



Appeal Decision

Site visit made on 28 May 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/A4710/W/19/3223362

Rear of 12 Green Lane, Shelf, Halifax HX3 7TR

- 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 Sue Moon against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 17/00846/OUT, dated 7 July 2017, was refused by notice dated 8 February 2019.
 - The development proposed is described as 'outline application for five dwelling'.
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Decision

1. The appeal is allowed and outline planning permission is granted for 4 dwellings at rear of 12 Green Lane, Shelf, Halifax HX3 7TR in accordance with the terms of the application, Ref 17/00846/OUT, dated 7 July 2017, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application is made in outline with all matters reserved except access and layout. Drawings showing the proposed site layout and access were submitted with the application.
3. The description in the banner heading is taken from the application form. During the course of the application revised drawings were submitted, reducing the number of dwellings from 5 to 4. The Council has confirmed that it determined the application on the basis of the revised proposal, and that those revised drawings were the subject of publicity. I am therefore satisfied that no party would be prejudiced by my having considered the appeal on the basis of those drawings, and the revised proposal for 4 dwellings. In my decision I have adopted the revised description referring to 4 dwellings, consistent with the Council's description and that given on the appeal form.
4. For the avoidance of doubt, I have considered the proposal on the basis of the following drawings: Location and Site Plans drawing number 001 revision H; Further Revised Site Access Proposals drawing number NTP 17000-05 rev 0; Location Plan drawing NTP 17000-06 rev 0.
5. The Council's reason for refusal states that an adequate visibility splay cannot be achieved to the left (east) for emerging drivers. It is evident from the drawings before me and my own observations that the Council's concerns relate to the visibility on the left hand side of the proposed access when

emerging from the site, which is to the west, not the east. I have considered the appeal accordingly.

6. On 28 March 2019 the Office for National Statistics published the updated annual affordability ratios. I have given the main parties the opportunity to comment on these matters.

Background and Main Issue

7. I consider that the main issue in this case is the effect of the proposed development on the safety and convenience of highway users and those accessing the appeal site.

Reasons

Background

8. The Council has confirmed that the majority of the site is within a designated Primary Housing Area. However, a relatively narrow strip of land within the site, adjacent to the western boundary, is within the Green Belt.
9. Policy GNE1 of the Replacement Calderdale Unitary Development Plan (the RUDP) states that the Plan will seek to restrain development outside the urban areas through the general extent of the Green Belt.
10. Paragraph 146 of the National Planning Policy Framework (the Framework) identifies a number of forms of development which are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Those forms of development include material changes in the use of land (bullet point e).
11. The area of Green Belt land is enclosed within the site's western boundary wall, and thus physically separated from adjacent Green Belt land outside the site at present. No buildings are proposed on the part of the site which is designated as Green Belt. Furthermore, I observed that much of that area is occupied by large mature trees, which are protected by a Tree Preservation Order (TPO), limiting the scope for subsequent development or domestic paraphernalia in that part of the site. Consequently, and having regard to the enclosure provided by the existing western boundary wall, the change of use of this very limited area to residential garden would not cause harm to the openness of the Green Belt or result in an unacceptable encroachment of development into the countryside.
12. Therefore, I consider that the proposal would meet the requirements of Paragraph 146 e), and I agree with the Council's conclusion that the proposal would not represent inappropriate development within the Green Belt.
13. My attention has been drawn to an earlier appeal decision for housing on the site¹. However, on the basis of the limited evidence before me, it appears that development was for a larger scheme of 10 dwellings, which would have covered more of the site and involved the removal of a larger number of trees. That decision also preceded the publication of the original Framework, in 2012. The details of that proposal, and the policy context in which it was determined, are therefore not directly comparable to those in the case before me. I have determined the current appeal on its own planning merits.

¹ Appeal Ref: APP/A4710/A/10/2142100

Safety and convenience

14. The appeal site is adjoined on two sides by the gardens of existing houses on Green Lane and Green Hall Park, and on the other two sides by open land. It has an existing vehicular access onto Green Lane, which would be altered and used to serve the development. Any subsequent reference to the right hand and left hand sides of that access refer to those directions as seen when leaving the site onto Green Lane.
15. There is a pedestrian footway on one side of Green Lane, opposite the site entrance. The front boundaries of the houses to the left of the site entrance extend almost to the edge of the vehicle carriageway, whilst those to the right are set back slightly behind a hard-surfaced margin.
16. I observed that Green Lane in the vicinity of the site is relatively flat and straight, particularly when travelling eastwards towards the site from Willow Park Drive. At the appeal site entrance, Green Lane is subject to a 20mph speed limit, which extends for some distance to the west (left) of the site, and which changes to 30mph some way to the east, beyond the last house on the adjacent Green Hall Park development. A new housing development is currently under construction on Moorbank Lea, opposite the site, the access to which is located just to the west of the appeal site entrance.
17. The appellant has identified the following 85th percentile wet weather traffic speeds for Green Lane: 26.1mph westbound; and 25.2mph eastbound. These speeds have been derived from a speed survey undertaken in support of the Moorbank Lea development, and include a wet weather speed correction factor. Against that background, the Council has indicated that a sightline comprising an X distance of 2.4m and a Y distance of 33m would be required in both directions along Green Lane by a driver emerging from the appeal site. Whilst these distances are consistent with the guidance set out in Manual for Streets, the guidance allows relaxations under certain circumstances, which I return to below.
18. I have noted references made by interested parties to some drivers exceeding the speeds referred to, and some speeding up as the road approaches the 30mph limit. However, the survey was carried out before the 20mph limit was introduced, when a 30mph speed limit was in operation. Therefore, and as I have no substantive evidence to the contrary, I consider that vehicle speeds are unlikely to be higher than those measured in the survey. If the survey had been carried out in wet conditions, as suggested by some interested parties, a wet weather correction would not be necessary, and discounting of that factor would result in a small increase in the 85th percentile wet weather traffic speeds, and consequential modest increase in the Y distance.
19. The appellant has indicated that the right hand sightline available to emerging drivers from a point 2.4m back from the give-way line would be around 43m, measured to the nearside edge of the carriageway. The Council is satisfied that the right hand sightline available to drivers emerging from the site access, which would be improved by works to widen the existing margin and lower the front boundary wall of the neighbouring house, would be acceptable. Under these circumstances, I agree. However, the Council considers that the level of visibility to the left of the site access would be insufficient.

20. The appellant has indicated that the left hand sightline available to emerging drivers from a point 2m back from the give-way line would be around 33.7m, measured to the centre line of the carriageway.
21. Manual for Streets advises that, whilst an X distance of 2.4m should normally be used in most built-up situations, a minimum figure of 2.0m may be considered in some very lightly-trafficked and slow-speed situations. Manual for Streets also sets out that, in circumstances which would make it unlikely that vehicles approaching from the left on the main arm of a junction will cross the centreline of that main arm, the visibility splay to the left can be measured to the centreline of the main arm.
22. A traffic survey carried out by the appellant on Thursday 8 November 2018 at the site access location found that, at peak times, around one vehicle per minute passed the site on Green Lane. As that figure includes both eastbound and westbound traffic, the frequency of vehicles approaching the site access from the left can be expected to be even lower. The afternoon peak did not include the finishing times of nearby schools. However, the survey was carried out in term time, and I have nothing substantive before me to suggest that those finish times would generate greater or materially different levels of traffic than those associated with the school start times, which were included in the morning peak hours measured. Nor have I any substantive evidence before me to indicate that the traffic count results were materially affected by school traffic taking a different route at the time of the survey to avoid construction traffic associated with Moorbank Lea, as has been suggested by an interested party.
23. A future projection of traffic volumes carried out by the appellant, which takes account of the proposed development and the development at Moorbank Lea once completed, does not indicate significant increases in traffic. Therefore, and in the absence of substantive evidence to the contrary, I am satisfied that Green Lane is a lightly-trafficked route.
24. My attention has been drawn to an earlier traffic survey carried out by the appellant in December 2016. However, it appears that earlier survey was conducted in a week outside school term-time. I have therefore afforded that survey little weight, and have based my consideration on the 8 November 2018 survey. I have also been referred to traffic counts which have been carried out by other interested parties. However, whilst slightly higher than those in the appellant's survey, those counts do not indicate a rate of passing traffic significantly greater than 1 vehicle per minute and do not alter my finding that Green Lane is lightly trafficked.
25. There is some disagreement regarding the projected vehicle movements from the site. However, even if I were to take the higher figure of 6 vehicle movements per dwelling per day cited by the Council and to split that equally between arrivals and departures, that would amount to only 12 vehicles leaving the site per day. I consider that, even if concentrated at peak times, that would not represent a significant number of vehicle movements, and that the minor arm of the access junction would therefore also be lightly-trafficked. Accordingly, and having regard to the relatively low measured vehicle speeds on Green Lane, the use of a 2m X distance would be within the scope of the recommendations in Manual for Streets, and would be acceptable in this instance.

26. As there are no on-street parking restrictions on Green Lane in the vicinity of the site, the possibility of vehicles parking on the opposite side of Green Lane to the left of the access, and of vehicles travelling towards the site from that direction having to cross the centreline to pass parked vehicles, could not be ruled out altogether. However, that particular section of Green Lane is predominantly occupied by the Moorbank Lea junction and by the distances of 10m to either side of that junction within which the Highway Code recommends that vehicles should not park. I therefore consider that the likelihood of vehicles parking in that zone, thereby forcing other eastbound drivers to approach the site in the nearside lane, would be very limited, and measurement of the Y distance to the centreline of the carriageway would be appropriate in this instance.
27. In any event, drivers emerging from the site access would be likely to do so cautiously, having regard to the limited visibility to the left. Those drivers would have sufficient visibility to see vehicles approaching from the right before deciding whether to enter the carriageway at all, and would likely edge forward slowly and look left before emerging fully or blocking the carriageway in that direction. Given the relatively straight alignment of Green Lane to the left of the site access, drivers approaching from that direction would have good visibility along the road towards the site and would be able to see the front of any vehicle emerging from some distance away, even if they had to cross the centreline to some degree to pass parked vehicles. Such drivers would therefore be likely to have sufficient time and opportunity to either brake, or to manoeuvre back onto their side of the road and around the emerging vehicle. Furthermore, given the lightly-trafficked nature of the site access and Green Lane, the likelihood of a vehicle travelling along Green Lane coinciding with a vehicle emerging from the site would be very low. Under these circumstances, I consider that drivers emerging from the site would be unlikely to come into conflict with others approaching from the west.
28. I saw that a number of properties neighbouring the appeal site have driveways leading onto Green Lane with similarly restricted visibility splays. However, accident records for the 5 year period to 30 December 2018 show no road traffic accidents involving injury on Green Lane within 200m of the site. Therefore, on the basis of the evidence before me, the presence of existing access points along this section of road appear not to present a significant hazard to road safety. This adds further weight to my finding regarding the appeal site entrance.
29. Therefore, having regard to the limited number of properties served by the proposed access, and the low frequency of vehicle movements and relatively low measured vehicle speeds on Green Lane, I conclude that the visibility to the left hand side of the access would be appropriate in this case. I consider that to be the case even if the sightline were to fall slightly below the Manual for Streets guidance. Accordingly, I am satisfied that the development would not have an unacceptable impact on highway safety in that regard, subject to a condition requiring the proposed visibility splays to be provided prior to first occupation.
30. The proposed widening of the roadside margin to the right of the appeal site access would result in a slight reduction in the carriageway width. Whilst the appellant's traffic survey recorded only cars and vans using the road, I have been advised that it is also used by larger vehicles, including farm vehicles and

lorries associated with nearby businesses. Nonetheless, the reduction in width would be limited, and a carriageway width of at least 5.2m would remain. The Council has raised no objections in that respect. Even taking into account the possibility of on-street parking taking place on this stretch, having regard to the low speeds and lightly-trafficked nature of Green Lane I consider that the limited narrowing of the carriageway would be unlikely to restrict the free flow of traffic, including cycles.

31. There is no footway on the development side of Green Lane. However, there is a footway on the opposite side, and I consider that crossing Green Lane to reach the site would be unlikely to represent a significant hazard, even for those with mobility difficulties, given its relatively straight alignment and lightly-trafficked nature. The site access road would be wide enough to allow vehicles to pass pedestrians and, due to the low number of properties served and the degree of forward visibility along it, would not result in a hazard or conflict between vehicles and pedestrians. Nor do I consider that the access width would prevent access by emergency vehicles.
32. My attention has been drawn to existing traffic congestion around nearby junctions. However, any additional vehicle movements arising from the development would be very limited and, on the basis of the evidence before me, I have no reason to conclude that the proposal would have a significant or material effect on the capacity or operation of the local highway network.
33. The use of Green Lane by construction traffic associated with a development of the scale proposed would be of relatively limited duration and would not represent a significant disruption to the flow of traffic, even if it were to overlap with the completion of the Moorbank Lea development opposite. A condition requiring a construction management plan would assist in minimising the effects of the development on surrounding highways.
34. For the reasons given, I conclude overall that the proposed development would not have an adverse effect on the safety and convenience of highway users and those accessing the appeal site. The proposal would therefore not conflict with Policies BE5 and BE6 of the RUDP which, amongst other things, state that the design and layout of highways and accesses should ensure the safe and free flow of traffic, and require that new developments provide a safe environment for pedestrians accessing or traversing the site. Those policies are consistent with the Framework which states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety. Insofar as RUDP Policy H9 seeks to ensure that development does not create any unacceptable traffic or safety problems, the proposal would not conflict with it either.
35. I have had regard to the Draft Calderdale Street Design Guide as a further material consideration, and note consistencies between its guidance and the recommendations of Manual for Streets with regard to the calculation and dimensions of visibility splays. However, as the document is in draft form at this stage, I afford it only limited weight.

Other matters

36. I am advised that the site has previously been within the grounds of a hospital. However, at the time of my visit, the site was predominantly laid to grass, with only very limited areas of hard surfacing and a very small, timber building

which appeared to be associated with the site's current use for agriculture and grazing. The Council considers the site to be 'greenfield' in nature, which is consistent with the Inspector's findings in a previous appeal decision in 2010 relating to housing development on the site². On the basis of my observations on site, I have no reason to disagree. Accordingly, I have considered the site as not being previously developed.

37. Policy H2 of the RUDP states that proposals for new housing on vacant land not previously developed will be assessed against the relevant UDP policies. Policy H9 states that proposals for residential development on unallocated greenfield land will not be permitted. The proposal would therefore conflict with the terms of that policy. However, the Framework does not explicitly rule out the development of land which is not previously developed. Rather, it sets out that small sites can make an important contribution to meeting the housing requirement of an area, and that local planning authorities should support the development of windfall sites through their decisions, giving great weight to the benefits of using suitable sites within existing settlements or homes. Accordingly, I consider Policy H9 to be inconsistent with the Framework. Furthermore, it is not in dispute that the Council is unable to demonstrate a 5 year supply of deliverable housing sites, and to my mind it follows, with reference to paragraph 11 of the Framework, that RUDP policies H9 and H2 can be regarded as out of date.
38. Under these circumstances, I give little weight to the conflict with RUDP policy H9 and any associated conflict with Policy H2. Any associated harm would be far outweighed by the contribution made by the proposal, albeit small, towards meeting the shortfall in housing supply.
39. The site is adjacent to existing housing within the settlement of Shelf, which contains a range of local facilities, including schools, shops and healthcare provision. Walking distances to some of those nearby facilities, and to public transport connections, may be slightly in excess of those recommended in the RUDP. However, in my judgement, the site would nonetheless be within a reasonable distance of such facilities and connections such as to allow access to them without necessarily requiring recourse to use of the private car. Whilst I have had regard to concerns raised regarding the capacity of some existing facilities, including schools and doctors' surgeries, no formal assessment of capacity has been provided and, in any event, the development of 4 dwellings would not have significant further implications for such provision.
40. The site has large groups of mature trees along its eastern and western boundaries, which are protected by a TPO. Those groups of trees are prominent features which make a significant positive contribution to the character and appearance of the site and its wider surroundings, softening its boundaries and screening views across it from the adjacent open land towards the housing on adjacent sites.
41. The appellant's tree survey drawing is based on the layout of the original proposal for 5 dwellings. However, there is nothing before me to suggest that the implications in terms of the trees to be retained and removed are any different with regard to the revised 4 dwelling proposal before me. I have therefore had regard to that tree survey drawing (Trees in Relation to

² Appeal Ref: APP/A4710/A/10/2142100

Development drawing no 1769/4 revision), but solely insofar as it indicates the trees to be retained and removed.

42. A number of trees are proposed to be removed as part of the development. However, the majority of those trees have been identified in the tree survey as having significant defects and having little or no long term future. Those trees proposed for removal are also somewhat dispersed around the site. Therefore, neither their removal, nor the proposal for some limited pruning to the canopies of trees alongside the western boundary, would have a significant effect on the overall structure, presence or appearance of the two large groups of trees alongside the eastern and western boundaries, or on the visual and screening benefits of those existing areas of planting. Furthermore, I am satisfied that new planting could be secured as part of a reserved matters application which would supplement and strengthen those existing visual features.
43. The retained trees in the western part of the site would be within the gardens of the proposed houses. However, it is evident from the details before me that the houses would be located outside, and separated from, the tree canopies, and that their relatively large gardens would also include areas outside those remaining tree canopies. I therefore have little reason to believe that the trees would have such an effect on the outlook or light to the proposed dwellings or their gardens as to result in pressure for them to be removed or cut back to a significant or harmful degree in the future. I am therefore satisfied that the significant visual benefits of those existing trees in terms of screening and softening the existing and proposed development would be likely to remain. This could be ensured through the imposition of a suitable condition.
44. Matters relating to the appearance of the proposed dwellings, including construction materials, would be controlled as part of any subsequent reserved matters application. With this in mind, and given the small scale of the development, the proximity of other housing extending a similar distance alongside its eastern boundary, and having regard to the extent of tree retention proposed, I am satisfied that the development would not represent an unacceptable encroachment into the countryside or cause harm to the character and appearance of the site or the wider area.
45. I conclude, therefore, that the proposal would not conflict with the tree retention and protection aims of Policies NE20 and NE21 of the RUDP, or with Policy BE1 which, amongst other things, requires development to make a positive contribution to the quality of the existing environment, and retain natural features that contribute to the amenity of the area. Those policies are consistent with the Framework, which requires that developments are sympathetic to local character, including the surrounding built environment and landscape setting.
46. Due to the position of the proposed houses in relation to neighbouring properties at Nos 11 and 12 Green Lane, and the degree of separation between those existing houses and the proposed dwellings, the development would not appear unduly dominant or result in an unacceptable level of overshadowing or enclosure to those neighbouring dwellings or their gardens. Furthermore, given the orientation of the proposed houses in relation to Nos 11 and 12, I am satisfied that an appropriate design solution could be achieved which would provide future residents of the appeal site with an appropriate outlook without

causing direct or harmful overlooking of those neighbouring properties or their gardens. The separation between the proposed dwellings and the houses on Green Hall Park, and the screening provided by the existing trees in the eastern part of the site, would be sufficient to adequately mitigate any potential for overlooking of those neighbouring properties. The proposed dwellings would be unlikely to materially add to overshadowing of those neighbouring properties caused by existing trees.

47. I conclude that the proposal would therefore not conflict with Policies BE1 and BE2 of the RUDP which state, amongst other things, that development proposals should not significantly affect the privacy, daylighting and private amenity space of adjacent residents. Those policies are consistent with the Framework, which requires developments to create places with a high standard of amenity for existing and future users.
48. The site is within a designated Wildlife Corridor, and interested parties have referred to the presence of various species, including bats and birds, in the vicinity.
49. An Ecological Assessment of the site carried out in 2010 (the 2010 EA) identified a horse chestnut tree as having some limited roost potential and that, whilst it was and had not recently been used by bats for roosting at that time, its roost potential was likely to increase in the future.
50. A subsequent Preliminary Ecological Appraisal, dated July 2017 (the 2017 PEA), included an assessment of all trees on the site for their bat roosting suitability. That later survey identified two trees as providing bat roosting suitability. However, neither of those was the horse chestnut referred to in the 2010 EA, and both were deemed to have features of only low bat roosting suitability. The 2017 PEA therefore concludes that no further survey is necessary. The appellant has advised that the horse chestnut is not proposed to be removed unless its condition becomes dangerous. However, on the basis of the 2017 PEA, to which I afford greater weight as a more recent assessment of the site's ecological status, I consider that there is no reasonable likelihood of any bat roosts being present, and therefore no need for further survey work in that regard, even in the event that the horse chestnut were to be removed.
51. The 2017 PEA concludes that the site's interior is occupied by habitats of low ecological value, which do not represent a constraint to its development. It identifies the trees along the eastern and western boundaries as features of greater ecological value. Most of those trees are to be retained, and could be supplemented by new native planting as part of the development. On that basis, and subject to a suitable lighting scheme, the 2017 PEA concludes that the development would not have any significant impact on the local bat population.
52. A detailed lighting scheme, the inclusion of bat roosting features, and the provision of further native planting could be secured as part of detailed design and landscaping schemes at reserved matters stage. Therefore, and subject to conditions relating to the retention of existing trees and their protection during construction, and restrictions on vegetation clearance during the bird nesting season, I am satisfied that the development would not have adverse implications for biodiversity, or for any protected species.

53. I conclude that the proposal would therefore not conflict with the nature conservation and enhancement aims of Policy NE15 of the RUDP. That policy is consistent with the Framework, which requires planning decisions to minimise impacts on and provide net gains for biodiversity.
54. The development would result in the removal of an area used for grazing at present. However, I consider that as the area affected would be very small, it would not have significant implications for the availability of agricultural or grazing land in the area.
55. Reference has been made by interested parties to flooding and drainage issues within the site. However, the site is in Flood Zone 1, and the Council has not identified any specific flood risk concerns, and is satisfied that matters of drainage which, the appellant states, includes the use of a soakaway for surface water, could be dealt with adequately by condition. Therefore, and in the absence of any substantive evidence to the contrary, I consider it unlikely that a satisfactory drainage solution could not be achieved, or that this very small-scale development would have significant implications for the capacity of the existing drainage network, or for flooding within the site or its vicinity. Matters relating to access to a neighbour's drain which crosses part of the site, or any damage caused to existing drains during construction, would be private matters between the relevant parties.
56. I conclude, therefore, that the proposal would not conflict with Policies EP14, EP20 and EP22 of the RUDP which, amongst other things, state that development will not be permitted if it would increase the risk of flooding, and require the availability of adequate drainage infrastructure, including the incorporation of Sustainable Drainage Systems where possible. Those policies are consistent with the Framework, which states that, when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
57. The Council's environmental health officer has drawn attention to sheds and other structures on a neighbouring site that could be used for housing animals. However, the officer acknowledges that there are other properties nearby, and I have no evidence before me to show that those structures have caused a problem in the past, or to suggest that they would adversely affect the living conditions of future residents of the appeal site.
58. I have had regard to concerns raised regarding the potential for my allowing this appeal to set a precedent for the development of other similar sites. However, no specific sites have been brought to my attention and, in any event, any applications for the development of other sites would need to be determined on their own merits, having regard to the particular circumstances and proposals in those cases.
59. I have been advised that a condition on the original planning permission for the adjacent development on Green Hall Park limited the use of the existing site access for agricultural purposes only. However, I have considered the appeal before me, and the alternative use of that access now proposed, on its own planning merits and find it to be acceptable for the reasons given.

Planning balance

60. The proposed development would provide four new dwellings in an existing settlement, close to existing facilities. It would thus make a small contribution to the Council's already limited housing supply, a benefit to which I attach weight in favour of the scheme. I have found no harm arising with regard to highway safety. Nor, for the reasons set out above, would the development conflict with other relevant RUDP policies, or with the Framework in those respects. Accordingly, for the reasons given, I conclude on balance that the development would be in accordance with the development plan when taken as a whole, and would be a suitable location for housing, having regard to the Framework as a further material consideration. It would therefore amount to sustainable development.

Conditions

61. I have had regard to those conditions suggested by the Council, and have made some amendments to the format and wording of those which I have included, for precision.
62. As well as conditions specifying timescales for the submission of reserved matters and commencement of the development, I attach conditions specifying the outstanding reserved matters and the approved plans, for certainty.
63. A condition requiring details of the layout and specification of protective fencing, based on the layout of the amended scheme for 4 dwellings, and details of any pruning works to trees within the site, is required to protect the retained trees during construction and ensure that any works to those trees are of an appropriate nature. As the site has been used for agriculture in the past and may contain chemicals associated with such use, and is in an area with a history of coal mining activity, conditions relating to the investigation (and remediation as necessary) of land contamination and stability issues are required to ensure that the site is safe and suitable for the proposed residential use. A condition relating to construction management, including workforce parking, materials storage and wheel washing measures, is necessary in the interests of highway safety. I include a condition requiring details of surface water drainage works, including sustainable drainage measures where practicable, to ensure that the site is satisfactorily drainage without flooding. These conditions are required to be pre-commencement conditions as it is fundamental to have the details approved prior to the development commencing on site.
64. A condition requiring the visibility splays at the site access to be provided and retained in accordance with the details on the approved drawings is necessary in the interests of highway safety.
65. To safeguard the ecological value of the site, I attach a condition requiring arrangements to protect nesting birds during any vegetation clearance.
66. I have not included conditions requiring electric vehicle charging or the incorporation of bat roosting facilities within the fabric of the proposed dwellings. Those matters can be assessed and conditioned as necessary at the reserved matters stage.
67. It is proposed to connect the development to mains sewers for the purposes of foul water drainage. There is nothing substantive before me to suggest that a

development of the very small scale proposed would exceed the capacity of the existing foul sewerage infrastructure in the vicinity of the site. Therefore, a condition requiring details of foul water drainage is not necessary in this case.

Conclusion

68. For the reasons given, and having regard to all other matters raised, the appeal is allowed.

Jillian Rann
INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping 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: Location and Site Plans drawing number 001 revision H; Further Revised Site Access Proposals drawing number NTP 17000-05 revision 0; Location Plan drawing number NTP 17000-06 revision 0.
- 5) No development, including site preparation or clearance, shall commence until the following details have been submitted to and approved in writing by the local planning authority:
 - a) a drawing showing all of those existing trees within the site which are to be retained as part of the development (hereinafter called "the retained trees"), based on the layout on the approved Location and Site Plans drawing number 001 revision H;
 - b) details of any pruning works to be carried out to the retained trees; and
 - c) a scheme for the protection of all of the retained trees with appropriate fencing for the duration of the construction works.

The protection measures shall be installed in accordance with the details thereby approved before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained as such until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority. Any pruning works to the retained trees shall be carried out in accordance with the details thereby approved.

- 6) Development shall not commence until details of a scheme of intrusive site investigation with regard to the ground conditions and the potential risks posed to the development by past shallow coal mining activity has been submitted to and approved in writing by the local planning authority. Those site investigation works shall be undertaken in accordance with the approved scheme, and development shall not commence until a report of the findings arising from those investigations, including the results of any gas monitoring, has been submitted to and approved in writing by the local planning authority.

In the event that the site investigations confirm the need for remedial works, development shall not commence until a scheme of such works, including a timetable for their implementation, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details and timescales thereby approved.

- 7) Development shall not commence until a Phase II site investigation into potential land contamination within the site has been carried out, and the results have been submitted to and approved in writing by the Local Planning Authority.

In the event that the Phase II site investigation indicates that remediation is necessary, development shall not commence until a Remediation Statement, including a timetable for the carrying out of any necessary remediation works, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details and timetable thereby approved.

In the event that remediation is required, the development shall not be occupied until a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including an agreed scheme of validation works, has been submitted to and approved in writing by the local planning authority.

- 8) No development shall take place, including any site clearance or preparation works, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- a) a contractors' compound and the parking of vehicles of site operatives and visitors within the site;
- b) loading, unloading and storage of plant and materials;
- c) wheel washing facilities.

Such provision shall be made in accordance with the details thereby approved before any construction works commence at the site, and shall be retained as such for the duration of construction works.

- 9) Development shall not commence until details of a scheme for the disposal of surface water from the development have been submitted to and approved in writing. The scheme shall include an assessment of the potential for disposing of surface water by means of a sustainable drainage system, the results of which shall be provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall include:

- a) details of the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- b) a timetable for its implementation; and
- c) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The approved scheme, including all physical measures and management and maintenance measures, shall be implemented before the development is first occupied, and retained and maintained in accordance with those details thereby approved thereafter.

- 10) The development shall not be occupied or brought into use until the widened margins and visibility splays in either direction at the site access have been constructed and completed in accordance with the details on drawing number NTP 17000-05 Rev 0. Those visibility splays shall be retained in accordance with those approved details, and kept free of any obstruction to visibility exceeding 0.9m in height, thereafter.
- 11) No removal of hedgerows, trees or other planting that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a qualified ecologist has undertaken an appropriate survey and prepared an accompanying report of findings which has been submitted to and been approved in writing by the local planning authority and demonstrating that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interests on site. All such works shall be carried out in accordance with the details as approved and an agreed programme.