
Appeal Decision

Site visit made on 20 December 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 3 February 2017

Appeal Ref: APP/R0660/W/16/3157715

Land to the rear of 46 Chestnut Avenue, Shavington, Crewe, Cheshire CW2 5BJ

- 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 Oscar Planning against the decision of Cheshire East Council.
 - The application Ref 16/0015N, dated 24 December 2015, was refused by notice dated 5 August 2016.
 - The development proposed is an outline application for the demolition of no. 46 Chestnut Avenue, Shavington and erection of 44 dwellings (including access) and associated works.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of no. 46 Chestnut Avenue, Shavington and erection of 44 dwellings (including access) and associated works on land to the rear of 46 Chestnut Avenue, Shavington, Crewe, Cheshire CW2 5BJ in accordance with the terms of the application, Ref 16/0015N, dated 24 December 2015, subject to the conditions contained in the attached Schedule.

Procedural Matter

2. The application was submitted in outline, with only access to be determined at this stage. All other matters are reserved for future consideration. I have determined the appeal on this basis. Plans, and subsequent amended plans, were submitted with the application indicating the site layout and elevations of the proposal. The appellant confirms in their statement of case that these plans are illustrative only. Whilst not forming part of the scheme, these plans provide a useful guide indicating how the dwellings could be accommodated on the site.
 3. Following the determination of the application, the Examination Inspector for the emerging Cheshire East Local Plan Strategy (LPS) has published a note setting out his views on the further modifications needed to the Plan. Both parties have had the opportunity to comment on these views and the implications they may have for this appeal. I have taken the Inspector's views, and the views of the main parties upon it, into account in determining the appeal.
 4. A signed and dated section 106 agreement, dated 1 December 2016, was submitted with the appeal. The agreement relates to the provision of
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affordable housing, education and open space and I shall refer to this later in the Decision.

Main Issue

5. The main issue is the effect of the proposed development on the visual character of the landscape and the purpose of the Green Gap between Shavington and Crewe.

Reasons

Planning Policy

6. Policy NE.2 of the Borough of Crewe and Nantwich Replacement Local Plan (RLP) 2011 states that all land outside the settlement boundaries defined on the Proposals Map will be treated as open countryside. It then goes on to state that development within the open countryside will only be permitted subject to it meeting one of the specified types of development or is for other uses appropriate to a rural area. It sets out one exception to this which is for the infilling of a small gap with one or two dwellings in an otherwise built up frontage.
7. Policy NE.4 of the RLP sets out a number of Green Gaps, defined in the Proposals Map, within the open countryside. One such Green Gap is the Shavington/Weston/Crewe Gap. The policy states that within these Green Gaps, approval will not be given for the construction of new buildings or the change of use of existing buildings or land which would result in the erosion of the physical gaps between built up areas; or, adversely affect the visual character of the landscape. It goes on to state that exceptions to this policy will only be considered where it can be demonstrated that no suitable alternative location is available.
8. Policy RES.5 of the RLP states that new housing development in the open countryside will be restricted to those that meet the criteria for infilling set out in Policy NE.2 or are required for agricultural or forestry workers, which would then be subject to a set of criteria it must satisfy.
9. Policy PG 4a of the LPS defines Strategic Green Gaps, including the Willaston/Rope/Shavington/Crewe gap and similarly restricts development within them. It states that the purpose of the Strategic Green Gaps is to provide long-term protection against coalescence; protect the setting and separate identity of settlements; and, retains the existing settlement pattern by maintaining the openness of land.
10. Policy PG 5 of the LPS similarly restricts development in the open countryside, although it does include more exceptions, including the re-use of rural buildings; replacement dwellings; extensions to dwellings; and, the expansion or redevelopment of existing businesses. It also goes on to state that the retention of gaps between settlements is important in order to maintain the definition and separation of existing communities and the individual character of such settlements.
11. There is no dispute between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. Accordingly, paragraph 49 of the National Planning Policy Framework (the Framework) is engaged. I have been referred to various appeal decisions by both parties in respect of whether or

not Policy NE.4 of the RLP is relevant to the supply of housing for the purposes of paragraph 49 of the Framework. Whilst the purpose of Policy NE.4 is to protect the gaps between settlements and prevent their coalescence, in doing so it clearly restricts housing development in these areas. Although it may not restrict housing to the same extent as policies NE.2 or RES.5, it nevertheless has a significant effect on the supply of housing. Therefore, I find that policy NE.4 is relevant to the supply of housing. Accordingly, Policies NE.2, NE.4 and RES.5 of the RLP are not considered up-to-date. I note that this follows a Court of Appeal¹ decision relating to a site in Willaston, Cheshire where a similar conclusion was found on these policies. Accordingly, I attribute moderate weight to Policies NE.2, NE.4 and RES.5 of the RLP.

12. For the same reasons, Policies PG 4a and PG 5 of the LPS are also relevant to the supply of housing and are also considered to be not up-to-date. The Council contends that whilst they accept that they do not have a five-year supply of deliverable housing sites, the Examination Inspector for the LPS supports their approach to the allocation of development sites and addressing housing supply. Accordingly, they argue that in line with paragraph 216 of the Framework, more weight should be attributed to the relevant policies in the LPS for the supply of housing which are not up-to-date. However, the LPS is not yet part of the Development Plan, and based on the appellant's suggested timeframe this will not take place until Summer 2017 at the earliest. In the meantime it remains that there is a significant shortfall in the supply of housing land. Nevertheless, given the advanced stage of the emerging LPS, I attribute moderate weight to Policies PG 4a and PG 5 of the LPS.
13. Notwithstanding the housing supply aspect of these policies, they also clearly seek to protect the open countryside from development for the sake of its character and visual amenity. This is consistent with the core objectives of the Framework and therefore, with regard to this aspect of the policies, I attribute them significant weight.

Visual Character of the Landscape

14. The appeal site is located to the north east edge of Shavington, within the open countryside and the Green Gap between Shavington and Crewe. The appeal site currently comprises a detached dwelling to the front with an access drive leading to stables, a manege and a number of paddocks to the rear. To the west of the paddocks, on the opposite side of Swill Brook (as it is known locally) which forms the western boundary, is a residential development comprising two phases that is currently being constructed and was the subject of two planning appeals². To the east is an extensive garden belonging to No 42 Chestnut Avenue. The north boundary of the site abuts additional paddock areas, beyond which is the A500. To the south of the paddocks are the rear gardens of properties facing Chestnut Avenue and Northfield Place. The site is generally level although there is a slight fall from east to west.
15. The existing dwelling is set back from the road, Chestnut Avenue. Chestnut Avenue is predominantly residential in character and comprises a variety of properties that include both single-storey and two-storey dwellings.

¹ Suffolk Coastal DC v Hopkins Homes; Cheshire East BC v SoSCLG & Richborough Estates [2016] EWCA 168

² Appeal Refs APP/R0660/A/12/2173294/NWF and APP/R00660/A/14/2227068

16. The dwelling and its associated garden are within the settlement boundary of Shavington and forms part of the urban fabric of the village. The equestrian facilities to the rear are beyond the boundary and are read in the context of the open countryside.
17. The proposal would include the demolition of the existing dwelling and the creation of an access road to serve the 44 dwellings that would be located on the existing site of the stables and manege, which would also be demolished, and many of the paddocks.
18. In 2009, Cheshire County Council adopted the Cheshire Landscape Character Assessment, which identified 20 different character areas within the County. The appeal site falls within Type 10 'Lower Farms and Woods', in particular the LFW7 Bathomley Character Area. The assessment defines 7 key characteristics of Type 10 landscape areas, which include low lying gently rolling topography and fenced horse paddocks.
19. A Landscape and Visual Appraisal (LVA) carried out by Barnes Walker, dated December 2015, accompanied the application submission. The LVA identifies the landscape features of the site as predominantly comprising paddocks that are fenced in straight runs. Due to their rectilinear shape and size and the lack of mature trees and hedgerows therein these paddocks are uncharacteristic and inconsistent with the surrounding agrarian landscape. However, it does identify the trees and hedgerow along Swill Brook to be a key landscape feature. In terms of landscape features, the LVA finds that the value of the landscape within the application and the wider area is considered to be low to medium. The LVA concludes that the overall landscape effect would be minor adverse and the visual effect would be minor/moderate adverse.
20. It is noted that the Council's Principal Landscape Architect broadly concurred with the findings of the LVA during the Council's consideration of the proposal. Nevertheless, in support of the Council's decision, the Council's Principal Landscape Architect has provided a more comprehensive assessment of the LVA. Both the appellant's LVA and the Council's assessment have been undertaken having regard to the Guidelines for Landscape and Visual Impact Assessment 3rd Edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment in 2013.
21. Whilst some of the findings between the LVA and the Council's assessment are similar, there are some marked differences. The Council's assessment concludes that in terms of landscape effects on the wider study area, the Sensitivity would be medium; the Magnitude of Effect medium/high; and, the Significance of Effect moderate adverse. Furthermore, the Council's assessment of the visual effects generally finds that there would be a greater effect on particular receptors.
22. Notwithstanding the differences between the LVA and the Council's assessment, both parties agree that the proposal would result in harm in terms of both visual effects and landscape effects. Whilst the Council assessment has identified greater harm than the appellant's LVA, I do not find the difference to be substantial.
23. The proposal is for 44 dwellings in an area of open countryside. The introduction of built form of what is generally open land would inevitably have a harmful effect on the openness of the area. However, the site would be

enclosed by residential properties on two sides, by way of the existing dwellings on Chestnut Avenue and Northfield Place and the approved site to the west, as well as the domestic garden area for No 42 Chestnut Avenue to the east. Furthermore, the proposal would retain much of the existing trees and hedgerows, particularly these of most value along Swill Brook, in addition to new planting and landscaping. Therefore, I do not consider that the proposal would introduce features that would be entirely uncharacteristic of the neighbouring built environment.

24. Notwithstanding the above, due to the scale of the proposal, I find that it would result in moderate harm to the visual character of the landscape of the appeal site and the wider area. As such, it would be contrary to Policies NE.2, NE.4 and RES.5 of the RLP and Policies PG 4a and PG5 of the LPS.

Green Gap

25. The Green Gap between Shavington and Crewe serves to separate the two settlements and prevent their coalescence. The concern of the Council, neighbouring residents and Shavington Parish Council is that the development of the appeal site would erode the physical gap between the two settlements. The Council contends that the boundaries of the Green Gap were drawn in its entirety for a strategic purpose and that its erosion is to be prevented. Therefore, the 'nibbling away' of the boundaries is not considered to be acceptable. Shavington is seen as a distinct community with its own sense of identity and this would also be eroded.
26. The appellant agrees that the proposal would affect the Green Gap. However, they contend that following the development of the adjacent site to the west, the development of the appeal site would not result in the two settlements becoming closer and therefore would not reduce the physical gap between them. However, I disagree with this view. I do not accept that the 'physical gap' referred to in Policy NE.4 should be measured between the nearest points of the two settlements. To do so would imply that any part of the Green Gap that falls behind these points would not be considered as part of the physical gap.
27. I consider that the appeal site is clearly within the Green Gap and its development for 44 dwellings would result in the erosion of the physical gap between Shavington and Crewe. Furthermore, it would harm the visual character of the landscape. I have not been presented with any evidence that a suitable alternative location is available. Therefore, on the face of it, the proposal is clearly at odds with the requirements of Policy NE.4.
28. Notwithstanding the above, I have had regard to the purpose of Policy NE.4 and the reason for designating Green Gaps. The justification for Policy NE.4 in paragraph 4.18 of the RLP states that these areas need additional protection in order to maintain the definition and separation of existing communities, and to indicate support for the longer term objective of preventing Crewe, Willaston, Wistaston, Nantwich, Haslington and Shavington from merging into one another. This policy approach is being brought forward in the LPS through policy PG 4a.
29. The northern extremity of the appeal site would be approximately 120m from the southern edge of the A500, retaining a gap between the road and the proposal. Whilst it would impact upon this part of the Green Gap to the south of the A500, the visual character of the landscape of the bulk of the Gap to the

North of the A500 would not be affected. Furthermore, the separation distance between the site and Crewe would be significantly greater than the adjacent development to the west. The observations I made during my site visit were that the settlement of Crewe was not visible from the appeal site due to the treeline and planting lining the A500. Indeed, views of the A500 itself were limited. In addition, views from outside the immediate boundaries of the site were limited. As a result, I do not find that there would be a perceived erosion of the physical gap. Therefore, I consider that the proposal would not substantially reduce the physical gap between Shavington and Crewe.

30. Although the proposal would erode the Green Gap, I do not find that it would substantially conflict with the purposes of it. The retention of a 120m wide gap with the A500, the lack of visibility between the Gap to the north and south of the A500, and the limited harm to the visual character of the landscape would have limited harm to the Green Gap and the purposes of it. As such, the proposal would conflict with Policy NE.4 of the RLP and Policy PG 4a of the LPS. However, the harm to the purpose of the Green Gap would be limited. Accordingly, I attribute moderate weight to the conflict with these policies.

Planning Balance

31. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as being the starting point for decision making.
32. In the absence of a five-year supply of deliverable housing sites, policies relevant to housing supply are not considered to be up to date, as I have set out above. Paragraph 14 of the Framework states that at the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-making. It goes on to state that for decision making this means approving development proposal 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 of the Framework taken as a whole.
33. Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental.
34. The construction of the development would provide economic benefit to the local economy in terms of providing employment for construction trades and increasing demand for building materials. Whilst this would only be temporary, until the development is completed, it nevertheless would be a benefit. In addition, the occupants of the dwellings would likely use local shops, facilities and services within the village of Shavington, which would further add to the local economy. Therefore, whilst limited, the development would have some economic benefit.
35. In terms of the social dimension, the proposal would contribute 44 dwellings, 30% of which would be affordable, towards the current housing supply. This would make a significant contribution towards the current housing shortfall and the need for affordable housing in the area, which would be consistent with

- paragraph 47 of the Framework which seeks to boost significantly the supply of housing. In addition, the appeal site is well located, being within reasonable walking distance of local services and facilities.
36. With regard to the environmental dimension, the proposal would provide some planting and landscaping. However, overall I have identified that the proposal would have moderate harm to the visual character of the landscape and would erode the Green Gap.
37. I have had regard to the findings of the Examination Inspector in terms of the acceptability of the Council's approach to addressing the current shortfall in housing supply. However, until such time as the LPS is adopted, there remains a substantial shortfall and I consider the lack of a five-year supply of deliverable housing sites to be of substantial weight. I find that the proposal's contribution towards the housing supply, including affordable housing, attracts significant weight. Furthermore, the economic and other social benefits identified above weigh moderately in favour of the proposal.
38. The proposal would harm the visual character of the landscape, contrary to Policies NE.2, NE.4 and RES.5 of the RLP and Policies PG 4a and PG5 of the LPS. I attribute moderate weight to this harm. Furthermore, it would erode the Green Gap, contrary to Policy NE.4 of the RLP and Policy PG 4a of the LPS, which I also attribute moderate weight.
39. I have also had regard to other matters raised by interested parties including the effect on highway safety; the effect on the living conditions of the neighbouring occupants; the amount of new development on the edge of Shavington; potential flooding; damage to wildlife; and, additional pressure on education and health facilities. However, I find that these matters, in addition to harm to the visual character of the landscape and the Green Gap, do not, individually or cumulatively, significantly and demonstrably outweigh the benefits of the proposal.

Other Matters

40. The planning obligations in the s106 agreement have to meet the tests in Community Infrastructure Levy Regulations (CIL) Regulation 122 in order for them to be taken into account in my determination of this appeal. These tests are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to the development. These tests are also identical to those set out in paragraph 204 of the Framework.
41. The S106 Agreement would secure on-site provision of 30% affordable housing, contributions towards education needs and the provision of public open space. From the evidence before me, I am satisfied that the planning obligations meet the tests in CIL Regulation 122 and paragraph 204 of the Framework.

Conditions

42. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.

43. In the interests of the character and appearance of the area and the living conditions of the future occupants and existing neighbouring residents a condition is necessary requiring the submission and approval of a lighting plan. In the interests of the character and appearance of the area conditions are necessary regarding the ground levels and floor slab levels; the provision of a buffer zone; and, an Arboricultural Impact Assessment.
44. In the interests of flood prevention, conditions requiring a surface water drainage scheme and the development to be carried out in accordance with the approved Flood Risk Assessment are necessary. I note that the Council have suggested two conditions regarding surface water disposal (nos 8 and 10 in their list of Draft Planning Conditions). However, as the details required in these conditions are effectively the same, it is not necessary to impose them both.
45. A condition requiring an Environmental Management Plan is necessary in the interests of highway safety and the living conditions of the neighbouring residents. Furthermore, in the interests of highway safety, a condition ensuring the approved access is constructed is necessary. In the interests of promoting sustainable forms of transport a Travel Plan and electric vehicle charging points are necessary.
46. I have had regard to the suggested condition regarding pedestrian bridge links with the adjacent site. However, there is no evidence before me that the adjacent site is in the same ownership as the appellant. Therefore, it is not possible to condition such a requirement as it would require the need to carry out works on land not in the appellant's control.
47. In the interests of public health, a condition is necessary requiring a land contamination assessment to be carried out and any soil brought onto the site for use in gardens or soft landscaping shall be tested for contamination.
48. Finally, in the interests of safeguarding protected species, conditions are necessary requiring detailed proposals for the incorporation of features suitable for use by breeding birds and updated surveys for the presence of badgers, water voles and bats.

Conclusion

49. For the reasons given above, having regard to all matters raised and assessed against the policies in the Framework taken as a whole, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 15-182 (SU) Rev A and A094889-P002.
- 5) No development shall take place until details of existing ground levels, proposed ground levels and the level of proposed floor slabs have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of a lighting plan have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a surface water drainage scheme using sustainable drainage methods have been submitted to, and approved in writing by, the Council. Those details shall include:
 - a) Information about the design's storm period and intensity (1 in 30 and 1 in 100 (+30% allowance for Climate Change)), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharge from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface water;
 - b) Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
 - c) Flood water exceedance routes, both on and off site; and,Development shall be carried out in accordance with the approved details.
- 8) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (dated December 2015 and prepared by WeetWood Services) and the following mitigation measures detailed within the FRA:
 - All residential development will be situated within Flood Zone 1
 - finished floor levels a minimum of 600 mm above the adjacent 1 in 100 annual probability climate change fluvial flood level, or 0.15 m above adjacent ground levels, whichever is greater.
- 9) No development shall take place until a scheme for the provision and management of an undeveloped buffer zone (minimum 8 metres wide),

between the banktop of Wells Green Brook (also known locally as Swill Brook) and any built development, has been submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include:

- plans showing the extent and layout of the undeveloped buffer zone
 - details of any proposed planting scheme (for example, native species)
 - details demonstrating how the undeveloped buffer zone will be protected during development and maintained over the longer term.
- 10) No development shall take place until an Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. In particular the plan shall include:-
- (i) The hours of construction work and deliveries;
 - (ii) The parking of vehicles of site operatives and visitors;
 - (iii) Loading and unloading of plant and materials;
 - (iv) Storage of plant and materials used in constructing the development;
 - (v) Wheel washing facilities to prevent deposit of mud on the public highway;
 - (vi) Details of any piling required (which shall be limited to 09:00-17:30 Monday-Friday, 09:00-13:00 on Saturdays with no piling on Sundays or Bank Holidays) including method (best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties), hours, duration, prior notification to the occupiers of potentially affected properties;
 - (vii) Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint;
 - (viii) Mitigation measures in respect of noise and disturbance during the construction phase including vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
 - (ix) Waste Management: There shall be no burning of materials on site during demolition / construction;
 - (x) A scheme to minimise dust emissions arising from demolition / construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.
- The approved Environmental Management Plan shall be adhered to throughout the duration of the construction period for the development.
- 11) A Travel Plan shall be developed for with the aim of promoting alternative / low carbon transport options. The plan shall be agreed with the Local Planning Authority prior to the first occupation / use coming into effect and shall include suitable and measurable targets with the aim to reduce transport related emissions. The plan shall be implemented and enforced throughout the use, reviewed every 5 years, with a report provided to the LPA annually on achievements against the agreed targets.

- 12) A single Electric Vehicle Charging Point shall be provided in each property with designated parking spaces (including garages) and shall be suitable for overnight charging of electric vehicles. None of the hereby approved dwellings shall be occupied until such time as they have been fitted with a charging point. The charging points shall be retained as such thereafter.
- 13) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 14) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 15) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 16) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing within 14 days of receipt. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 14 days and approved in writing within 14 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.
- 17) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site. Prior to occupation, evidence and verification information (for example, laboratory certificates) shall be submitted to and approved in writing by the local planning authority.
- 18) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. The Method Statement shall include full details of the following:
 - a) Implementation, supervision and monitoring of the approved Tree Protection Scheme
 - b) Implementation, supervision and monitoring of the approved Tree Work Specification
 - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme
 - d) Timing and phasing of Arboricultural works in relation to the approved development.
- 19) Prior to the first occupation of the hereby approved dwellings, the approved access that is required for the development shall be constructed in accordance with the approved drawing A094889-P002 Rev A.
- 20) No development shall take place until detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including swifts and house sparrows have been submitted to and approved in writing by the local planning authority. The approved features shall be permanently installed in accordance with the approved details prior to the first use of the development hereby permitted.
- 21) No development shall take place until an updated survey for the presence of Badger at the site has been carried out. The survey shall be carried out by a suitably qualified person and shall be submitted to and approved in

writing by the local planning authority. If any evidence of any Badger is found, then the report shall include measures for their protection during development and for the retention of existing or provision of alternative Badger Setts. These approved measures shall be implemented in strict accordance with the approved details.

- 22) No development shall take place until an updated survey for the presence of water vole (*Arvicola amphibius*) which shall be carried out along Wells Green Brook (also known locally as Swill Brook) has been carried out. The survey should be carried out at an appropriate time of year, by a suitably experienced ecologist, using recognised survey methodology. The detailed design, construction, mitigation and compensation measures shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 23) No development shall take place until an updated survey for the presence of Bats within the existing dwelling at 46 Chestnut Avenue. The survey should be carried out at an appropriate time of year, by a suitably experienced ecologist, using recognised survey methodology. The detailed design, construction, mitigation and compensation measures shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.