Schedule of Conditions

- 1) Application(s) for the approval of the matters reserved by conditions of this permission shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun not later than whichever is the latest of the following dates:-

- (i) The expiration of three years from the date of this permission; or
 - (ii) The expiration of two years from the final approval of the reserved matters; or,
 - (iii) In the case of approval on different dates, the final approval of the last such matter to be approved.
- 2) 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 commences and the development shall thereafter be undertaken in accordance with the approved details.
- 3) The development hereby approved shall be carried out in accordance with approved plan 23-039 P01 B *Site Location Plan*.
- 4) Prior to preparation of any groundworks and foundations on site for the development hereby permitted, details of the connections (electricity, water, drainage and superfast broadband) to be provided to each plot and the timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter only be carried out as approved.
- 5) The landscaping scheme submitted in accordance with condition 2 of this outline grant of planning permission shall include details of:
 - (1) planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - (2) the method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting;
 - (3) written specifications including cultivation and other operations associated with tree, plant and grass establishment;
 - (4) existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, accurately plotted (where appropriate);

- (5) existing and proposed finished levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing vegetation and surrounding landform where appropriate);
- (6) the means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
- (7) location, type and materials to be used for hard surfacing where applicable for permeable paving, sustainable urban drainage integration and use within tree Root Protection Areas ((RPAs), including specifications and details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved;
- (8) the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate;
- (9) minor artefacts and structures (e.g. street furniture, play equipment, refuse areas, substations and other storage units);
- (10) a timetable for the implementation of the soft and hard landscaping scheme.
- 6) The first reserved matters application submitted to the Local Planning Authority shall include the submission of a programme of archaeological evaluation and works which is to be secured in accordance with a written scheme of investigation, including a timetable for the investigation and implementation of the agreed details. The works shall be undertaken in accordance with the approved details and shall inform the proposed reserved matters application.
- A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for the submission of the report is first approved in writing with the Local Planning Authority.
- 7) No construction shall be undertaken until a Construction Management Plan is submitted to and approved by both the Planning and Highway Authorities and which should contain details of:
- The routing and timing (avoiding peak periods) of delivery and other construction traffic to/from the proposed development and the measures by
 - information that will be provided to contractors and delivery companies.
 - Suitable areas for the parking of contractors and visitors, including details of the capacity of the on-site staff/visitor/contractor car parking areas and confirmation of the assessment that this is sufficient to accommodate forecast demand and thereby avoid vehicles having to park off site on the highway network.

- Measures to prevent mud and debris on the public highway, including wheel washing facilities and the methods to be used to keep the public highway clear of any mud, debris and obstacles (in the event of spillage).
- Suitable areas for the unloading and storage of materials off the public highway.
- the hours of demolition and/or construction (it is recommended that no works take place outside 08.00 hours to 18.00 hours Mondays to Fridays; 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or Bank or Public Holidays);
- the temporary site compounds including temporary structures/buildings, fencing and storage provision to be used in connection with each phase of construction of the development;
- the proposed storage of plant and materials used in constructing the development or stockpiling during development;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- the siting and design of wheel washing facilities and management of any subsequent run-off resulting from their use;
- measures to control the emission of dust, mud/dirt, noise, vibration and light during demolition and/or construction;
- the erection and maintenance of security hoarding/fencing including decorative displays and facilities for public viewing, where appropriate;
- details of any piling together with details of how any associated vibration will be monitored and controlled;
- the location and noise levels of site electricity generators;
- management of surface water run-off;
- details of external lighting required during construction; and
- contact telephone number(s) and email address(es) of the site manager(s) and/or other person(s) associated with the management of operations at the site.

For the avoidance of doubt there shall be no burning of waste construction materials on site, no storage of construction materials or associated equipment on the area to be used as Public Open Space, nor shall any lighting or other illumination be installed on site at any time unless otherwise approved in writing by the Local Planning Authority.

- 8) No demolition, site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto site until a scheme for the protection of all existing trees and/or hedges has been submitted to and approved in writing by the Local Planning Authority. The tree/hedge protection measures within the scheme shall include and make reference to:

(a) the submission of a Tree Protection Plan and appropriate working methods – the Arboricultural Method Statement in accordance BS5837:2012 Trees in relation to design, demolition and construction – Recommendations;

(b) details of the erection of stout protective fencing in accordance with British Standard BS5837:2012, Clause 6.2; and

(c) fencing shall be shown on the Tree Protection Plan and installed to the extent of the tree Root Protection Area (RPA) as defined in BS5837:2012 and as agreed in writing by the Local Planning Authority.

The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.

Furthermore, the following work shall not be carried out within the Root Protection Area (RPA) of any retained tree or hedgerow, except with the prior written approval of the Local Planning Authority:

- (i) No materials, equipment, machinery or structure shall be attached to or supported by a retained tree or hedgerow, nor stored or stacked within said RPA;
- (ii) No mixing of cement or use of other contaminating materials or substances shall take place within, or close to, a RPA that seepage or displacement could cause them to enter a RPA;
- (iii) No fires shall be lit within any RPA or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of any retained tree or hedgerow within or adjacent to the site as per the requirements of BS5837:2012;
- (iv) Levels shall not be raised or lowered in relation to the existing ground level within the RPA of any retained tree or hedgerow;
- (v) No roots shall be cut, trenches dug or soil removed within the RPA of any retained tree or hedgerow;
- (vi) No buildings, roads or other engineering operations shall be constructed or carried out within the RPA of any retained tree or hedgerow; and
- (vii) No vehicles shall be driven over the area within the RPA of any retained tree or hedgerow.

- 9) Development shall not commence until clauses (a), (b) and (c) have been complied with;

(a) A detailed Site Investigation shall be carried out and a Site Investigation Report submitted to and approved in writing by the Local Planning Authority. The Report shall detail all Investigative works and sampling on site, together with results of analysis and risk assessment to any receptors.

(b) Where unacceptable risk is identified by the Site Investigation Report, a proposed Remediation Strategy (including a Verification Scheme) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be of such a nature as to render harmless the Identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

- 10) Prior to occupation of the development clauses (a), (b) and (c) shall be complied with:

(a) All remediation work approved under the Remediation Strategy in Condition 9 above shall be completed as approved and be carried out under the Verification Scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works, contamination is encountered which has not previously been identified, the additional contamination shall be fully assessed and an appropriate remediation scheme and timescales shall be submitted to and approved in writing by the Local Planning Authority.

(b) A Verification Report shall be submitted to and approved in writing by the Local Planning Authority. The Verification Report shall include details of the remediation works and Quality Assurance certificates to verify that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included together with the necessary waste transfer documentation detailing the waste materials that have been removed from the site.

(c) A certificate signed by the developer shall be submitted to the Local Planning Authority confirming that the appropriate works have been undertaken as detailed in the Verification Scheme.

- 11) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

1. Undertake infiltration testing in accordance with the BRE 365 guidance to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water run off from the site.

2. Where infiltration is demonstrated to not be feasible limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for Climate change) critical rain storm to the QBar Greenfield runoff rate of 2.9l/s for the site in line with the approved surface water drainage strategy (dated November 2023)

3. Where the drainage scheme proposes to connect into a 3rd party asset, for example a public sewer, further information should be provided regarding the ownership, purpose, location and condition of this asset along with confirmation of the right to connect into it. This could take the form of land ownership plans showing riparian ownership, land drainage consent, flood risk activity permit or agreement under Section 106 of the Water Industry Act (1991).

4. Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.

5. Provide detail drawings including cross sections, 01 proposed features such as infiltration structures, attenuation features. and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual'. CIRIA Report C753.
6. Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include:
 - (a) Suitable representation of the proposed drainage scheme, details of design criteria used (Incl. consideration of a surcharged outfall). and justification of such criteria where relevant.
 - (b) Simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events.
 - (c) Results should demonstrate the performance of the drainage scheme including attenuation storage, flows in line with agreed discharge rates, potential flood volumes and network status. Results should be provided as a summary for each return period.
 - (d) Evidence should be supported by a suitably labelled plan/schematic (including contributing areas) to allow suitable cross checking of calculations and the proposals.
7. Provide plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. Such overland flow routing should:
 - (a) Demonstrate how runoff will be directed through the development without exposing properties to flood risk.
 - (b) Consider property finished floor levels and thresholds in relation to exceedance flows. The LLFA recommend FFLs are set to a minimum of 150mm above surrounding ground levels.
 - (c) Recognise that exceedance can occur during any Storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.
- 12) No development shall take place until a scheme of foul drainage and effluent disposal for the site has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

- 13) Prior to the commencement of the development hereby permitted, including any works of site clearance, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the local planning authority. The plan shall include details of habitats to be retained/enhanced/created and their long-term management, as well as information on the body or organisation responsible for implementation of the plan. Thereafter, the BEMP shall be implemented and managed/maintained in full accordance with the approved details.
- 14) Any subsequent reserved matters applications submitted in accordance with condition 2 shall be carried out in full accordance with the recommendations and mitigation measures for habitats, protected, priority and other notable species contained in section 5 of the Ecological Appraisal by EDP, report dated November 2023.
- 15) Prior to the progression of any part of the development hereby permitted above slab level, a wildlife enhancement scheme shall be submitted to and approved in writing by the local planning authority. The scheme is to include provision for bats, nesting birds and access gaps for hedgehogs in suitable new fencing. Such approved scheme shall thereafter be implemented in full prior to first occupation of any of the dwellings hereby approved.
- 16) Prior to work proceeding above slab level a scheme of air quality mitigation measures to alleviate the impact of the scheme in accordance with SDC Air Quality and Planning Guidance (December 2018) shall be submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the occupation of the buildings hereby approved, and thereafter maintained for the lifetime of the development.
- 17) Before preparation of any groundworks and foundations on site for the development hereby permitted, details for the protection of the proposed landscape buffer zones from unauthorised vehicular movement and parking shall be submitted to and approved in writing by the Local Planning Authority and the works implemented in accordance with the approved details and retained thereafter.
- 18) The Reserved Matters application in relation to the approval of Landscape details pursuant to Condition 2 shall include an Open Space Specification for all the Public Open Space, and any other areas managed communally or applicable for the Public Open Space. There shall be no occupation of the development hereby permitted until the Open Space Specification has been submitted to and approved in writing by the Local Planning Authority. The Open Space Specification shall include:
 - (a) a plan showing the exact location and dimensions of the elements of the Public Open Space and managed communal spaces;
 - (b) the design specification for the hard and soft landscaping elements of the Public Open Space and managed communal spaces;

(c) other details including:-

- (i) planting plans,
- (ii) written specifications including cultivation and other operations associated with tree, plant and grass establishment.
- (iii) a schedule of plants noting species, plant sizes and proposed numbers/densities.
- (iv) existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate).
- (v) existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate)
- (vi) existing and proposed finished ground levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing trees and hedges and surrounding landform with cross sectional details where appropriate).
- (vii) the means of accommodating change in level (e.g. steps, retaining walls, ramps where appropriate)
- (viii) hard surfacing materials- details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved.
- (ix) the position and design of all site enclosures and boundary treatment specifying the type, height, composition and appearance
- (x) car parking layout
- (xi) other vehicular and pedestrian areas
- (xii) minor artefacts and structures (e.g. street furniture, play equipment, refuse areas, signage, lighting, cycle parking etc).
- (xiii. historic landscape features to be retained, removed or restored (where appropriate)
- (xiv) the routing and depth of all proposed services within a 10m distance of any Public Open Space and managed communal space

(d) and shall be in compliance with the District Council's adopted Stratford-on-Avon Core Strategy and particularly 'Policy 25: Healthy Communities' or supplementary planning guidance/policy that may be adopted to replace or complement the same or as otherwise updated with the written agreement of the District Council;

(e) confirmation that no new utilities, foul/surface water drainage or Sub-Stations shall be located in, on or under the Public Open Space unless shown on an approved plan forming part of the permission or as agreed in writing with the Local Planning Authority prior to installation.

- 19) The Reserved Matters application in relation to the approval of Landscape details pursuant to Condition 2 shall include a scheme for the on-going maintenance of the all the Public Open Space, subject to any transfer arrangements as set out in the S106 associated with this permission. There shall be no occupation of the development hereby permitted until the Maintenance Scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted information shall set out:

- (a) long term design objectives and BS standard of maintenance and repair to be achieved;
 - (b) Management responsibilities, maintenance schedules, details of the nature and frequency of maintenance for all Public Open Space;
 - (c) Evidence that a written offer has been made to and received by the Town/Parish Council or Stratford-on-Avon District Council (if applicable) to maintain the whole or part of the Public Open Space as described in the Public Open Space Specification.
 - (d) Measures to repair or replace any equipment (including play equipment), facilities, paths or hardstandings that become damaged, and to replace any trees, hedges, shrubs, flowers or turf which may die or become diseased;
 - (e) A timetable and phasing plan as necessary for the delivery of the Public Open Space, with timings for commencement of works through to completion of the relevant Open Space and subsequent maintenance period. The Maintenance period shall be not less than 12 months unless agreed otherwise in writing by the LPA and in any case until the responsibility for maintenance of the land is transferred in accordance with the transfer arrangements as set out in the S106 associated with this permission.
- 20) Unless otherwise agreed in writing by the District Council, the Public Open Space shall be completed, as approved by Conditions 18 and 19 above prior to first occupation of 60% of the Dwellings of the development hereby permitted and in accordance with the following:
- (a) The owner shall contact the LPA inviting them to either inspect the Public Open Space, and issue a Practical Completion Certificate confirming that the Public Open Space works have been completed for the whole site (or phase of the site as previously agreed), to their reasonable satisfaction or confirm that the owner should proceed to appoint a suitably qualified independent professional (Landscape Institute, Chartered Institute of Horticulture or grounds maintenance), to be agreed between the Owner and the District Council to do the same. If the LPA or the suitably qualified professional inspect the Public Open Space, and identify necessary remedial works, these remedial works shall be completed and the site re-inspected. If the District Council fails to either issue a notice requiring remediation works or issue a Practical Completion Certificate within a period of 30 days from the date of request from the owner, or fails to confirm that the owner should proceed to appoint a suitably qualified independent professional within 14 days from receiving the request to inspect the Public Open Space (or any part thereof) then a Practical Completion Certificate in relation to such works shall be deemed to have been granted and the District Council upon being requested to do so, shall provide evidence to that effect.

(b) The Owner shall undertake the maintenance of Public Open Space, as approved in condition 18 for a Maintenance Period of not less than 12 months unless agreed in writing by the LPA, in accordance with timetable set out in the Open Space/Ecological areas maintenance scheme until the transfer of maintenance responsibilities in accordance with the transfer arrangements as set out in the S106 associated with this application.

(c) On expiration of the Maintenance period the owner shall contact the LPA inviting them to either inspect the Public Open Space, and issue a Final Completion Certificate confirming that works have been maintained to their reasonable satisfaction or confirm that the owner should proceed to appoint a suitably qualified independent professional (Landscape Institute, Chartered Institute of Horticulture or grounds maintenance), to be agreed between the Owner and the District Council to do the same. If the LPA or the suitably qualified professional inspect the Public Open Space, and identify necessary remedial works, these remedial works shall be completed and the site re-inspected. If the District Council fails to either issue a notice requiring remediation works or issue a Final Completion Certificate within a period of 30 days from the date of request from the owner, or fails to confirm that the owner should proceed to appoint a suitably qualified independent professional within 14 days from receiving the request to inspect the Public Open Space (or any part thereof) then a Final Completion Certificate in relation to such works shall be deemed to have been granted and the District Council upon being requested to do so, shall provide evidence to that effect.

(d) The Owner or Management Company shall be responsible for the maintenance of the Public Open Space, until such time as the Final Completion Certificate has been issued for the whole site (or phase of the site as previously agreed with LPA).

(e) For the avoidance of doubt:

(i) Practical Completion certificate means a certificate to be issued by the LPA or a suitably qualified independent professional (Landscape Institute, Chartered Institute of Horticulture or grounds maintenance), to be agreed between the Owner and the District Council which shall be conclusive evidence of the proper laying out planting or construction as the case may be of the Public Open Space, in accordance with the approved Specification.

(ii) Maintenance Period means the period of maintenance from the issue of a Practical Completion Certificate in accordance with the approved Specification to the issue of the Final Completion Certificate on the Site

(iii) Final Completion Certificate means a certificate to be issued by the LPA or a suitably qualified independent professional (Landscape Institute, Chartered Institute of Horticulture or grounds maintenance), to be agreed between the Owner and the District Council, which shall be conclusive

evidence that the Public Open Space, on the Site (as a whole) has been properly maintained during the Maintenance Period;

(f) The Public Open Space shall thereafter be retained in accordance with the approved details (unless the Local Planning Authority gives prior written approval to any subsequent variations);

(g) Unless agreed with the LPA, the Owner shall allow free unrestricted use and access from completion of the Public Open Space, for the whole site (or phase of the site as previously agreed with LPA), to the general public at all times of the day and night provided that use and access may be restricted in the event of emergency such that access and use by the general public should be prevented for reasons of health and safety.

- 21) Except for any trees, hedges or shrubs that may be identified for removal on the approved landscaping plans and schedule, if within a period of five years from the date of the completion of the landscaping scheme pursuant to condition 5 (whichever is later), any tree, hedge or shrubs are felled, removed, uprooted, destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, it/they shall be replaced by planting as originally approved, unless the Local Planning Authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.
- 22) The development shall not be occupied until two new bus stops in accordance with details to be submitted to and approved in writing by the Local Planning Authority have been provided on Loxley Road (C72), subject to County Highway Authority technical approval of the detailed design.
- 23) Each individual dwelling development shall not be occupied until on-site vehicle parking and secure cycle storage meeting SPD Part O standards in respect of capacity, dimensions and design have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be laid out, hardened, surfaced and drained in full prior to first occupation of the associated dwelling(s).

Such a scheme shall show numbers and sizes of vehicular and bicycle parking spaces; siting of vehicular and bicycle parking; surface treatment; construction details; levels; and surface water drainage.

- 24) No building on any part of the development hereby permitted shall exceed 10m in height above the original ground level.
- 25) The reserved matters applications submitted in accordance with condition 2 shall demonstrate how the proposed affordable housing and housing stock mix shall be delivered in line with submitted Revised Statement prepared by SGP dated 15 December 2023.

- 26) Details of any external lighting to be provided in association with the development shall be submitted with each reserved matters application. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.
- 27) Prior to the submission of any Reserved Matters applications or the preparation of levels on site for the development hereby permitted, a detailed plan indication existing site levels and proposed finished ground floor levels of the development shall be submitted to and approved in writing by the Local Planning Authority. The detailed plan to be submitted shall include the following details:
- (a) levels of the existing site, together with indication of a recognised fixed datum point from which levels can be verified during the course of development and at completion;
 - (b) the precise finished ground floor levels of each new dwelling relative to the existing development on the boundary of the site and other approved dwellings within the site;
 - (c) levels of all accesses to include pathways, driveway, steps and ramps.
- Each dwelling shall be carried out and completed strictly in accordance with the approved details prior to its first occupation and, thereafter, so retained as such.
- 28) Reserved matters applications relating to appearance shall include a schedule of materials and finishes (including trade descriptions/brochure details where appropriate) to be used in the construction of all the external surfaces of any building. Development shall be carried out in accordance with the approved details.
- 29) Reserved matters applications relating to appearance and layout shall include details of the facilities for the storage of refuse and recycling for each associated dwelling in accordance with the Council's bin specifications.
- Prior to the first occupation of any of the dwellings hereby permitted, provision shall be made for the storage of refuse bins within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Such approved details shall thereafter be retained and maintained in perpetuity.
- 30) The reserved matters application relating to the landscaping of the areas outside of the individual plots shall be submitted to and approved in writing by the Local Planning Authority prior to any dwelling being built and implemented in full in accordance with the approved details prior to the first occupation of any dwelling.

The incidental and public open space shall thereafter be retained and maintained in perpetuity for public use.

- 31) The construction of the private drives serving the development shall comprise a road base designed to withstand a 32-tonne load capacity.
- 32) No dwelling that has a downpipe within the development hereby permitted shall be occupied or used until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.
- 33) The Climate Change Checklist (CCC) at Appendix 1 to Part V of the Development Requirements Supplementary Planning Document shall be submitted to the Local Planning Authority for approval either prior to or as part of any reserved matters application(s) relating to layout and appearance. All mitigation measures indicated in the CCC shall be illustrated on the plans and/or in the documents submitted with that/those application(s) as appropriate; implemented prior to first occupation of the development hereby permitted; and retained throughout the lifespan of the development thereafter.
- 34) Any meter/service box shall be fitted to an internal wall where practical and feasible but, if proven to the Local Planning Authority that internal siting of a meter/service box is not practical and feasible then any external wall mounted meter/service box shall be located away from the primary elevations facing a highway and prominent side walls facing publicly accessible areas.
- 35) No dwelling shall be occupied until it has been provided with a connection to facilitate superfast Broadband connectivity.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

- Peter J Frampton BSc (Hons) TP MRICS MRTPI, Director
- William Whitelock BSc (Hons), MSc, MRTPI, Associate Planner
- Henry Chapman on behalf of Dalscote Little LLP

FOR THE LOCAL PLANNING AUTHORITY:

- Charlotte Dicks, Senior Planner – BSc (Hons) MA MRTPI
- Tim Webb, Local Plans Manager – BA (Hons) MSc MRTPI

Richborough