



Appeal Decision

Inquiry held on 17 and 18 March 2015

Site visits made on 19 March 2015

by L Rodgers B Eng (Hons) C Eng MICE MBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 June 2015

Appeal Ref: APP/V0510/A/14/2224671

Land off Field End, Witchford, Cambridgeshire, CB6 2XE

- 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 Gladman Developments Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 14/00248/OUM, dated 5 March 2014, was refused by notice dated 7 August 2014.
 - The development proposed is described as an "Outline application for up to 128 residential dwellings with all matters reserved apart from means for access".
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Decision

1. The appeal is allowed and planning permission is granted for "up to 128 residential dwellings with all matters reserved apart from means for access" on land off Field End, Witchford, Cambridgeshire, CB6 2XE in accordance with the terms of the application, Ref 14/00248/OUM, dated 5 March 2014 subject to the conditions laid out in Annex A.

Procedural matters

2. The application was submitted in outline with only the matter of access to be determined at this stage. Matters of appearance, landscaping, layout and scale were all reserved for future determination and I have dealt with the appeal on the same basis.
3. Notwithstanding that the recommendation of the Council's officer was to grant planning permission, the application was refused by the Council's Planning Committee for four reasons: the impact of noise and air pollution on future residents; the lack of sufficient archaeological information; the impact of the development on highway safety; and, the adverse effects on local education provision. At the time of that refusal, the Council did not believe it was able to demonstrate a five year supply of housing land.
4. A second application concerning the same development proposals, Ref 14/00931/OUM, was validated by the Council on 19 August 2014. That application was accompanied by supplementary information on air quality and highway safety; further archaeological work had also been undertaken. However, the Council's position with respect to its housing land supply had also changed to the extent that, in considering the second application, the Council believed it was able to demonstrate five year's worth of housing land supply.

5. In light of these changes the Council refused the second application for two reasons: housing development of up to 128 dwellings on an unallocated site would be contrary to policies CS1 and CS2 of the East Cambridgeshire Core Strategy (CS) and policies GROWTH1 and GROWTH2 of the emerging East Cambridgeshire Local Plan (LP); and, the adverse effects on local education provision. The Council considered that the issues around noise and air pollution, highway safety and archaeology had been satisfactorily addressed through the supplementary information put forward by the Appellant.
6. At the Inquiry the Council confirmed that in light of the additional information provided in support of the second application it no longer wished to pursue through this appeal reasons for refusal 1, 2 and 3 in respect of noise and air pollution, the sufficiency of archaeological information and the impact on highway safety. However, the Council also confirmed that in light of the changed circumstances regarding its five year housing land supply, and the fact that this development would be on an unallocated site outside the development boundary to Witchford, it now considered the application contrary to CS policies CS1 and CS2 and emerging LP policy GROWTH2. The Statement of Common Ground (SOCG) notes that it is agreed that the appeal proposal raises no conflict with emerging LP Policy GROWTH 1 which is intended to set development requirements for the period 2011 to 2031.
7. The Council also initially maintained its position that the development failed to make adequate provision to mitigate the likely adverse effects on local education provision. However, in light of the planning obligation submitted during the course of the Inquiry the Council confirmed that it no longer objected to the development on the basis of inadequate educational provision. That obligation is in the form of an agreement dated 17 March 2015 made pursuant to Section 106 of the Town and Country Planning Act 1990. It forms a material consideration for me to take into account in my decision.

Main Issue

8. In light of the procedural matters above I consider that there is one main issue in this appeal; whether the development should be regarded as sustainable having particular regard to its location and the Council's supply of housing land.

Reasons

Background

9. According to the SOCG, the appeal site measures just over 5 hectares in size. It is located to the north of Witchford, between the A142 and Field End, and is mainly agricultural land, subdivided into two fields and bounded by mature hedgerows and hedgerow trees. A small industrial estate lies to the east of the site with further agricultural land to the west. It is agreed between the main parties that the site is well contained by existing development.
10. The site lies outside, but adjacent to, the settlement limits of Witchford – agreed in the SOCG to be a large village with a range of services and significant employment sites. The SOCG also notes that Witchford is located approximately 1 mile from Ely and has good pedestrian, cycle and bus links to the city. In consequence the main parties agree that the appeal site is a sustainable location for the proposed level of development - albeit that as a 'Settlement', Witchford is not regarded as being as sustainable as the three

Market Towns (Ely, Soham and Littleport). I note that some third parties have expressed a contrary view as to whether the appeal site is in a sustainable location, a matter I return to below.

11. The proposal itself is for up to 128 dwellings, of which 30% would be affordable. Vehicular and pedestrian routes would be taken from Field End and the proposed formal and informal open space would result in a density of some 33 dwellings per hectare.

Policy framework

12. At the time of the Inquiry the development plan included the CS. CS Policies CS1 and CS2 sought to direct new housing development to land within existing settlement boundaries or specific housing allocations and sought strict controls over development within areas designated as 'countryside'. However, during the course of the Inquiry the Council noted that it "*...is inevitable that the Council will, in the next week or so, adopt the emerging Local Plan*". That adoption subsequently took place on 21 April 2015. LP Policy GROWTH 2 seeks to focus development on the Market Towns - with more limited development in those villages with a defined development envelope. It too aims to place strict controls on development outside the defined development envelopes.
13. Notwithstanding this change to the development plan, the aims of the policies referred to in both the LP and CS are, in respect of this appeal, to all intents and purposes the same. As both the CS and LP policies were discussed during the course of the Inquiry I have not seen a need to consult further with the parties consequent on the adoption of the LP.
14. I must also take account of the National Planning Policy Framework (NPPF) as a material consideration of significant weight. NPPF Paragraph 47 notes that to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for housing in the housing market area and should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing, plus a buffer, against their housing requirements.
15. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development and Paragraph 14 puts the presumption in favour of sustainable development at the heart of the NPPF. It explains that for decision taking, the presumption means approving development proposals that accord with the development plan without delay and, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole - or specific NPPF policies indicate that development should be restricted.
16. Paragraph 49 is clear that if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, then relevant policies for the supply of housing should not be considered up to date. LP Policy GROWTH 2 seeks to restrict development to certain locations and it is my view that it should therefore be treated as a relevant policy for the supply of housing. Similar considerations would have applied to CS Policies CS1 and CS2.

17. My attention was also drawn to the 'Village Vision' for Witchford, one of a number of 'Village Visions' within the LP. According to the Council, these 'Village Visions' are neighbourhood plan-style documents which have been developed in close collaboration with Parish Councils and local communities; the Council believes that this high level of local engagement and empowerment has enabled it to closely reflect the needs and priorities of local communities within the LP - as advocated by the NPPF.
18. The 'Village Vision' for Witchford states that it is likely to continue to grow at a slow rate with new housing being built on suitable infill sites within the village. No new housing allocation sites are proposed on the edge of the village. Indeed, the vision states that housing outside the development envelope will not normally be permitted unless there are exceptional circumstances - housing schemes outside the development envelope being assessed against Policy GROWTH 2.
19. Notwithstanding that the 'Village Vision' is part of the LP I accept the Appellant's point that it is not a Neighbourhood Plan as, despite the community involvement, it has not followed the same rigorous process of engagement. The 'Village Vision' is nonetheless likely to be representative of the views of many in the local community and is a material consideration for me to take into account.
20. However, I also agree with the Appellant that the text of a development plan cannot be elevated to the status of policy. As there are no policies in the 'Village Vision', nor is it referenced by policies elsewhere in the plan, it follows that the 'Village Vision' cannot itself be treated as policy. Paradoxically, that could lead to the situation where, if the Council cannot demonstrate a five year housing land supply (HLS), policies that seek to restrict housing outside the development envelope would be out of date - but similar aims set out in the 'Village Vision' would not, technically, be treated as being out of date. To accord these aims more weight than policies which are deemed out of date seems to me wholly illogical. Consequently, whilst the Council appeared to suggest at the Inquiry that some reliance could be placed on the 'Village Vision' even if there was shown to be no five year HLS, it seems to me that it is the policies that must carry sway.
21. The Inspector's report on the examination into the LP is a clearly a further important material consideration for me to take into account.

The supply of housing land

22. The Council maintains that it can demonstrate a housing land supply in excess of five years and in consequence, relevant policies for the supply of housing should be considered up to date. In this regard the Council relies at least in part on the findings of the LP examining Inspector who states in his report, published a few days before the Inquiry on 9 March 2015, that "*...an adequate five year housing land supply has been demonstrated in line with paragraph 47 of the Framework*".
23. The Appellant's view is that, notwithstanding the recent publication of the LP examining Inspector's report and the fact that the Council is intending to imminently adopt the LP, the Council cannot currently demonstrate a five year HLS. The Appellant points out that although the examining Inspector's report is very recent, its evidence base is somewhat older and matters have since

moved on to a material extent - in that the base date for assessing whether or not a five year HLS exists is now 1 April 2015 compared to the former base date of 1 April 2014, the backlog is now 1228 dwellings rather than 865, the Council's claimed supply has been increased to 4909 rather than 4089 and the latest housing information is now contained within the February 2015 Housing Supply Paper¹ (HSP) rather than the March 2014 Housing Supply Background Paper (HSBP).

24. To my mind the matters outlined above do represent material changes to the information that was before the LP examining Inspector. In any event it is axiomatic that I consider the matter on the basis of the information now before me. I shall therefore do so.

The requirement

25. The Housing Statement of Common Ground (HSOCG) notes that both parties agree that the 5 year period for the purposes of the land supply assessment is 2015-2020 - with Year 1 commencing on 1 April 2015. The requirement is also agreed at 11,500 dwellings for the period 2011-2031, equivalent to 575 dwellings per annum (dpa). The base forward requirement for the next five years is thus 2,875 (5 x 575). With respect to any shortfall to be recovered, actual completions for the period 2011-2014 totalled 850 dwellings resulting in a shortfall of 875 dwellings ((575 x 3) - 850 = 875). Projected completions for 2014 - 2015 total 222 dwellings resulting in a further shortfall of 353 dwellings. The overall shortfall is thus 1228 dwellings.
26. The Planning Practice Guidance (PPG)² notes that local planning authorities should aim to deal with any under supply within the first 5 years of the plan period where possible. This is consistent with the Government's aim, expressed in NPPF Paragraph 47 and cross referred to in that part of the PPG, to boost significantly the supply of housing. The Inspector examining the LP considered that there were no fundamental constraints to delivery in terms of land availability, environmental capacity and infrastructure capacity and as such the shortfall should be apportioned to the first five years. I was given no substantive reason to take a different view and in consequence the requirement for the next five years should be taken as 4103 dwellings (2875 + 1228 = 4103).
27. The parties do, however, dispute whether, in light of NPPF Paragraph 47, the buffer should be taken as 5% or 20% and whether or not it should be applied to any backlog. The quantum of housing likely to be delivered on certain sites is also disputed. I shall address each of these matters in turn.

The size of the buffer

28. NPPF Paragraph 47 notes that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of either 5% to ensure choice and competition in the market for land or, where there has been a record of persistent under delivery of housing, an increased buffer of 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. The

¹ East Cambridgeshire Housing Supply Paper February 2015 (CD 14)

² 3-035

question here is whether or not there has been a record of persistent under delivery of housing.

29. The PPG³ notes that the approach to identifying a record of persistent under delivery of housing involves questions of judgment for the decision maker in order to determine whether or not a particular degree of under delivery triggers the requirement to bring forward an additional supply of housing. The factors behind persistent under delivery may vary from place to place and, therefore, there can be no universally applicable test or definition of the term. The PPG also accepts that it is legitimate to consider a range of issues, such as the effect of imposed housing moratoriums and the delivery rate before and after any such moratoriums. In consequence the PPG acknowledges that the assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.
30. In this case the LP examining Inspector noted in his final report⁴ that given the evidence of previous over-delivery (in that completions exceeded the Local Plan target, often significantly, in 8 of the 9 years between 2001/2 and 2008/9) he did not share the view of some representors that a 20% buffer should be applied. Instead he considered a 5% buffer appropriate. The Council maintains that for consistency the LP examining Inspector's conclusions should be followed unless there is clear justification for not doing so – and the only change from the position considered by the LP Inspector is that one or two further years of under-delivery are now known. In the Council's view that cannot be sufficient to tip the balance away from the previous Inspector's finding, nor can it be correct to consider only the position during a recession and short subsequent period.
31. In response to concerns raised by the LP Inspector during the course of his examination, the Council produced a note⁵ (June 2014) including a table showing housing completions against plan targets since 1991/92 (p8, Section 2.4). Although the table shows that completions fell short of target in the first four years, it also shows that in the years between 1995/96 and 2008/9, completions exceeded the target in all but one year - and even then the shortfall was marginal. In some years completions were almost double the plan targets.
32. Of note however, is that between 2009/10 and 2012/13, the last four years for which completion figures were then available, completions fell short of the target in each year - with completions in 2009/10 being less than half of the plan target. The total shortfall in those four years amounts to some 490 dwellings when measured against the then plan target of 430 dpa. The table also shows that completions in both 2013/14 and 2014/15 were expected to result in a further shortfall against the plan targets of some 676 dwellings, albeit that completions between 2015/16 and 2020/21 were thereafter expected to significantly exceed the plan targets.
33. Compared to the position noted above, updated information in the HSOCG (of which the Local Plan Inspector could not have been aware) now shows that delivery in 2013/14 and 2014/15 is expected to result in an additional shortfall

³ *ibid*

⁴ Report on the Examination into the East Cambridgeshire Local Plan - Para 34

⁵ 'Further note on five year housing land supply', 27 June 2014 (CD16)

in those two years of some 60 dwellings. The Council's HSP also shows that delivery in 2015/16 is now anticipated as being around 443 dwellings - or some 387 less than was assumed in June 2014. Consequently, rather than delivery significantly exceeding the plan target, as was previously predicted and of which the Local Plan Inspector would have been conscious, delivery in 2015/16 is now assumed by the Council itself to fall short of the target by around 132 dwellings.

34. I have no doubt that the economic downturn and the associated slowdown in construction have contributed significantly to the under delivery since 2009/10. However, it is nonetheless clear that by the start of the 2015/16 year, delivery will have fallen significantly short of the plan target in each of the preceding six years. On the Council's own figures, delivery is again predicted to fall short of the target in 2015/16 thereby resulting in seven consecutive years of under delivery. Whilst I accept that the economic situation may help to explain some of the shortfall, it seems to me that it does not fully explain the shortfall in later years nor does it alter the fact that necessary housing has not been delivered.
35. Notwithstanding the time period during which under delivery has occurred, in order to draw any sensible conclusions regard must also be had to the size of the shortfall; marginally missing targets is clearly far less significant than substantial under delivery. In looking at the June 2014 information the LP Inspector would have seen that under delivery in the four years between 2009/10 and 2012/13 amounted to 490 dwellings against plan targets in each year of 430 dpa - with delivery between 2013/14 and 2015/16 expected to fall short by a further 421 dwellings against plan targets of 575 dpa. The LP Inspector would therefore have seen a likelihood of six years of consecutive under delivery amounting to 911 dwellings. The comparable position today is that the shortfall is likely to be over seven years and would amount to some 1358 dwellings, an increase of almost 50%.
36. Looked at another way, the HSOCG records that the agreed shortfall between 2011/12 and 2014/15 is 1228 dwellings when measured against the LP targets, a figure that is now predicted to rise to some 1360 dwellings by the end of 2015/16. When compared to the accepted need of 575dpa that figure represents around 2.4 years worth of housing under delivery accrued over a period of five years.
37. The Appellant noted in closing that when asked in cross examination how long would be needed for 'persistent under supply to be triggered' the Council's witness said 'possibly six years'. In that regard the Appellant has specifically drawn my attention to two earlier appeal decisions⁶, albeit not in this area. In the first of those decisions (APP/R0660/A/13/2196044) the Inspector noted:

19. The area that now comprises the administrative area of Cheshire East has not met its housing targets since 2008/9. That is almost six years, during which time there has been persistent under delivery that now amounts to over 3,000 dwellings. The former Congleton Borough, in whose area Sandbach is located, also failed to meet its housing target in 2006/7 and 2007/8. The fact that the former Borough of Crewe and Nantwich, which was promoting economic growth policies, had a housing surplus that in a Cheshire East analysis masked this under delivery is not a basis for arguing

⁶ APP/R0660/A/13/2196044 & APP/R0660/A/13/2189733

that there was not under delivery. In the context of this appeal site's location there has been persistent significant under delivery of housing for some time. The Framework is clear that where there has been a persistent record of under delivery then the buffer should be 20%.

20. I am aware that some of these years of shortfall coincided with the recession but I am not persuaded that an unavailability of sufficient housing land for a considerable period of time has not been the major cause of the under delivery within Cheshire East. Historically the Borough of Congleton was subject to housing restraint policies and this is a relevant consideration. However, whilst the moratorium could have contributed to the under performance in 2006/7, it was abundantly clear by 2007, when the Examination in Public into the North West Regional Strategy 2006 was held that this was coming to an end. Despite this, no action was taken to boost the supply of housing for a number of years. I also note that in his decision on the land off Abbey Road and Middlewich Road Sandbach appeal (October 2013), (Document 38), the Secretary of State said that "an additional 20% buffer to reflect persistent under delivery over the last 5 years, accords more closely with the Framework requirement to boost significantly the supply of housing".

38. In the second case, (APP/R0660/A/13/2189733), the Inspector noted:

33. There is no dispute that supply of housing has not met targets in the CEC area since the 2008/9 year. Since that time targets have been missed to the extent that the under delivery amounts to well over 2500 dwellings. The fact that there was exceedence of targets in the preceding years is not crucial to the matter of setting an appropriate buffer since none of the targets are ceilings in any event. A modest oversupply is acceptable, but should not be offset against a pattern of subsequent under supply for the purposes of setting a buffer.

34. To persist has been defined in dictionaries as "to continue steadily or firmly in some state, purpose, or course of action, in spite of opposition or criticism" and "to continue steadfastly or obstinately". That the housing supply numbers have fallen well below targets every year since the last meeting of targets in 2007/8 seems to me to demonstrate a steady course of action, which the Council would no doubt have liked to see remedied. The under delivery has been steadfast and obstinate, and no actions of the Council or others have been able to change its course. I am well aware that the years in question have coincided with the recession, and that under delivery is therefore not entirely surprising. But that fact does not alter the intentions of policy. Where there has been persistent under delivery, as is quite clearly the case here, action is required to seek to redress the situation because the need is not going to disappear. Part of that action is to increase the choice of land available by adding a 20% buffer to the housing land requirement. On balance I consider that 20% is the appropriate buffer.

39. The Council argues that the cases above can be distinguished from the situation here in that, in the first decision, the lack of sufficient land was a "major cause" of under delivery and in the latter ".....the under-delivery, in part at least, appeared to derive from a failure of the Council to have an up to date Local Plan." I accept these criticisms and I see no reason to doubt the Council's contention that here it is the "...market which has failed to deliver not

the Council failing to make adequate sites available". I also accept that the amounts of under-delivery in those earlier cases were somewhat larger than is the case here.

40. Nonetheless, there are also some similarities: the previous Inspectors were looking at similar timescales (I note that whilst in the first case the former Congleton Borough had also failed to meet its housing target in 2006/7 and 2007/8 the Inspector also notes that the area that now comprises the administrative area of Cheshire East had not met its housing targets since 2008/9); the periods looked at by the Inspectors encompassed the recession; and, in at least one of the cases, there had also been over-delivery in previous years. Consequently, whilst I accept that there are differences between these earlier cases and the situation here they nevertheless should be accorded some weight in my considerations.
41. Although the Council maintains that it is the market that has failed to deliver, rather than the Council failing to make adequate sites available, whatever the underlying causes the need to try and boost the supply of housing remains. In that regard I particularly note that the Inspector in APP/R0660/A/13/2196044 records that, in his decision on the land off Abbey Road and Middlewich Road Sandbach appeal (October 2013) the Secretary of State said that "an additional 20% buffer to reflect persistent under delivery over the last 5 years, accords more closely with the Framework requirement to boost significantly the supply of housing".
42. I accept that the LP Inspector's finding that the Council could demonstrate a five year supply of housing land is a very relevant material consideration for me to take into account. However, the evidence now before me shows that since the matter was considered by the LP Inspector, not only has the duration of the shortfall increased but its volume has also increased appreciably. To my mind, the current position of six consecutive years of under delivery and a backlog of some 1228 dwellings, irrespective of the very real prospect of seven years of under delivery and a backlog of 1360 dwellings, should be regarded as persistent under delivery.
43. Notwithstanding that third parties suggested that the Appellant was re-running a case it had already lost, the situation has changed appreciably since the LP Inspector considered the matter and I must base my determination on the evidence now before me. On that basis, I conclude that for the reasons above and contrary to the findings of the LP Inspector the appropriate buffer to be applied in this case is 20%.

The application of the buffer

44. Irrespective of whether the appropriate buffer is deemed to be 5% or 20%, the Council argues that the size of the buffer should be calculated only on the base housing requirement - and should not take account of any deficit or shortfall. The Appellant considers that the size of the buffer should be calculated by reference to both the base requirement and to any deficit or shortfall from previous years. In that respect the Appellant has referred to one of my own recent appeal decisions⁷ in which the same matter was at issue.

⁷ APP/R0335/A/14/2219888 Land at Tilehurst Lane, Binfield, Bracknell, Berkshire

45. In that decision I noted that *"First, it seems to me that any deficit or shortfall only arises because there has been a failure to deliver the required housing in previous years. That does not mean that the requirement has disappeared; indeed, if that were the case there would be no point in trying to take account of the deficit at all. The housing requirement must therefore include the deficit. Secondly, the NPPF makes it clear that the 20% buffer is there in part to "...provide a realistic prospect of achieving the planned supply...". I see no logic in seeking to secure delivery of only part of the overall requirement whilst the rest remains at risk. That surely is a recipe for a continuing deficit."*
46. Notwithstanding my previous findings, each case must be determined on its own merits. In this case the Council has referred me to Paragraph 34 of the LP Inspector's report in which he says, considering the Council's assessment of a 3,884 dwelling five year requirement to be robustly based, that he *"...took a view that the 5% buffer should not be applied to the shortfall"*.
47. I again accept that the LP Inspector's conclusions are a material consideration for me to take into account. However, I also note that in Paragraph 34 he goes on to say that *"...this matter was the subject of discussion at the further resumed hearing. If the 5% buffer were to be applied to the shortfall the five year requirement would rise to...."*. The LP Inspector thus appears in his final report to open up the possibility of calculating the buffer by reference to both the base requirement and any backlog – an apparent refinement of his interim conclusions⁸ in which he said *"I do not feel that a 5% buffer should be added to the shortfall in addition to the overall housing requirement figure....."*.
48. In the event, the LP Inspector found no need to reach a definitive conclusion on the approach to be taken in calculating the size of the buffer as additional sites were put forward which were sufficient to meet a buffer based on both the base requirement and the backlog (representing an additional 44 dwellings). Whilst the LP Inspector's final report does not therefore definitively support the inclusion of the backlog in the calculation of the buffer, nor does he dismiss such an approach. Consequently I find nothing in the Inspector's report that leads me to reconsider my earlier views outlined above, nor was any other evidence put before the inquiry to persuade me to adopt a different approach.
49. I therefore conclude that in assessing whether or not the Council can demonstrate a five year HLS, the buffer should be calculated by reference to the totality of the housing requirement including the backlog.

Deliverable supply

50. In assessing the deliverable supply the NPPF sets out a number of parameters to be considered when deciding whether or not a site is deliverable. These include that it is available now, offers a suitable location for development now, and is achievable with a realistic prospect that housing will be delivered on the site within five years and, in particular, that development of the site is viable. It also notes that sites with planning permission should be considered deliverable until permission expires - unless there is clear evidence that schemes will not be implemented within five years. The Planning Practice Guidance (PPG) makes it clear that planning permission or allocation in a development plan is not a prerequisite for a site being considered deliverable in terms of the five-year supply.

⁸ East Cambridgeshire Local Plan (LP) Examination Inspector's Interim Conclusions – 14 July 2014 para 38 (CD21)

51. The Council maintains that it has a deliverable supply of 4909 dwellings. This is acknowledged to be an increase of 243 dwellings when compared to the very recent position set out in the HSP of February 2015 - which anticipated a supply of 4702 dwellings. This is a matter I return to below. However, it is worth noting at this point that it is agreed in the HSOCG that if the appropriate buffer is found to be 20% and is calculated by reference to both the base requirement and the backlog, then the total housing land supply for 2015-2020 would need to be 4924 dwellings. Consequently, based on my findings to date, the Council is unable, albeit marginally, to demonstrate an NPPF compliant five year supply of housing land even if all sites were to deliver in full.
52. The Appellant, however, considers that in any event the deliverable supply is much lower than that claimed by the Council - at only some 3068 dwellings (albeit that the Appellant accepted during the course of the inquiry that this figure should be marginally increased consequent on the submission of further information by the Council).
53. The respective views of the Council and the Appellant concerning those sites on which they disagree are laid out in the HSOCG on a site by site basis, a number of which (representing around 90% of the total difference between the parties of 1841 dwellings) were subject to further discussion at the inquiry. Given that the Council's claimed supply at 4909 falls only marginally short of the 4924 required I intend to consider some of the sites in more detail below.

Ely North

54. According to the February 2015 HSP, this site was expected to deliver some 780 dwellings up to 2019/20 - with the first 160 dwellings being delivered in 2016/17. That trajectory represented a downward revision to that given in the March 2014 Housing Supply Background Paper⁹ which anticipated the first deliveries to be in 2015/16 (220) and a total of 1100 dwellings being delivered by 2019/20. I understand that the revision followed comments made by the LP Inspector in his interim report¹⁰.
55. However, the Council now suggests in the HSOCG that some 1025 dwellings will be delivered by 2019/20 with around 320 dwellings being delivered in 2016/17. The Council points out that these delivery figures have been agreed by both parties to the development, as well as the appointed marketing agents, and has submitted a number of emails¹¹ in support of its position. Contrary to the Council's view the Appellant considers that even the scenario in the February 2015 HSP is optimistic and the first delivery should not be expected until 2017/18 with a reduced five year total of 560 dwellings.
56. I note that resolutions to grant outline planning permission for 2 applications totalling 2000 dwellings were made in November 2014. However, the s106 agreements are yet to be signed and it seems to me unlikely that any developer would be in a position to contemplate a start on site until the latter end of 2015/16 at the earliest. Bearing in mind the comments of the LP Inspector in his interim conclusions of July 2014 regarding infrastructure works and pre-commencement requirements I find the suggestion that 320 dwellings will be delivered in 2016/17 unrealistic. Whilst I acknowledge that the Council

⁹ CD 12

¹⁰ CD 21

¹¹ Document 20

has put forward a number of emails in support of its latest trajectory, these appear to be the views of the landowners and marketing agents, rather than developers. The emails are in any event imprecise in their wording and the figures contained therein do not appear to relate to the same time periods used by the Council. Notwithstanding the Council's suggestions during the course of the discussions as to the meaning of the emails I can give them no more than limited weight.

57. In that the inquiry heard little evidence of anything more than limited progress since the matter was considered by the LP Inspector I give some credence to the Appellant's view that even the trajectory in the February 2015 HSP could be overstated. However, even though I consider that the emails put forward by the Council can attract no more than limited weight they nevertheless confer a clear sense of optimism. In my view it ought to be possible to deliver dwellings in 2016/17 and whilst the February 2015 trajectory may be at risk, at this stage I see no persuasive reason to adopt an alternative five year delivery. I therefore consider the Council's latest projections should be regarded as overstated by some 245 dwellings (cf. the increase between the HSOCG and the position set out in the HSP of February 2015).

Littleport Woodfen Road

58. The February 2015 HSP identifies that this site will deliver some 200 dwellings by 2019/20 with the first 45 dwellings being delivered in 2016/17. The Appellant agrees that there is a prospect of the site coming forward but suggests that lead-in times are such that delivery will not commence until 2017/18 and that only some 130 dwellings would be delivered by 2019/20. This view is informed by what the Appellant considers to be a realistic lead-in time for large sites that includes some 9 months to secure outline planning permission, 6 months to transfer land, 9 months to secure reserved matters approval and discharge conditions and 9 months for the delivery of infrastructure and services. In consequence, the Appellant believes that delivery of the first completions would not occur until the end of year 3.¹²
59. I accept that, for some large sites, the above delivery timescales would prove appropriate and realistic. However, I am not convinced that they should be applied to all such sites without further analysis - and the Appellant accepts as much¹³. Equally, it seems to me that on large sites where a planning application is yet to be made there are at best limited prospects of achieving any housing delivery within 18 months.
60. In this case, the HSOCG records that no planning application has yet been made, the site is in private ownership and LP Policy LIT1 requires a Masterplan for the whole area to be submitted alongside any application. In light of these matters I consider it unlikely that any dwellings will be delivered before the back end of 2016/17 and as such the Council's anticipated trajectory should be slipped by at least six months - such that the Council's projected five year delivery from the site will be overstated by 25 dwellings.

Soham Sites

61. The February 2015 HSP lists a number of sites in Soham of which the largest appear to be Brook Street (400) and Eastern Gateway (600). Brook Street is

¹² PoE J Mackenzie p47 Table 8.5

¹³ Ibid paras 8.4.20 & 21

anticipated to deliver some 230 dwellings by 2019/20, with 60 dwellings in 2016/17, and Eastern Gateway 300 dwellings with 60 in 2016/17. Brook Street is currently in private ownership whilst Eastern Gateway is in multiple ownership. No planning applications have yet been submitted for either site.

62. LP Policies SOH1 and SOH 3 require the submissions of Masterplans for each of the areas and whilst I understand that concept Masterplans have been produced these will need to be finalised. Again I consider that the Council's proposed trajectories should be slipped by at least six months such that the total five year delivery from these two sites should be reduced by some 65 dwellings (ie half the combined 2019/20 total of 130 dwellings).
63. In terms of the additional Soham sites brought forward in response to the LP Inspector's concerns, these amount to a potential delivery of 510 dwellings. In that regard the Appellant suggests that the LP Inspector "...expresses the view that he is not confident of their delivery in five years – just that he thinks that there will be enough (ie 250 out of 510) to meet the deficit he identified".
64. However, Paragraph 37 of the LP Inspector's final report notes that "...the Council suggests that all of these dwellings will be completed by April 2019. I share the view of several representors that, given a number of uncertainties about the details of particular schemes, this is unrealistic." Consequently it seems to me that the LP Inspector was commenting on the realism of the Council's proposed trajectories, rather than the potential for delivery in the five year period commencing in 2015/16. Indeed, even with slippage of a year, all the additional sites could deliver within the next five years. That said, I note that the sites identified as 'Land off Fordham Road', 'South of Blackberry Lane' and 'North of Blackberry Lane' all require Masterplans to be prepared, all are in multiple ownerships and in no case has a planning application yet been made. In consequence there must be some risks to the Council's assumed five year delivery on these sites.

Conclusions on deliverable supply

65. Based solely on the sites above I consider that the Council's latest predicted five year housing supply is likely to be overstated by around 335 dwellings. I have also identified a number of further risks to delivery. However, whilst I have found some of the Council's views on deliverability to be overstated I have also found some of the Appellant's views to be unduly pessimistic. To my mind these findings are likely to be repeated on other disputed sites such that a more realistic five year supply will lie somewhere between the figure put forward by the Council and that put forward by the Appellant.
66. In any event, as I have already found that the Council is unable to demonstrate a five year supply of housing land even if all the sites were to deliver in full I see no need to look further at individual sites. Suffice to say that my analysis of the few individual sites above adds considerable weight to my earlier conclusions on this matter.

Other matters

67. A number of further objections to the proposal have been raised by third parties including local residents, local Councillors and the Parish Council. These objections relate to such matters as local infrastructure and amenities, highway safety, noise and air quality.

68. With respect to local infrastructure and amenities, I have already noted that Witchford is agreed by the Council to be a large village with a range of services and significant employment sites. Whilst I understand that there is no doctor's surgery in Witchford, which is designated as a 'Limited Service Centre', it is agreed in the SOCG that there are good pedestrian, cycle and bus links to Ely. Although it seems to me that a large proportion of people are likely to travel to Ely by car, eschewing other modes, the distance involved is small. Ely has a good range of services and whilst I note the suggestion that doctor's surgeries in Ely are over-stretched, I was given no substantive evidence to show that additional patients could not be accommodated. Although a number of objectors also pointed to capacity problems in the local schools I note that the proposed s106 obligation would secure contributions enabling additional and/or improved facilities for both pre-school and primary education. The Council has agreed in the SOCG that the appeal site is a sustainable location for the proposed level of development. Subject to the proposed education contributions, I have no cogent reason to take a different view.
69. In terms of highway safety I note the concerns of residents particularly in respect of the right turn from Common Road onto the A142. My own experiences at this junction, particularly at the busier times of day, confirm that it can often be necessary to wait some time before being able to pull out safely onto the A142. However, there is good visibility of approaching traffic and the available accident data submitted as part of the Appellant's Transport Assessment¹⁴ shows only one accident at the junction in the last five years of that data. There are no objections from the highway authority in this regard and I am in any event conscious that there is an alternative route through the village which provides access to Ely and the A142 via a roundabout.
70. In that regard I also acknowledge that increased traffic through the village and increased traffic on Field End are themselves matters of concern to local residents. However, on the evidence before me it seems unlikely that traffic volumes would be such as to result in any significant congestion or material harm to highway safety. In this respect there are again no objections from either the highway authority or the Council and subject to the imposition of appropriate conditions controlling such matters as the detailed design of the proposed access, I too see no good reason to refuse permission on these grounds.
71. A number of third parties have raised concerns in respect of the impact of noise from the adjacent A142 on the living conditions of any future residents of the development. In particular, criticisms have been levelled at the Appellant's Noise Assessment Report including that the measurements taken are unrepresentative, the interpretation of the data is at best unscientific and potentially misleading and the suggested mitigation is inadequate. Concerns have also been raised as to the effects of vibration on the living conditions of future residents.
72. However, I note that the noise monitoring locations and methodology were discussed and agreed with the Council's Environmental Health team prior to undertaking the noise assessment - and that consequent on that assessment, the Council's Environmental Health team are content that the development can go ahead with the amenity of future residents being properly protected. In

¹⁴ CD 18

light of this the Council no longer raises any objection to the proposed development on the grounds of harm to the living conditions of any future residents by way of noise, nor does it object to the development in terms of vibration. The Council does, however, suggest that if permission is to be granted then a condition should be imposed requiring that a noise assessment accompany any reserved matters application and that the assessment should detail the mitigation measures necessary to ensure that noise levels at sensitive receivers do not exceed 30dB $L_{Aeq, 8hr}$ internally and 50dB $L_{Aeq, 16hr}$ externally.

73. To my mind the relationship of the proposed development to the A142 would not be particularly remarkable either in terms of the proximity of the development to the road or in terms of the traffic levels on the A142. Whilst I accept that the noise assessment work undertaken to date does indicate a need for certain mitigation measures to be incorporated into the design and/or layout of the properties, such mitigation measures too are not particularly remarkable or unusual. Consequently it seems to me that in terms of noise and vibration, and subject to appropriate mitigation measures secured by means of the Council's suggested condition, the living conditions of future occupiers would be acceptable.
74. As far as air quality is concerned, the Air Quality Assessment (AQA) (AQ0531)¹⁵ concludes that the impact from construction activities can, through appropriate mitigation measures, be kept to acceptable levels. In that regard the Council has suggested that a condition requiring the submission of a Construction Environmental Management Plan should be imposed on any grant of planning permission.
75. With respect to traffic generated pollutants, the AQA concludes that the concentrations of PM_{10} predicted to occur in 2020 do not approach or exceed the relevant air quality objective at any point across the A142 or the development. The AQA does, however, acknowledge that the air quality objective for NO_2 is likely to be approached or exceeded in locations close to the A142. That said, the report goes on to state that provided the development facades are more than 20m from the A142 central reservations (a matter that can be dealt with as part of the Council's considerations of any reserved matters submissions in respect of layout) then there are no air quality ground for refusal.
76. A number of criticisms have nonetheless been levelled at the AQA including its use of desk based estimating rather than actual measurements, the assumed speed limit for Heavy Commercial Vehicles and the source of its wind speed data. However, a certain amount of model verification and subsequent adjustment is described in the AQA and there is in any event no substantive evidence before me to show that any of these criticisms are material to the conclusions of the assessment.
77. The AQA is also criticised for its failure to properly address the impact of $PM_{2.5}$ particles and in particular for its reference to the Air Quality Standards Regulations 2007 rather than the Air Quality Standards Regulations 2010.
78. The Appellant suggested in closing that this was because the standards being referred to in Schedule 2 of the 2010 Regulations did not come into effect until

¹⁵ CD17

1 January 2015. However, the 2010 Regulations came into force on the 11 June 2010 and, as laid out in the accompanying explanatory note, replaced the 2007 Regulations - which were revoked. Whilst I accept it is true that Schedule 2 states that the limit value of 25 µg/m³ is to be met by 1 January 2015, Schedule 2 also lays out an annually decreasing margin of tolerance from 2008. It therefore seems to me that the reference to the 2007 Regulations is, as suggested by third parties, incorrect.

79. I nevertheless agree with the Appellant that the duty of ensuring that the limit values set out in Schedule 2 of the 2010 Regulations are not exceeded is a duty placed on the Secretary of State by virtue of Regulation 17. As such, granting permission would not be in tension with the Regulations.
80. That said, PM_{2.5} levels cannot be seen as an irrelevance and I note that a number of measurements made by third parties in some of the fen villages are said to have found PM_{2.5} levels well in excess of the current limit value. However, there is no evidence before me to show that traffic volumes, speeds, topography and the surrounding development at the third party measurement sites were in any way similar to the appeal site - and it was accepted that the measured levels represented no more than snapshots. Consequently I can accord these measurements little weight in my deliberations.
81. My attention was also drawn to Schedule 7 of the 2010 Regulations which sets further national exposure reduction targets for PM_{2.5} in future years. However, whilst it is clear that targets will be tightened and are indicative of underlying health concerns, it is again for the Secretary of State to ensure that all necessary measures, not entailing disproportionate costs, are taken with a view to attaining the national exposure reduction targets in Schedule 7.
82. Based on the information contained in the AQA the Council no longer objects to the development on the grounds of air quality. Whilst I accept that the concerns of third parties are genuinely held and the AQA itself cannot be without criticism, subject to an appropriate layout there is no cogent evidence before me to show that the proposed development would be in contravention of any policies, regulations or accepted guidance, nor that there would be any material harm to the health of future occupants as a result of the ambient air quality. Consequently, like the Council, I too see no reason to object on these grounds.
83. It has also been suggested that the Appellant breached the Data Protection Act by publishing the email addresses and reproducible signatures of individual respondents - and a request was made that I write to the Data Protection Registrar bringing this matter to his attention. However, whether or not there has been any breach of the Act is not something for me to deal with in the context of a s78 planning appeal and as such I consider it a matter for the individual(s) concerned.

Conditions

84. The Council has suggested a number of conditions that it considers would be appropriate in the event I was minded to allow the appeal. I have considered those conditions in the light of the NPPF, the planning practice guidance and the discussions at the inquiry. For ease of reference I refer below to the Council's numbering.

85. The standard outline conditions limiting the life of the permission and setting out the requirements for the reserved matters would be required (1, 2). However, I was given no evidence to show that the site was likely to be contaminated and notwithstanding the Council's 'precautionary approach' I see no need for a condition requiring a contamination investigation and risk assessment (3) before development takes place. However, a condition requiring that the Council is notified in the event that contamination is found during the course of construction, and that contamination is thereafter subject to a remediation scheme, would be appropriate and reasonable (16). Notwithstanding its limited finds, the archaeological evaluation report does suggest a level of activity on the site that warrants a condition requiring further archaeological work (4).
86. In the interests of ecology and sustainability, conditions protecting existing trees (5) and protected species (18), creating ecological enhancements (7), securing energy efficient homes (6) and the submission of a Residential Travel Plan (19) would all be policy compliant, reasonable and necessary.
87. In view of the need to control surface water run-off in the interests of preventing flooding and preserving water quality in the nearby water courses, a detailed surface water drainage scheme would be required (8) as would a scheme for waste water infrastructure (15). To protect the living conditions of both future residents and neighbours, conditions dealing with noise (9), a Construction Environmental Management Plan (11) and hours of work (17) would all be reasonable and necessary.
88. The Council has suggested a range of conditions which it considers necessary to secure highway safety. I consider that a number of these (12, 13, 23 and 24) are appropriate and necessary but others (14, 20 and 21) would either be subsumed by other conditions or more appropriately imposed at reserved matters stage. Conditions seeking to control the dwelling mix (10 and 22) are unnecessary in light of LP Policy HOU 1.
89. In the interests of proper planning, a condition listing the appropriate application plan would be required. I see no need for any further conditions but those suggested by the Council may need to be amended in the interests of clarity and precision.

Planning Obligation

90. The Appellant has submitted a planning obligation dated 17 March 2015 in the form of an Agreement pursuant to s106 of the Town and Country Planning Act 1990. This obligation is intended to secure a range of matters including the provision of public open space within the site (including an equipped play area) and the provision of 30% of the total number of dwellings as affordable homes. It is also intended to secure financial contributions towards education, specifically additional and/or improved educational facilities for primary school aged children at Rackham Primary School and for pre-school aged children in the catchment area of Rackham Primary School.
91. Having regard to the Council's Supplementary Planning Document on developer contributions (March 2013), as well as LP Policy HOU3, I am content that there is a clear basis for seeking the proposed amounts of affordable housing, education contributions and open space. The Council has also confirmed that the obligation would be compliant with Regulation 123 (3) of the Community

Infrastructure Levy (CIL) Regulations 2010 in regard to the number of obligations that may be taken into account.

92. The Council and the Owners are satisfied that the Planning Obligations contained in the agreement are necessary to make the development acceptable in planning terms; are directly related to the development and fairly and reasonably relate in scale and kind to the development. In light of the matters above I have no reason to take a different view. I therefore find that the submitted obligation meets the tests set out in the NPPF and the (CIL) Regulations 2010 and should be accorded significant weight.

Conclusion

93. Section 38(6) of the Planning and Compulsory Purchase Act 2004 makes it clear that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
94. In this case the proposed development would lie outside the settlement limits of Witchford and in consequence would be in clear conflict with LP Policy GROWTH 2 which aims to strictly control any development outside the defined development envelopes. Although, despite the various concerns raised by local residents I have found that, subject to the submitted s106 obligation and appropriate conditions, there would be no further conflict with the development plan policies the development would nonetheless be contrary to the development plan. I shall therefore turn to whether there are any material considerations sufficient to outweigh that conflict.
95. As noted earlier, the NPPF is a material consideration. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development and that when, as here, there is no five year HLS, relevant policies should not be considered up-to-date. LP Policy GROWTH 2 is one such relevant policy. When relevant policies are out-of-date, Paragraph 14 notes that the presumption in favour of sustainable development means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole - or specific NPPF policies indicate that development should be restricted.
96. In this case there are no specific NPPF policies indicating that development should be restricted. There are, however, some clear benefits to the proposal; in light of the Council's housing land supply situation the provision of 128 housing units in a location that gives fairly easy access to a range of services must carry significant weight in its favour, as must the provision of 30% affordable housing. There would also be some further economic benefits - albeit in part transient - that should be accorded at least limited weight.
97. In terms of adverse impacts, the Council argues that permitting the development would be highly damaging to the Local Plan and would 'drive a coach and horses' through it from day 1 - such as to undermine a core planning principle that the planning system should be plan led and local people empowered. However, whilst I acknowledge those concerns, I have explained above that the evidence base for the plan has changed significantly since it was considered by the examining Inspector and the Council accepts that it will in

any event have to annually review the housing supply situation. Consequently, I give those concerns no more than limited weight.

98. Against this background, and notwithstanding that the development would also result in the loss of some productive agricultural land, it is my view that there are no adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. I therefore consider that the proposed development should be regarded as sustainable and according to NPPF Paragraph 14, permission should be granted. I consider this to be a significant material consideration sufficient to outweigh the development plan conflict.
99. Having had regard to all other matters before me, including the concerns of local residents relating to the effect of the development on local drainage and watercourses (a matter that I consider would be dealt with by the Council's suggested condition) and the alleged failure of the Appellant to constructively engage with local interests during the development process, I have found nothing to materially alter the overall planning balance above. I therefore conclude that, subject to the identified conditions, the appeal should succeed.

Lloyd Rodgers

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr David WG Whipps, Solicitor, Legal Associate RTPI	Holmes and Hills LLP, instructed by the Solicitor to the Council
He called	
Mrs Wendy Hague BA (Hons) Dip TRP MRTPI CIHM	Strategic Planning Officer, East Cambridgeshire District Council
Mrs Penelope Mills MA(Cantab), MA, MRTPI	Senior Planner, East Cambridgeshire District Council

FOR THE APPELLANT:

Mr Paul G Tucker of Queen's Counsel	Instructed by Mr J Mackenzie of Gladman Developments Ltd
He called	
Mr John Mackenzie BSc DipTP MRTPI	Planning and Development Manager, Gladman Developments Ltd

INTERESTED PERSONS:

Cllr George Jellicoe	Witchford Parish Council
Cllr Pauline Wilson	Haddenham Ward
Cllr Bill Hunt	District Councillor, County Council member
Cllr Gareth Wilson	Haddenham Ward
Dr Alan James BSc, PhD, MIMMM, CEnv, MBCS, CIP	Local resident and landowner
Mrs Judith Finch	Local resident
Cllr Ian Allen	Haddenham Ward
Mr Tom Day	Local resident
Mr Ian Bovingdon	Land and New Homes Partner, William H Brown Ltd (on behalf of Gladman Developments Ltd)

DOCUMENTS

- 1 Appearances on behalf of the Appellants. Submitted by Mr Tucker.
- 2 Draft s106 Agreement. Submitted by Mr Tucker.
- 3 Notification of the Inquiry. Submitted by Mr Whipps.
- 4 Opening submissions and associated High Court transcripts on behalf of the Appellant. Submitted by Mr Tucker.
- 5 Opening submissions on behalf of the Council. Submitted by Mr Whipps.
- 6 Written statement on behalf of the Parish Council. Submitted by Cllr Jellicoe.
- 7 Written statement. Submitted by Cllr Pauline Wilson.
- 8 Agreed list of sites for discussion at round table session. Submitted by Messrs Tucker/Whipps.
- 9 Housing trajectories at December 2013, March 2014 and September 2014. Submitted by Mr Whipps.
- 10 Written statement. Submitted by Cllr Bill Hunt.
- 11 Suggested conditions (revised). Submitted by Mr Whipps.

- 12 Environment Agency consultation on conditions. Submitted by Mr Whipps.
- 13 Written statement. Submitted by Dr Alan David James.
- 14 Written statement. Submitted by Mrs Judith Finch.
- 15 Cambridgeshire Advisory Freight Map. Submitted by Dr Alan David James.
- 16 Written statement. Submitted by Mr Tom Day.
- 17 Written statement plus graph. Submitted by Cllr Ian Allen.
- 18 Suggested site visit itinerary. Submitted by Messrs Tucker/Whipps.
- 19 Email re 'Buckingham and Sparrow' site. Submitted by Mr Whipps.
- 20 Bundle of emails re various sites. Submitted by Mr Whipps.
- 21 SI 2010 No 1001. The Air Quality Standards Regulations 2010. Submitted by Mr Tucker.
- 22 Closing statement on behalf of Council. Submitted by Mr Whipps.
- 23 Emails and timeline iro Leisure Centre et al. Submitted by Mr Whipps.
- 24 Closing statement on behalf of Appellant plus Annex iro Housing Land Supply submissions. Submitted by Mr Tucker.
- 25 Extracts from finalised S106. Submitted by Mr Whipps.

Annex A

Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Drg. No. 4746/15/01
- 5) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the local planning authority.
- 6) No trees or hedgerows shall be removed other than those specified in the submitted Arboricultural Assessment dated February 2014 and shown on drawing number 5702-A-03. All other trees and groups of trees identified within the Assessment shall be protected during the works (including any site clearance or investigation) in accordance with BS 5837:2012.
- 7) Details of all aspects of sustainable design and construction, as set out in the Code for Sustainable Homes, shall be submitted at the reserved matters stage to demonstrate that the development will achieve Code for Sustainable Homes Level 4 or equivalent. Development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 or equivalent has been achieved.
- 8) Landscaping details submitted at the reserved matters stage shall include the ecological enhancements as set out in paragraph 5.12 of the submitted 'Ecological Appraisal', dated February 2014.
- 9) All works on site shall be carried out in strict accordance with the mitigation measures detailed within the submitted 'Ecological Appraisal', dated February 2014.
- 10) Other than works for site investigation, no development shall begin until a detailed surface water drainage scheme for the site, based on the agreed Flood Risk Assessment ref FRA3 1307 — Final, dated March 2014, has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.

The scheme shall include:

- A restriction in run-off and surface water storage on site as outlined in the FRA
- An implementation programme

- Confirmation of ownership and responsibility for future maintenance of the surface water drainage system.
 - Drainage measures to prevent surface water run-off onto the adjacent public highway.
- 11) No development shall take place until full details of a scheme for waste water infrastructure, including details of conveyance, treatment, discharge, and phasing have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.
 - 12) Any applications for reserved matters approval of layout and appearance shall be accompanied by a noise assessment, undertaken by a competent person, specifying the predicted impact of noise on all noise sensitive properties. The noise sources shall include, but not be limited to, road traffic noise and noise from the adjacent commercial units and the assessment shall detail mitigation measures sufficient to ensure noise levels at sensitive receivers are contained within appropriate limits, deemed to be: 30 dB $L_{Aeq,8 \text{ hour}}$ internally and 50dB $L_{Aeq,16 \text{ hour}}$ externally. No phase of development shall take place until its associated noise assessment and mitigation measures have been approved in writing by the local planning authority and that phase of the development shall thereafter be carried out in accordance with the approved details. The approved mitigation measures shall be fully implemented prior to the first occupation of that phase of the development and shall be retained thereafter.
 - 13) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by local planning authority. The CEMP shall include mitigation measures for noise, dust, lighting and vibration (piling activities) during the construction phase as well as the impacts of construction and delivery traffic to and from the site including, but not be limited to, aspects such as access points for deliveries and site vehicles, parking and proposed phasing/timescales of development etc. The CEMP shall thereafter be adhered to at all times during all construction phases.
 - 14) Construction work on site and deliveries to the site shall only be carried out between the hours of 8.00 and 18.00 Mondays to Fridays and 8.00 to 13.00 on Saturdays and at no time on Sundays or Bank Holidays. No machinery or plant shall be operated outside of the above times.
 - 15) No development shall take place until full details of the new priority junction into the site as indicated on Drawing 4746/15/01 have been submitted to and approved in writing by the local planning authority. The submitted details shall include a programme of implementation and the works shall thereafter be completed in accordance with the agreed details.
 - 16) The gradient of the vehicular access shall not exceed 1:12 for a minimum distance of 5.0m into the site as measured from the near edge of the highway carriageway.
 - 17) A metalled surface shall be provided for a minimum distance of 20m along the access road from its junction with the public highway.

- 18) No development shall take place until full details of the internal road layout of the whole site have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.
- 19) In the event that contamination is found during the course of development it must be reported in writing to the local planning authority within 24 hours of first discovery. Development in that area shall be halted until an investigation and risk assessment has been undertaken and measures and a timetable for remediation of the contamination have been submitted to and approved in writing by the local planning authority. Remediation shall then be carried out in accordance with the approved measures and timetable and a verification report must be prepared, and approved in writing by the local planning authority, before development in that area restarts.
- 20) No dwelling shall be occupied until a Residential Travel Plan, incorporating arrangements for its monitoring, reporting and revision, has been submitted to and approved in writing by the local planning authority. The approved Residential Travel Plan, including the arrangements for its monitoring, reporting and revision, shall be implemented on first occupation of the development.