



Appeal Decision

Inquiry Held on 11 to 14 & 21 November 2025

Site visit made on 11 December 2025

by G D Jones BSc(Hons) DipTP DMS MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2026

Appeal Ref: APP/F1040/W/25/3368728

Land South of Kings Newton Lane, Melbourne

- 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 Richborough against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2025/0438, dated 31 March 2025, was refused by notice dated 1 July 2025.
 - The development proposed is the erection of up to 135 dwellings with associated infrastructure.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 135 dwellings with associated infrastructure at Land South of Kings Newton Lane, Melbourne in accordance with the terms of the application, Ref DMPA/2025/0438, dated 31 March 2025, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the submitted details relating to these reserved matters as a guide as to how the site might be developed.
3. A legal agreement, dated 20 November 2025, made under s106 of the Town and Country Planning Act 1990 (the Legal Agreement) was completed shortly before the Inquiry closed. I have had regard to it when considering and determining the appeal.
4. On 16 December 2025, the Government published a consultation document *National Planning Policy Framework: proposed reforms and other changes to the planning system*. It does not constitute Government policy or guidance. As a consultation document, it may also be subject to change. Accordingly, while I have taken it into account when making my decision, it attracts limited weight. Moreover, it has not altered the outcome of the appeal.

Main Issues

5. The main issues are:

- The effect the proposed development would have on the character and appearance of the area and how it sits with the District's strategy for the location of development;
- The site's capacity to accommodate the proposed development and planting;
- Its effect on biodiversity, particularly in respect to birds;
- Its effect on the Kings Newton Conservation Area via its setting;
- Its effect on Best and Most Versatile agricultural land;
- Whether the Council can demonstrate a National Planning Policy Framework compliant supply of housing land; and
- Whether any harm that would result from the development would be outweighed by any benefits.

Reasons

Character & Appearance and Development Strategy

6. South Derbyshire Local Plan Part 1, June 2016, (the Local Plan Pt1) identifies Melbourne as a 'Key Service Village', a second tier settlement in the development plan's settlement hierarchy after 'Urban Areas'. Although the site is located directly adjacent to Melbourne's settlement boundary as defined in the South Derbyshire Local Plan Part 2, November 2017, (the Local Plan Pt2) it is not situated within it.
7. Policy S1 of the Local Plan Pt1 sets out the overarching Sustainable Growth Strategy for the District. To help achieve the Strategy's aims, Local Plan Pt1 Policy H1 states, amongst other things, that *the Settlement Hierarchy is based on the range of services and facilities that are offered by each settlement and that the level of development for each settlement will be of a scale appropriate to the size and role of that settlement*. For the Urban Areas and the Key Service Villages tiers of the hierarchy, the Policy says *development of all sizes within the settlement boundaries will be considered appropriate and sites adjacent to settlement boundaries as an exceptions or cross subsidy site as long as not greater than 25 dwellings*.
8. Given the scale of the proposed development and its location beyond the settlement boundary of Melbourne, the appeal scheme is clearly at odds with Policy H1. Indeed, this is a matter of common ground between the main parties. Although not directly addressed in the Statement of Common Ground, the appellant's planning witness's proof of evidence refers to the appeal scheme as also being contrary to Policy S1. I also note that Local Plan Pt1 Policy S4 (Housing Strategy) does not allocate any strategic sites in Melbourne, as well as what the Local Plan Inspector said in her Report of May 2026 in that regard.
9. The Council's first reason for refusal of planning permission also refers to Policy S2 of the Local Plan Pt1. It states that, when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (the Framework). Any conclusion on whether the appeal scheme would amount to sustainable development in the terms of the Framework requires an assessment of

wider considerations. Consequently, I return to Policy S2 as part of the *Planning Balance* subsection towards the end of my decision.

10. Policy SDT1 of the Local Plan Pt2 establishes the settlement boundaries within the District. It states, amongst other things, that *outside of settlement boundaries and allocated sites, within the Rural Areas as defined in Policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5*. Policy BNE5 of the Local Plan Pt2 identifies a series of development types that are permissible outside the identified settlement boundaries. The appeal development does not fall within any of these exceptions. Consequently, it also conflicts with Policies SDT1 and BNE5 of the Local Plan Pt2.
11. Melbourne Neighbourhood Development Plan, July 2022 (the Neighbourhood Plan), Policies DP1 and DP2, amongst other things, contain similar provisions to Policies SDT1 and BNE5, such that the appeal development also conflicts with them both in terms of being located outside the settlement boundary.
12. A Landscape and Visual Appraisal for the proposed development (the LVA) has been produced on behalf of the appellant. The Council has not produced its own comparable appraisal. Nor does the Council fundamentally dispute the findings of the LVA. In my view, given the site's relationship with the existing settlement, a coherent addition to Melbourne could be achieved, which would maintain hinterland to the extended settlement fringes linking to the open countryside beyond.
13. Nonetheless, the introduction of development of the scale and kind proposed to a largely greenfield site will inevitably be felt, especially in the near vicinity of the site where it would be most visible. Notwithstanding mitigation that could be secured, including at the reserved matters stage, the development would have a net, albeit limited, harmful effect on the character and appearance of the area contrary, in that regard, to Policy BNE4 (Landscape Character and Local Distinctiveness) of the Local Plan Pt1.
14. For the reasons outlined above, therefore, the proposed development would cause some harm to the character and appearance of the area and be at odds with the District's strategy for the location of development. Consequently, in these regards, it would conflict with Policies S1, S4, H1 and BNE4 of the Local Plan Pt1, Policies SDT1 and BNE5 of the Local Plan Pt2 and Policies DP1 and DP2 (Development Proposals Within the Rural Areas) of the Neighbourhood Plan.

Site Capacity

15. There were a number of matters raised by the Council that informed this main issue in the lead up to the Inquiry, including in respect to Biodiversity Net Gain (BNG) and public open space. Nonetheless, in light of additional information and subject to controls and mitigation, what remains are the issues of National Forest planting and, if the Council's heritage case were to be accepted, whether the development should be set further back from Kings Newton Lane. The latter of these points is dealt with below under the subheading concerning potential effects on the Kings Newton Conservation Area. I also return to BNG in broader terms under the following subheading. The remainder of this subsection, therefore, focusses on National Forest planting.
16. The evidence indicates that the site falls within the National Forest. Policy INF8 of the Local Plan Pt1 applies *within the National Forest as defined on the Proposals*

Map. However, the Proposals Map, which is within Local Plan Pt2, omits the site from the area mapped and labelled as *Area within The National Forest (INF8)*. This may have been an intentional omission in the preparation and adoption of the Local Plan Pt2. Certainly, it seems strange that it should have been excluded had that not been the intention, especially as the boundary runs neatly along Derby Road to the south and then to the west of the site, abutting the boundary for only a short section to the south. Yet it also seems odd that it should have been omitted given the alignment of the boundary of the National Forest itself. The reason is unclear, be it intentional or an oversight.

17. However, notwithstanding the Council's submissions on this matter and its Design Guide SPD, what is clear is that the site is not within the National Forest for the purposes of Policy INF8. Consequently, Policy INF8 does not apply in this case such that it is not breached by the appeal scheme.
18. Nonetheless, in my view, the evidence indicates that the appeal scheme is capable of delivering 20% of the site's total area as National Forest planting, which the appellant proposes notwithstanding its case in respect to Policy INF8. The appeal development would result in the loss of planting that was to be delivered in association with the neighbouring development at Paget Road. Nonetheless, such loss would be more than compensated for by the proposed new '20% planting', be it wholly on-site or partly off-site, that would be delivered via the appeal scheme.
19. Consequently, there is no good basis to conclude that the site does not have capacity to accommodate the proposed development having particular regard to planting. Nor would there be any conflict with Policy INF8 of the Local Plan Pt1. Indeed, given that there is no planning policy requirement to provide on-site National Forest planting, the net additional planting that would be delivered would amount to a benefit.

Biodiversity

20. There is a statutory requirement for the provision of 10% BNG associated with development of the type proposed. For qualifying schemes, the grant of planning permission is subject to the condition that development may not commence until a biodiversity gain plan has been approved demonstrating how the objective of delivering at least a 10% BNG will be achieved. Such BNG can be established through a combination of on-site and off-site provision. In this case it is common ground that there would be an on-site shortfall based on the illustrative framework plan. Two off-site potential options have been identified by the appellant.
21. In any event, if there are found to be any significant shortcomings in a proposed biodiversity gain plan, including in respect to the BNG hierarchy, the local planning authority would have the opportunity to refuse to approve that plan at the detailed stage. Accordingly, in this case it would not be a sound basis on which to refuse planning permission at this point, including in terms of the site's capacity to accommodate the proposed development. Moreover, 10% BNG, including off-site provision, would represent a benefit that weighs in favour of the appeal.
22. There was also the associated issue of Skylark mitigation. However, following the submission of additional information on behalf of the appellant, it is now common ground between the main parties that this matter can be resolved. Nonetheless, they are not in full agreement regarding how the mitigation should be secured.

23. In my view, were planning permission to be granted, whilst a negatively worded Grampian-type condition could be employed to prevent development from taking place until a scheme had been approved, the control of ongoing maintenance of third party land would give rise to concerns over long term enforceability. Accordingly, the relevant obligation of the Legal Agreement would secure an objective which a condition could not, such that that planning obligation would be necessary and justified were planning permission to be granted.

Conservation Area

24. The evidence of the Council's witness on heritage matters refers to harm to the setting of Ye Olde Packhorse Inn, a listed building at Grade II, and Hawthorn House, a non-designated heritage asset. However, the Council does not allege harm to the significance of either or to that of any other heritage assets other than the Kings Newton Conservation Area (the Conservation Area). For the reasons identified by the main parties, I have also concluded that the appeal development would not affect the significance of any other heritage asset. I focus here, therefore, on the Conservation Area.
25. Kings Newton village is largely centred along Main Street, which runs on a roughly east-west alignment. This part of the village broadly forms Area 1 as identified in the Kings Newton Conservation Area Character Statement 2011 (the KNCACS). The two other Areas that make up the Conservation Area, 2 and 3, as identified in the KNCACS, are the built up area around Trent Lane and Sleepy Lane to the east, and the more open gardens and parkland of Kings Newton Hall to the north.
26. The site stands some 65m outside the Conservation Area on what amounts to a westward continuation of Main Street. The intervening land is occupied by the residential development at Paget Road, which received planning permission in reasonably recent times, well-after the designation and enlargement of the Conservation Area. The appeal site is, nonetheless, within the setting of the Conservation Area.
27. In my view, the significance of the Conservation Area derives primarily from its historical, archaeological and architectural interest. As the KNCACS identifies, the village's *economy historically depended entirely upon agriculture and was largely untouched by the industrial revolution ... There is little evidence of the 18th and 19th century growth and development that affected neighbouring Melbourne ... the main character of the village is one of prosperous gentility and past grandeur*. It also sets out a summary of Kings Newton's distinctive characteristics, which appear to be comprehensive and accurate. There is, therefore, a historic relationship between the village and the surrounding agricultural land and uses.
28. Nonetheless, as the KNCACS explains, Kings Newton was laid out as a planned medieval settlement. This included a pattern of homesteads lining the street, behind which lay a series of crofts or small fields belonging to the homesteads that could be used as their owners pleased, free from the restraints of communal farming. As the village did not and still does not extend as far west as the site, it would not have formed part of this historic pattern of development which makes an important contribution to the significance of the Conservation Area.
29. The site may have been used as part of the villagers' communal farming. In more recent times it has been in market garden use. Nonetheless, there is little within the KNCACS to suggest that such historic agricultural use makes an important

contribution to the significance of the Conservation Area. It does refer to the open character of market gardens, but this is mainly in reference to the land south of the village. There is nothing in the KNCACS to suggest that the site itself is of relevance to the Conservation Area's significance in this or in any other regard. Indeed, while 'Principal Views' are identified in the KNCACS, none are located near to or directed towards the site.

30. The indicative material shows that the principal built form of the proposed development would not be discernible from within the Conservation Area due in large part to the screening effect of the Paget Road development. For similar reasons, Ye Olde Packhorse Inn, which is in the Conservation Area, cannot be appreciated from within the site or in its immediate vicinity. In my view, the appeal development would offer a more sensitive response to its context compared to the existing Paget Road scheme. This is particularly the case in terms of the landscaping and planting proposed to the Kings Newton Lane frontage.
31. The packhorse trading route from Swarkestone Causeway may have passed the site along what is now Kings Newton Lane. If it did, given the foregoing and the contents of the KNCACS, it does not provide a sound basis to conclude that the significance of the Conservation Area would be affected by the appeal development. Furthermore, any relationship between the site and Hawthorn House is not, in my view, associated with the Conservation Area, particularly bearing in mind that neither are within it nor are expressly referred to in the KNCACS.
32. Bearing in mind the foregoing, having regard to all of the evidence and subject to detail that would be reserved for future consideration, the appeal development would not affect the significance of the Kings Newton Conservation Area. There is, therefore, also no good basis to conclude that the site does not have capacity to accommodate the appeal scheme having particular regard to heritage assets and the historic environment.
33. Accordingly, in those regards, it would not conflict with Policies BNE1 (Design Excellence), BNE2 (Heritage Assets) and BNE4, of the Local Plan Pt1, Policy BNE10 (Heritage) of the Local Plan Pt2 or Policy HC1 (Heritage Assets) of the Neighbourhood Plan. Nor would there be any conflict with the Framework in these respects.

Agricultural Land

34. The site is a mix of Grade 1 and 2 Agricultural Land and, therefore, Best and Most Versatile (BMVAL) in the terms of the Framework. These matters are agreed between the main parties. They differ, however, over the weight to be attributed in the planning balance to the loss of the BMVAL that would result were the development to proceed. Grade 1 land is scarce nationally and, other than within the site, none is known to exist in the District. Grade 2 land is also scarce, albeit that it is not uncommon in South Derbyshire.
35. The Grade 1 land within the site was only revealed following detailed assessment associated with the appeal scheme. There is a likelihood, or at least a possibility, that detailed assessment of other parts of the District currently classified as Grade 2 land might reveal further Grade 1 land. However, that is far from certain. Consequently, for the purposes of making my decision I have assumed that this is the only Grade 1 land in the District.

36. Once such land is developed for other purposes it is effectively lost as a farming or horticultural resource. Although part of the site has not been in agricultural use for some time, in the event that the appeal development were not to proceed, it could be returned to such use. It could also potentially be improved, for instance in terms of drainage and irrigation.
37. Nonetheless, BMVAL is not the only land on which crops can be grown, it is simply land which is of better quality. There is no evidence to suggest that the UK faces a food security crisis. Given its relatively modest size, from the information before me, there is no reason to believe that the loss of the site to another use would have a significant effect on agriculture / horticulture at a national or local level.
38. Other than in the Neighbourhood Plan, via its Policy OS4, there are no absolute planning policies preventing the development of BMVAL. Given that it is not entirely consistent with the Framework in this regard, the conflict with Policy OS4 carries limited weight. The appeal development would also conflict with Policy BNE4 of the Local Plan Pt1 and Policy BNE5 of the Local Plan Pt2. Having regard to the requirement to recognise the economic and other benefits of BMVAL, bearing in mind the foregoing matters and the modest amount of land concerned, the harm resulting from the loss of this BMVAL attracts no more than moderate weight against the appeal scheme.

Housing Land Supply

39. There is a substantial amount of common ground between the Council and the appellant on this topic. This includes that the local housing need calculated using the standard method amounts to 592 dwellings per annum. Once the requisite 5% buffer is added, this equates to a total requirement of 3,108 homes across the entire five year period.
40. The main parties also agree that a discount should be applied to the deliverable housing supply to reflect Derby's unmet need. However, they do not agree over the level of discount that should be applied to account for that unmet need. Another significant area of disagreement concerns the amount of housing that some of the identified sites will yield during the five years in question.
41. There are multiple issues with the Council's approach to dealing with the discount to housing supply in order to reflect Derby's unmet need. These include that it uses an out-of-date housing requirement and the discount applies in only three of the five years. The appellant was correct when it said in closing that *the attempt by the Council to cut across different methodologies and different plan periods is incapable of yielding a sensible or workable outcome*. Consequently, the Council's approach to this matter cannot be relied upon.
42. The Appellant considers that a 24% reduction should be made to the deliverable supply. This is on the basis that of the 12,618 homes requirement identified in the Local Plan Pt1, 3,013 homes are expressly intended to meet Derby's need, equating to 24% of the total. This approach appears to be pragmatic and logical. As the development plan plans for housing delivery based on meeting the needs of South Derbyshire and of Derby on a 76% / 24% split, it makes sense that that ratio should also be applied to what is actually delivered over the plan period, including the five years in question here. As well as reflecting the tested strategy of the current development plan, this approach is also consistent with the Council's

commitment to continue to meet some of Derby's unmet need as set out in its emerging local plan.

43. For these reasons, therefore, I consider that a 24% discount should be applied to the anticipated supply. The Council's best position on delivery over the five years period, as identified in the Statement of Common Ground in respect to Housing Land Supply, is 4,038 homes. Once 24% is deducted, delivery falls to 3,069 homes. This is a little below the 3,108 homes requirement for the period. On this basis alone the Council cannot currently demonstrate a Framework compliant supply of housing land.
44. In the circumstances, I have not found it necessary to go through all of the disputed sources of potential supply. Nonetheless, I shall deal with a few sites where, in my opinion, there is the greatest likelihood of there being a shortfall in delivery relative to the Council's predictions or where principles raised by the parties can be helpfully addressed. In doing so, for ease of reference, I shall use the site referencing system employed during the roundtable session at the Inquiry and as used by both main parties in their closing submissions. To assist the reader, these are set out in a table at the end of my decision following the list of 'documents submitted at the Inquiry'.
45. The Council's housing delivery forecast for Sites 1-7 inclusive is based, in part, on predictions for the period 2024/25. However, completions are now known for that period and 135 more homes were delivered compared to what was predicted by the Council. It would be inappropriate to include dwellings within the forecast that had already been delivered prior to the five years in question. Nonetheless, to strike a balance in this regard, dwellings could also be added where completions on the wider Sites were less than predicted. On the Council's evidence this would result in a net reduction of only 2 dwellings, from 4,038 to 4,036 homes. Once the 24% discount is applied this becomes 3,068 homes rounded up.
46. Site 14, Drakelow Power Station, has outline planning permission for 2,239 dwellings, including 2,131 with details approved. The Council forecasts delivery of 265 dwellings per annum from this Site amounting to 1,325 homes across the five years. Amongst these homes are 112 that have outline planning permission. It is common ground that they fall within the scope of 'category b)' of the Framework's definition of 'Deliverable', such that they *should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years*.
47. I note the Council's wider submissions in respect to these 112 dwellings, including that they contain 4 and 17 units that have reserved matters approval. There is also reference to 'advanced' pre-applications discussions for an 'extra care' type scheme consistent with the outline planning permission, which would deliver 70 Class C2 homes. However, I have not been provided with any significant details of that pre-application scheme, such that it is difficult to have confidence that it would necessarily progress to a formal application and less still that it would be delivered.
48. Overall, with the possible exception of the 21 units with approved reserved matters referred to above, I have no substantiated evidence that supports the inclusion of these 112 units. I also note that they are not included in the developer questionnaires as being planned to be delivered during the five year period. Based on the information before me, therefore, at least 91 units should be omitted from

the Council's forecast for Site 14. Removing 91 dwellings would further reduce supply from 4,036 to 3,945 homes. Once the 24% discount for Derby's unmet need is applied, supply falls to 2,999 homes rounded up.

49. In conclusion on housing land supply, for the reasons outlined above, the Council has failed to demonstrate a five year supply of deliverable housing sites. Moreover, the wider evidence indicates that there is not currently a Framework compliant supply of deliverable housing sites.

Other Considerations

Affordable Housing

50. The appeal scheme would, via the Legal Agreement, secure 30% affordable housing. While the main parties agree that this would represent a benefit, they differ over the weight it should carry. The Council, as local planning authority, accepted that there is a District-wide need for affordable housing. However, it maintains that affordable housing should be directed to the District's urban areas in preference to locations such as Melbourne.
51. Nonetheless, based on the evidence before me, it seems likely that there is a need for affordable housing in the Melbourne area. I am mindful, for instance, that in 2024/2025 the 13 affordable dwellings let in Melbourne each received between 16 and 25 bids. Moreover, there is more to affordable housing than just let accommodation. Shared ownership, for example, seems likely to appeal to some low income households who might otherwise be unable to afford to buy in Melbourne.
52. If there proves to be no need / demand for any form of affordable housing in this location, the Legal Agreement makes provision for a commuted sum to help deliver affordable housing elsewhere, for instance, in locations where the Council considers it should be targeted. On this basis alone, the affordable housing offer associated with the appeal scheme should attract at least significant weight.

Other Matters

53. The evidence refers to other appeal decisions, including a decision concerning proposed development in Warwick District. Those in other areas would have been the subject of different development plan policies compared to those before me. Moreover, I am not familiar with the full circumstances of any of those cases. While I am mindful of the importance of consistency in appeal decision making, it is also important that each decision is made on its individual merits. So, although I have taken all of the other appeal decisions into account, I have assessed and determined this appeal on the basis of the evidence before me in the relevant policy context. Having done so, none have altered the outcome of the appeal.
54. The Council considers that, with the appeal development, the public footpath to the east of the site would become *tunnel-like with houses on both sides, and existing footpaths are narrow and along busy roads*. In my view, due to existing planting along much of its length, the footpath is in large part already 'tunnel-like'. Moreover, the proposed provision of an alternative pedestrian route through the southern part of the developed site would provide an attractive alternative for pedestrians. The development also offers an opportunity to improve natural surveillance of the public footpath, for instance via its layout, and is likely to lead to

its greater use due to the additional population thereby further improving surveillance. Overall, therefore, the appeal scheme seems more likely to lead to benefits rather than adverse effects for pedestrians.

55. There would also be the loss, which would result were the proposed development to proceed, to the couple who live and make a living on their market garden holding on the site. Given that this is largely a private interest and bearing in mind the fairly modest size of land concerned, it carries no more than moderate weight against the appeal.

Interested Parties

56. In addition to the main issues and the other foregoing matters, concern has been expressed, including by those who spoke at the Inquiry, in respect to a number of considerations. These include the appeal development's effect on highway safety and congestion, including for pedestrians and access for emergency vehicles; on flood risk; on living conditions of neighbours during the construction stage and following completion of the development, including in respect to tranquillity, noise, air quality and privacy; on wider biodiversity considerations, including species and habitat; on wider heritage assets and the historic environment; on tourism and leisure visitors; and on confidence in the development planning process, including the Neighbourhood Plan.
57. The concerns raised also relate to the adequacy of existing and proposed infrastructure, services and facilities, including public transport, cycling, pedestrian, electricity, drainage, sewerage, education, retail, parking and medical; the affordability of the development to local people; the suitability of the proposed homes for elder potential occupants; investment in the area; the potential creation of a precedent for other development; the merging / coalescence of Melbourne and Kings Newton; the integration of the development and its connections to the existing settlements; loss of village character; the effect of East Midlands Airport on residents of the development; and alleged shortcomings in the assessment of the development, including in respect to the LVA, BMVAL, and highway / transport.
58. These matters are largely identified and considered within the Council officer's report on the appeal scheme and before the Council's decision-making officer/s when the planning application was determined. They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry, and are largely addressed in its evidence and in the statements of common ground. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects subject to the imposition of planning conditions as discussed in the following section.

Planning Obligations

59. In the event that planning permission were to be granted and implemented, the planning obligations within the Legal Agreement would secure:
- Delivery of affordable housing at a rate of 30% of the development with associated cascading mechanism / payment to support off-site delivery in the event that an affordable housing provider cannot be found;

- Delivery and maintenance of on-site public open space, including an equipped play area;
 - Delivery and maintenance of 1.23ha of National Forest planting on-site or alternatively payment for off-site provision in the event that some or all of the planting cannot be met on-site;
 - Delivery and maintenance of a sustainable drainage system for the development;
 - Creation of a management entity should one be required for the public open space and / or the National Forest planting;
 - Delivery of the Skylark Mitigation Strategy associated with suggested Condition 9, see below, and as referred to above in the *Biodiversity* subsection;
 - Payments to be used to deliver:
 - Additional secondary education capacity at Chellaston Academy;
 - Special educational needs infrastructure within South Derbyshire;
 - Library stock;
 - Green Travel Vouchers for residents of the development to use on bus services;
 - Monitoring of the Travel Plan for the development;
 - Additional capacity at medical practices in the vicinity of the development;
 - Built facilities at Melbourne Sporting Partnership or an alternative facility within the Melbourne Ward;
 - Improvements to cemetery provision within South Derbyshire;
 - Provision of outdoor sports within the Melbourne Ward; and
 - Monitoring by the Council and the County Council.
60. The Council has submitted a detailed statement (the CIL Compliance Statement), which addresses the application of statutory requirements to the planning obligations within the Legal Agreement and sets out the relevant planning policy support / justification.
61. I have considered the planning obligations of the Legal Agreement in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that those obligations would be required by and accord with the policies set out in the CIL Compliance Statement. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

Conditions

62. A schedule of 31 suggested conditions agreed between the Council and the appellant has been submitted. It includes the standard timing, implementation and reserved matters conditions. I have considered these in the light of government guidance on the use of planning conditions and made amendments accordingly, including the omission of No 15 as an unnecessary duplication of No 16.
63. In order to provide certainty, particularly in respect to the matters that are not reserved for future consideration, a condition requiring that the development is

carried out in accordance with the approved plans would be necessary. Conditions to safeguard against contamination that might affect the site, including unsuspected contamination, along with any requisite remediation, would be necessary to protect the health and well-being of future occupiers and off-site receptors as well as in the interests of biodiversity.

64. To protect highway and aircraft safety and the living conditions of local residents and in the interests of biodiversity, conditions would be necessary to control matters during the construction phase, including dust and air quality, and compliance with a Demolition and Construction Environmental Management Plan and a Construction Management Plan. To help ensure satisfactory living conditions for occupiers of the development, a condition to secure noise mitigation would be necessary.
65. To protect highway safety and manage traffic flow, a condition would be necessary to secure the proposed means of access. In the interests of biodiversity, conditions would also be necessary to control the demolition of an on-site building in order to protect bats and to secure the implementation of a Skylark Mitigation Strategy, a Habitat Management and Monitoring Plan and a Biodiversity Enhancement Plan. Further conditions would also be necessary to ensure that features of archaeological interest are properly examined / recorded.
66. Conditions to manage surface water during construction and to help secure the installation and management of sustainable drainage as part of the development would be necessary in the interests of flood prevention, to provide appropriate and adequate facilities and to protect the environment. To protect the character and appearance of the area and in the interests of biodiversity, conditions would be necessary to ensure that retained trees and hedges are protected during the construction stage and to control aspects of the landscaping / planting scheme, including the timing of the removal of certain existing structures and planting.
67. In the interests of aircraft safety, conditions to control water bodies and reflective material as part of the development would be necessary. For that reason and in the interests of biodiversity, conditions to control lighting at the development would also be necessary. To further promote sustainable modes of transport, reduce the need for travel and in the interests of highway safety, conditions would be necessary to secure the implementation and review of the travel plan, and bus stop improvement works.
68. Additional to the suggested conditions, to provide certainty in respect to the matters that would not be reserved for future consideration and to protect the character and appearance of the area, in my view a condition limiting the number of dwellings permitted would be necessary. In coming to this conclusion I have been mindful that, while the description of the proposed development defines what is permitted, planning conditions provide the legal mechanism for enforcement and clarity.

Planning Balance

69. The Council cannot currently demonstrate a Framework compliant supply of housing land. I have concluded that the appeal development would not harm the significance of the Conservation Area. There are no wider areas or assets of particular importance in the terms of the Framework that, through the application of its policies, provide any strong reason for refusing the development proposed.

Accordingly, the so-called tilted balance, as set out in para 11 of the Framework, applies to the determination of the appeal.

70. The proposed development would bring a range of benefits, most notably the delivery of significant amounts of market and affordable housing in an accessible location with reasonable access to a range of services and facilities. Given the area's current housing delivery circumstances, the benefits together carry substantial weight in favour of the appeal.
71. There are a number of adverse impacts that would result from the proposed scheme, including the harm to the character and appearance of the area, the loss of BMVAL and the associated development plan policy conflict. There is also the conflict with the area's strategy for the location of development. However, in the context of there currently being no Framework compliant housing land supply this latter matter carries limited weight. These adverse impacts are collectively weighty. Nonetheless, they fall well-short of significantly and demonstrably outweighing the benefits, particularly those associated with affordable and market housing delivery, when assessed against the policies in the Framework taken as a whole. Indeed, the adverse impacts are outweighed by the benefits.
72. Therefore, the appeal scheme would be sustainable development in the terms of the Framework for which there is a presumption in its favour. Consequently, it would also accord with Policy S2 of the Local Plan Pt1. Moreover, that it would represent sustainable development in the terms of the Framework is a material consideration that, in the particular circumstances of the case, outweighs the conflict with the development plan as a whole.

Conclusion

73. For all of the reasons given above and subject to the identified conditions, the appeal should be allowed.

G D Jones

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Richard Humphreys, King's Counsel	Instructed by Ardip Sandhu, South Derbyshire District Council
He called ¹	
Laura Wigg-Bailey BA MA AssocIHBC	LW Bailey Heritage Management
Eileen Jackson BSc(Hons) FCIH	Strategic Housing and Development Manager, South Derbyshire District Council
Amanda Hammond MA MRTPI	Planning Policy Team Leader, South Derbyshire District Council
Steffan Saunders BA(Hons) MA MRTPI	Head of Planning, South Derbyshire District Council
Bob Woollard BA(Hons) MA MRTPI	Director, Planning and Design Group
Jennifer Blair BSc(Hons) MA MRTPI	Planning Delivery Team Leader, South Derbyshire District Council

FOR THE APPELLANT:

Thea Osmund-Smith, Counsel ²	Instructed by Mark Dauncey, Planning Director, Richborough
She called ³	
James Bullock BA(Hons) PGDip LA CMLI	Director, BLADE Landscape Architects Limited
Tony Kernon BSc(Hons) MRAC MRICS FBIAC	Director, Kernon Countryside Consultants
Thomas Copp BA(Hons) MA	Director, TCMS Heritage Ltd
Ben Pycroft BA(Hons) Dip TP MRTPI	Director, Emery Planning
Jamie Roberts MPlan MRTPI	Associate Director, Tetlow King Planning
Oliver Ramm MCIEEM	Director, RammSanderson Ecology
Clare Clarke BA(Hons) MA MRTPI	Planning Director, Pegasus Group

INTERESTED PERSONS:

Chris Tyler	Kings Newton Residents' Association
Margaret Hagues	Kings Newton Residents' Association
Margaret Gildea	Neighbourhood Development Plan
Frank Hughes	Neighbourhood Development Plan
Mike King	Melbourne Civic Society
Cllr Wheelton	District & County Councillor
Tom Scanlon	Local Resident

¹ Mr Woollard, Mr Saunders and Ms Hammond adopted the evidence of Mr Groves who was unable to attend the Inquiry. Additionally, Sarah Beeby Mplan MRTPI, Development Manager and Mrs Harrison, Solicitor, contributed to the conditions / planning obligations session

² Assisted by Anna Stein, Counsel

³ Additionally, Stephanie Gozney LLB(Hons) LPC Managing Associate, Freeths, Mark Dauncey BA(Hons) MA MRTPI Planning Director, Richborough and Alexandra Dones BSc(Hons) MSc MRTPI Principal Planner, Pegasus Group contributed to the conditions / planning obligations session

DOCUMENTS submitted at the Inquiry

- 1 Opening submissions for the Council
- 2 Opening submissions for the appellant
- 3 Combined submissions on behalf of Kings Newton Residents Association, Neighbourhood Development Plan and Melbourne Civic Society
- 4 Submissions of Cllr Wheelton
- 5 Agendas for the Topic Based Roundtable sessions: a) Biodiversity; b) Agricultural Land; c) Affordable Housing; d) Heritage / Character and Appearance; and e) Housing Land Supply Sites
- 6 CIL Compliance Statement
- 7 Draft Legal Agreement
- 8 Revised draft planning conditions, tracked changes
- 9 Further revised draft planning conditions
- 10 Housing Land Supply Statement of Common Ground
- 11 Benefits and Harms – Summary of Weighting
- 12 Affordable Housing Statement of Common Ground
- 13 Final conditions suggested jointly by the main parties, 18 November 2025
- 14 Legal Agreement made under s106 of the Town and Country Planning Act 1990, dated 20 November 2025
- 15 Landscape Buffers drawing (No 1683-L-D-PL-201 V1)
- 16 Closing submissions for the Council
- 17 Closing submissions for the appellant (including 'Reply to Council's Closing submissions' document)

DISPUTED HOUSING SITES

Ref No	Site
1	Land to N of William Nadin Way/West of Depot, Swadlincote (Park Road, Newhall) (H2) Site A
2	Lucas Lane, Hilton
3	Our Monkey Club, Church Gresley
4	Land in vicinity of Church Street/Bridge Street/Moat Street, Swadlincote (H3)
5	Broomy Farm, Woodville (H4)
6	Wragley Way (H15) Phase 1
7	Jacksons Lane, Etwall (H23 B)
8	H11 Land NE of Hatton
9	H19 New House Farm Phase 3a
10	Alexander Road, Swadlincote
11	Kathglow, Swadlincote
12	Park Road, Church Gresley
13	H2 William Nadin Way, Site C
14	Drakelow Power Station
15	Boulton Moor, Elvaston (H13 – Phase 1)
16	Boulton Moor, Elvaston (H13 – Phase 2)
17	Boulton Moor, Elvaston (H13 – Phase 3)
18	Woodville Regeneration Area (E6)
19	William Nadin Way, Swadlincote, Site D
20	Coppice Side, Swadlincote

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/F1040/W/25/3368728:

- 1) (a) Application for approval of the reserved matters listed at Condition 2 shall be made to the Local Planning Authority before the expiration of two years from the date of this permission; and
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the Reserved Matters') on an application made in that regard:
 - (a) Appearance;
 - (b) Landscaping;
 - (c) Layout;
 - (d) Scale; and
 - (e) Access (internal).
- 3) The development hereby permitted shall be carried out in accordance with plans/drawings:
 - Site Location Plan - Dwg No n1236 001 Rev H;
 - Site Access Strategy - Dwg No 109881-PEF-ZZ-XX-DR-TP-00001 Rev P02; and
 - Refuse Tracking Through Access - Dwg No 109881-PEF-ZZ-XX-DR-TP-00002 Rev P02.
- 4) Before the commencement of the development hereby approved a Phase II contaminated land site assessment (the Phase II Assessment) shall be undertaken to include intrusive investigation, ground gas and an asbestos survey as recommended by the Phase I report submitted with the application. The site investigation shall be carried out by a competent person in accordance with the current UK requirements for sampling and analysis. A report of the site investigation shall be submitted to the Local Planning Authority (LPA) for approval in writing. The development shall then be constructed in accordance with the approved Phase II Assessment. If unacceptable levels of contamination are found, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the LPA. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The developer shall give at least 14 days' notice to the LPA prior to commencing works in connection with the remediation scheme.
- 5) An air quality risk assessment and scheme of dust mitigation measures emanating from the site during the construction period shall be submitted to and approved in writing by the Local Planning Authority as part of any Reserved Matters application(s) pursuant to Condition 2. The approved measures shall be implemented throughout the construction period.

- 6) A revised noise report based on the finalised proposed development layout, outlining any mitigation needed with a detailed specification of said mitigation, shall be submitted to and approved in writing by the Local Planning Authority (LPA) as part of any Reserved Matters application(s) pursuant to Condition 2. The approved measures shall be implemented throughout the lifetime of the scheme; and upon completion of any required noise mitigation, a validation report prepared by a competent person shall be submitted to and approved in writing by the LPA. The validation report shall include details of the remediation works and Quality Assurance / Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation and analysis to show the site has achieved the approved remediation standard shall be included.
- 7) The site access works, as shown on drawing 109881 PEF ZZ XX DR TP 00001 Rev P02, shall be constructed and completed prior to the commencement of development above slab level.
- 8) The demolition of Building B3 identified on Drawing RSE_8973_UKH_0125_VIR3 contained in the Preliminary Ecological Appraisal Report dated March 2025 shall not take place until an appropriate bat licence has been obtained. Confirmation of this shall be submitted to the Local Planning Authority. Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Bat Report (RammSanderson, July 2025) and amended as necessary based on any correspondence with Natural England or update surveys. Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter.
- 9) No development, including preparatory groundworks or vegetation clearance shall commence until a Skylark Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include:
 - a) The location and size of the proposed off-site Skylark Plots;
 - b) Evidence of landowner agreement and long-term security of the mitigation site;
 - c) A management plan and monitoring schedule, including prescriptions for establishing and maintaining suitable skylark breeding conditions;
 - d) A timetable for implementation to ensure the plots are in place and functional prior to the commencement of construction; and
 - e) Details of monitoring and reporting to confirm establishment and ongoing suitability of the plots.Approved measures shall be implemented in full and maintained thereafter.
- 10) No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery, and materials) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be produced by an ecologist and include the following:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of “biodiversity protection zones”;
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;

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

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

- 11) A Habitat Management and Monitoring Plan (HMMP) shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of the development. If the standard HMMP template is not used, the HMMP checklist shall be consulted to ensure all appropriate information is included. The HMMP shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not.

- 12) Prior to the commencement of development, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority (LPA). Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications, and numbers of features, which will include (but be not limited to) the following:

- Universal nest boxes at a ratio of 1:1, in line with British Standard 42021:2022;
- Integrated bat boxes in 30% of dwellings;
- Insect bricks in 30% dwellings and / or towers in public open space; and
- Fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

A statement of good practice including photographs shall be submitted to the LPA to fully discharge this condition, demonstrating that the enhancements have been selected and installed in accordance with the approved Plan.

- 13) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved in writing by the Local Planning Authority, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The development shall then be constructed in accordance with the approved details.

The scheme shall include:

- a) An assessment of significance and research questions;
- b) The programme and methodology of site investigation and recording;
- c) The programme for post investigation assessment;
- d) Provision to be made for analysis of the site investigation and recording;
- e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- f) Provision to be made for archive deposition of the analysis and records of the site investigation; and

- g) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 14) No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a) BWB Consulting Flood Risk Assessment Ref 244784-BWB-ZZ-XX-T-W-0001_FRA, March 2025;
 - b) BWB Consulting Sustainable Drainage Statement Ref 244784-BWB-ZZ-XX-T-W-0001_SDS, March 2025;
 - c) ASL Geo-Environmental Desk Study Report Ref 253-24-087-11R3, March 2025;
 - d) Location Plan Ref n1236 001H; and
 - e) DEFRA's Non-statutory technical standards for sustainable drainage systems, have been submitted to and approved in writing by the Local Planning Authority.
- 15) The submission of any Reserved Matters applications pursuant to this outline planning permission shall together provide for no more than 135 dwellings.
- 16) No development shall take place until a detailed assessment has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 056 of the Planning Practice: Flood Risk and Coastal Change (or any amended version, revoking and/or replacing that guidance). The assessment shall demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:
- a) Into the ground (infiltration);
 - b) To a surface water body;
 - c) To a surface water sewer, highway drain, or another drainage system; and
 - d) To a combined sewer.
- The scheme submitted to discharge Condition 14 shall demonstrate that the design accords with the principles of the drainage hierarchy.
- 17) Prior to the commencement of the development details of how additional surface water run-off from the site will be avoided during the construction phase shall be submitted to and approved in writing by the Local Planning Authority. The approved system shall be constructed and completed and thereafter maintained throughout the construction phase.
- 18) Prior to the commencement of the development details of the onward condition and connectivity of both proposed discharge points for surface water shall be submitted to and approved in writing by the Local Planning Authority. The approved details, including any mitigation required, shall be implemented in full prior to the commencement of the development.
- 19) No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans and as set out in the Tree Survey and the Tree Constraints Plan received by the Local Planning Authority on 31 March 2025. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within the root and canopy protection areas. The fences shall be retained in

situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

- 20) Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. This shall provide details of the luminaires, their locations and any mitigating features such as dimmers, Passive Infrared sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. The Strategy shall refer to Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023) and explain how the proposals have been designed-in compliance with this document. Such approved measures shall be implemented in full.
- 21) No dwellings hereby approved shall be occupied until:
- a) The approved remediation works (if required) referenced in Condition 4 above have been carried out in full and in compliance with the approved methodology and best practice;
 - b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted to and approved in writing by the Local Planning Authority (LPA) and the LPA shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in Condition 4; and
 - c) Upon completion of the remediation works, which may be required by Condition 4, a validation report prepared by a competent person shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall include details of the remediation works and Quality Assurance / Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.
- 22) As part of the Reserved Matters applications pursuant to Condition 2 a scheme of hard and soft landscaping (including an updated Metric calculation based on the detailed site layout and landscape scheme) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all walls, fences and gates including their position, appearance and materials and a timetable for their construction. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each respective dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for

at least the same period, unless the Local Planning Authority gives written consent to any variation.

- 23) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under Condition 13 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 24) Except in an emergency, no demolition, ground works, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays, and bank holidays.
- 25) The Residential Travel Plan received by the Local Planning Authority (LPA) on 5 June 2025 hereby approved shall be implemented and monitored in accordance with the regime contained within the Plan. In the event of failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the LPA to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of access to and from the site. The Plan thereafter shall be implemented and updated in agreement with the LPA and thereafter implemented as amended.
- 26) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.
- 27) Any proposed sustainable drainage systems' attenuation basins shall remain generally dry, only holding water for brief periods in extreme rainfall events. In such events, all water is to be drained down within 48 hours.
- 28) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no reflective materials (including solar PV) other than clear or obscure glass shall be added to the dwellings and associated structures hereby approved without the express consent of the Local Planning Authority.
- 29) No development shall take place until a comprehensive Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan is to include at least the following topics:
 - Control of dust and smoke;
 - Measures to prevent foreign object debris, including airborne tarpaulins;
 - Principles for utilising temporary construction lighting (capped at horizontal with no light spill above the horizontal);
 - Procedures for drone usage, if required;
 - Commitment relating to the notification of tall equipment as per Civil Aviation Authority CAP 1096;
 - Procedures for gas venting, if required;

- Food waste to be contained within covered bins to prevent birds scavenging detritus and food waste, to ensure the risk of bird strike at East Midlands Airport is not increased; and
 - Measures to prevent puddling or ponding of water which can act as an attractant to birds hazardous to aviation.
- 30) No removal of trees, hedges, shrubs, buildings or structures shall take place between 1 March and 31 August, inclusive, unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. Thereafter, no trees, hedges, shrubs, buildings, or structures shall be removed between 1 March and 31 August, inclusive, other than in accordance with the approved bird nesting protection scheme.
- 31) Prior to the commencement of the development hereby permitted, full details of the improvement works to the existing bus stops at Kings Newton Lane (eastbound) and Derby Road (adjacent to Quaker Close) including raised kerbs, shelter (if applicable), real-time timetable display, hard surfacing and shelter hardstanding, lighting, and any associated footway works, shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be completed in full before the first occupation of any dwelling.