The Planning Inspectorate

Appeal Decision

Inquiry Held on 17-19 September 2019
Site visit made on 19 September 2019

by Mike Robins MSc BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2019

Appeal Ref: APP/X3025/W/19/3229245
Marshalls Mono Ltd, Oxclose Lane, Mansfield Woodhouse, Nottinghamshire NG19 8DF

- 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 Westlake Properties Ltd against the decision of Mansfield District Council.
- The application Ref 2016/0201/NT, dated 21 March 2016, was refused by notice dated 21 November 2018.
- The development proposed is the demolition and clearance of existing redundant industrial buildings and remediation; the improvement and upgrading of Oxclose Lane to an adoptable standard and the carrying out of residential development of up to 150 dwellings.

Decision

1. The appeal is allowed and planning permission is granted for the demolition and clearance of existing redundant industrial buildings and remediation; the improvement and upgrading of Oxclose Lane to an adoptable standard and the carrying out of residential development of up to 150 dwellings at Marshalls Mono Ltd, Oxclose Lane, Mansfield Woodhouse in accordance with the terms of the application, Ref 2016/0201/NT, dated 21 March 2016, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. On opening the Inquiry, it became clear that while the Council had circulated details of the application and appeal, there remained some concerns from local residents that they had not been properly notified. The somewhat unusual location of the site, separated from the main residential area by the railway line, has meant that while immediate neighbours, in Cavendish Street and Thoresby Road, had been notified, others on Oxclose Lane had not. Realistically, there must be some boundaries set on notification requirements, and while I appreciate that those living on connecting roads may have concerns, it cannot be an obligation on a local planning authority to consult directly with all such parties. The process included appropriate advertising and a number of members of the public as well as a representative of a business on the site were present. Overall, I am satisfied that the appeal was correctly notified.

3. The application was made in outline with the means of access into the site to be considered at this stage. The proposal seeks permission for up to 150 dwellings. As a result of ongoing discussion with the Highway Authority and in

response to Road Safety Audits, the appellant confirmed that the access and improvements to Oxclose Lane were as per drawing number F14068/08.

4. At the Inquiry it was confirmed that, subject to submission of a planning obligation to address both affordable housing and infrastructure contributions, neither party were pursuing evidence on viability. On that basis, the Council withdrew their first reason for refusal.

5. To address this, a Unilateral Undertaking (the UU), made under s106 of the Town and Country Planning Act 1990, was submitted, dated 26 September 2019. This addressed a number of matters including the affordable housing commitment, contributions to public open space, a management scheme and an Access Management Plan, which I address below.

6. During the Inquiry a discussion was held addressing the matter of the supply of employment land in the district, including the availability of land for potentially displaced businesses. The Council's reason for refusal on this matter noted that there was insufficient evidence in the original application to justify the loss of employment land that would arise were this development to go ahead. Substantive evidence regarding employment land was provided in proofs of evidence and addressed in the Inquiry. On the basis of this discussion, the Council withdrew their third reason for refusal.

7. The Council further confirmed during the Inquiry that there were no substantive issues regarding visual impacts, effects on the character and appearance of the area or that the site should be considered as having poor accessibility.

Main Issues

8. Accordingly, I consider that the main issues in this case are whether the proposal represents a high standard of design with regard to integration with the existing settlement and the effect of the proposed access arrangement on public safety.

Reasons

Background and Policy Position

9. The appeal site is a former concrete works, which has evolved into an employment site. Currently comprising, among others, a timber yard, some vehicle dismantling and repairs and a large area of passive caravan storage, some of the buildings from its former industrial use remain but are in poor condition generally. The site is almost entirely concreted over.

10. The Robin Hood Railway Line, linking Nottingham with Worksop, separates the site from the neighbouring residential areas of Mansfield Woodhouse. Access is under the line along Oxclose Lane, which is also a public right of way (PROW) giving access to the Oxclose Woods Country Park, created by restoration of the former Sherwood Colliery site. This country park surrounds the rest of the site other than where it abuts the rear gardens of a short row of houses along Northfield Avenue, which is similarly accessed under another railway bridge.

11. The development plan includes the Mansfield District Local Plan (the LP), adopted in 1998. While it was common ground that this addressed the period to 2006 and was now time expired, the relevant policies had all been saved.

An emerging Mansfield District Local Plan (the eLP) for the period 2013-2033 is in development having been through examination in public. The Council are shortly to consult on proposed modifications and have indicated that they anticipate adoption within three to six months. An interim note from the Examining Inspector, dated 16 July 2019, identified in principle acceptance of the Council's proposed new housing requirement, among other matters.

12. The site is identified in the LP as lying partly within the settlement boundary, with the buildings within and the rest of the site shown to be part of the reclamation area of the colliery. The entire site is to be identified as lying within the settlement boundary in the eLP, and it was reported that there have been no objections raised to this. Pragmatically, the Council have considered the site to be within the settlement boundary for the purposes of this appeal.

13. Nonetheless, there is contention between the main parties regarding the weight to be afforded to the LP and eLP policies, as well as the Council's evidence supporting their argument that they can demonstrate a five-year housing land supply (5YHLS) These matter go to the heart of the presumption in favour of sustainable development set out in the National Planning Policy Framework (the Framework), paragraph 11. Where relevant, I have addressed these matters in my final planning balance.

Design and Integration

14. The site is a somewhat unusual one in that it represents a previously developed site in current, low-level employment use, which is located close to the urban centre of Mansfield Woodhouse but is separated from it by the railway line allowing for only one viable vehicular access to the site.

15. That an area of town is separated by a railway line with road access underneath is by no means unusual, the Robin Hood line bisects large parts of Mansfield Woodhouse and Mansfield, it is the fact that the restored country park surrounds so much of the site and allows for no other vehicular access to and from the site. The Council highlight that it is this physical separation, coupled with the perception of dislocation, that means that there is no acceptable design response for housing here.

16. While they accept that Oxclose Lane is used by walkers accessing the country park and people visiting the businesses on the site, they argue that the route is an undesirable one, not least due to the lack of overlooking, the sense of intimidation of what they consider to be the dark and constrained footpath under the bridge leading to the secluded woodland beyond. Consequently, they suggest that this would be unsuitable for increased use by a housing development, and that the route would be viewed as a negative and unattractive one that would not be used, thereby exacerbate the feeling of isolation of the development and preventing integration with the existing residential areas.

17. LP Policy BE1 seeks a high standard of design which relates well to neighbouring buildings and the local area generally, while Policy H2, for housing development, sets out criteria, all of which need to be satisfied, including that development should integrate with the existing pattern of the settlement. National policy and guidance, including the Framework, also promotes high quality design. Although, in this case, matters of layout and design are reserved for future consideration, design extends beyond just the

visual effects of a proposal and encompasses function and the creation of safe and accessible places that optimise the potential of a site.

18. The current circumstance of the site and the condition of the route along Oxclose Lane are poor and, in my view, are reflective of some considerable challenges in terms of the integration of the site with the rest of Mansfield Woodhouse. I note the appellant argues that the site must meet integration standards purely by reason of being identified as within the settlement boundary, but I disagree. The matters of integration, accessibility and permeability are inherent to the function and delivery of a community and fundamental to design matters; poor design which fail to properly address these matters can be located within settlements, even without the structural issue, as here, of restricted access.

19. The existing residential housing on Thoresby Road and Cavendish Street extends up to the railway line with commercial businesses and yards opposite on Oxclose Lane. The lane itself is poorly surfaced with no footway other than under the bridge and no lighting. Due to significant level differences as the road dips under the railway line, the current entrance to the site is up a relatively long slope through an area where the embankment and woods themselves are overgrown and the environment, uninviting. However, the issue here is not what exists but whether, through appropriate design, the site can be developed so as to reach an acceptable level of integration.

20. Although the scheme, other than for access, is in outline, full details of the improvements to Oxclose Lane are before the appeal. These propose alteration to the slope into and away from the bridge, improving the rather abrupt level changes and steep gradient as you approach. A shared cycle and pedestrian footway is proposed to both sides of the bridge, and while this would narrow through the bridge itself, it would utilise the existing separated path set above the road. Enhancement to the drainage under the road is proposed and the road itself either side of the bridge would be widened. While the carriageway immediately under the bridge is restricted to 3.4 metres, there would be improved forward visibility, road markings and signage to control the flow of traffic here. Signage and a physical barrier for the height restriction are also proposed. A lighting scheme could be secured which would ensure that the route from Thoresby Road would be lit.

21. Critically, while layout remains a reserved matter, the indicative plans show a footpath along the embankment on the edge of the site adjacent to Oxclose Lane with access steps to the footway along the road. This would allow for pedestrian access from the housing to the lane without the use of the main vehicular entrance, enhancing the permeability of the site itself and reducing the length of the route into the town. In addition, the indicative layout shows housing set behind this footpath with an overview of the lane, which would enhance the levels of natural surveillance; this could be secured as part of the reserved matters.

22. I note the Council refer to guidance[1] identifying subways and footbridges as being usually unpopular and which can feel threatening. However, the route under the bridge is short, with some light penetration through the deck as a result of its beamed construction. With suitable lighting and the proposed

[1] CIHT Planning for Walking - April 2015

footpath improvement, I consider that it would not represent a significant barrier to use, and perception of crime risk would be limited in comparison to subways or longer bridges by the shortness of the route and the increased activity and road enhancements proposed.

23. The introduction of housing and pedestrian accesses immediately beyond the bridge. along with the wider and more defined road and footway, would fundamentally alter the access road, introducing a more urban character with clear views along Oxclose Lane, which would allow an improved visual connection with the rest of the town.

24. There is an instinctive resistance in relation to the use of a covered, single access point to a new housing estate that I acknowledge. Nonetheless, I note that the Highway Authority's own guidance[2] accepts that residential access roads can serve up to 400 properties but normally only 150, as in this scheme, from a single point of access. When considered on the basis of the proposed scheme and the road improvements therein, the railway line would not, in my view, represent such a barrier that this site should be considered undevelopable. Indeed, the circumstances of its development and approach via a railway bridge would not differ to a great extent from other estates, such as the one off Debdale Lane for example, where pedestrian access to the town is also under a railway bridge with a narrowed pedestrian footway and width and height restrictions.

25. The appeal site is a previously developed site, one which, when seen in views above the trees and across the railway line or by those passing, is a detractor to both the character and the appearance of the area. It is a site that the Council have accepted lies within the urban area, and which they concede has adequate access to a range of facilities, and I note in particular the easy access to the station and to the PROW network and country park. It is a site that has not been identified as being necessary for employment use and therefore represents a real opportunity for optimising the use of the site for housing.

26. I deal with the issue of public safety relating to the single access below, but in terms of design and integration, the railway line limits the permeability of the site into and out of the existing residential areas. However, the site is not so far removed, nor the route such a disincentive to walking, as to conclude that a high-quality design for housing here would be isolated to the extent that it could not provide for a safe and accessible community.

27. Furthermore, the improvements to Oxclose Lane coupled with a high standard of layout and design, to be secured under reserved matters, could deliver a housing scheme with an acceptable level of accessibility. Nonetheless, the availability of only a single access would inevitably mean that permeability and full integration with the surrounding residential development could not be fully realised. It was accepted by the Council that there would be no reduction in amenity or loss of site characteristics, and the site would have the potential to access public transport and incorporate areas of public open space, addressing, subject to the reserved matters, all other criteria in Policies BE1 and H2. Consequently, the structural restrictions to full integration mean that there would remain only a minor conflict with the first criterion of LP Policies BE1 and H2 in this regard.

[2] The Nottinghamshire Highways Design Guidance – the 6Cs Design Guide

Public Safety

28. The Council's Building Control department, the Highway Authority (HA), Network Rail (NR) and the Fire Service all identified concerns with the single point access under the railway bridge. While none objected, the Council argued that this cumulative level of concern from a number of agencies represented substantial risk to future occupiers.

29. Although the increased use of the access road is acknowledged, as set out above the HA's own guidance accepts single accesses for up to 150 houses. I note that this may refer to full width accesses, but the HA confirmed that the proposed highway improvements met their technical guidance. The concerns are not therefore about increased highway safety risk, but about the inability of, or delay to emergency service teams accessing the site.

30. I concur that the proposed road design, in terms of forward visibilities, increased widths, junction alignment and lighting are all potential improvements that would address, in my view, the increase in the number of vehicles using this part of Oxclose Lane. Indeed, the single lane operation necessitated by the bridge may introduce occasional short delays for motorists but would also help provide effective traffic calming on this stretch. Two separate, independent Road Safety Audits have been carried out and the scheme has been evolved in response to these.

31. Consequently, it is necessary to consider the likelihood of vehicle and pedestrian access restrictions and the implications of any such restrictions.

32. In terms of planned maintenance, a new road surface, drainage infrastructure and manhole services access would be provided under and either side of the bridge. While re-surfacing or sewerage maintenance will be necessary in the future, any impacts of short-term closure can be planned for. The timings of such works in the single lane section would be limited and I can see no reason why pedestrian access could not be maintained throughout.

33. NR confirmed that bridge replacement would be required, although repairs were carried out in 2016. This was anticipated to be within the next 50 years and would require full closure of the bridge and bringing in lifting equipment. It was reported by NR that much of the work could be done off site, with the bridge section craned into place over the course of a weekend. Again this would be a planned and managed event, and alternative pedestrian access should be available, even if this was only to be through to the station along country park routes.

34. In terms of unplanned incidents, NR highlighted the risk of bridge strike by high sided vehicles, and others the risk of accident or breakdown in the single lane section. The current clearance of the bridge is sufficient for the majority of vehicles likely to access the site in future and I note it has slightly higher clearance than that for the A6075, Debdale Lane. While there are already clear markings on the bridge, the proposal is to install height warnings on approach to minimise this risk.

35. Accidents occurring immediately under the bridge section are possible but unlikely due to the enhanced road conditions and reduced speeds. Even if one were to occur, closure should be only for a matter of hours.

36. It is clear that planned maintenance could block vehicular access to the site. This would represent significant disruption to occupiers, but it would be managed in advance and, as set out by the relevant agencies, the realistic maximum period of blockage would be a weekend and the occurrence would be very limited. I note NR have no objection subject to an agreed Access Management Plan.

37. In terms of an incident or accidental blockage, the chance of this is accepted to be very low and the remaining concern therefore is whether the planned or unplanned closure of the bridge would compromise the ability of the emergency services to respond to an incident on the estate.

38. The scheme would provide an on-site fire hydrant, which, in the event of the bridge being closed to vehicles could be accessed on foot. I see no reason for such pedestrian access being restricted in anything other than an extremely rare occurrence and even then, it is likely to be for a very short period. The combined probability of an event fully closing the bridge and an unconnected event occurring on the site is exceptionally low. Similarly, should ambulance services be required, again in the rare occurrence of bridge closure, pedestrian or air ambulance access may be required. Temporary blockage of the bridge, or even planned closure, would be inconvenient, but only when combined with an incident on the site would there be a public safety issue. In such cases there may be a delay in response, but the site would not be inaccessible; this must be set against the likelihood of such a combined event.

39. While the chances of this are extremely low, some practicable measures can be taken to mitigate the risk, notably in terms of the response time to events were they to occur. The appellant has proposed a draft Access Management Plan. This addresses a number of matters, as well as potential responses of other statutory parties who may be involved, which the appellant reports as arising from ongoing discussions. The principle actions relating directly to the development include, but are not limited to, the provision of signage and CCTV coverage of the bridge with a single point contact dedicated responder, a Site Access Manager, within the management company, who could initiate the emergency response. This plan requires revision and needs to be agreed and I address the mechanism for this below.

40. I fully appreciate that this cannot eliminate all risk. However, the coincidence of unconnected events necessary to create the circumstances of risk to the public, as opposed to delay or inconvenience, are highly unlikely. I am satisfied that subject to an Access Management Plan, this represents a low risk which can be considered in the overall planning balance.

Other Matters

41. I note the concerns of local residents that the increased use of Oxclose Lane would result in conflict with the existing commercial use of the area and increased traffic pressures. A full transport assessment and addendum was submitted with the application. While there would be an increase in domestic traffic accessing the site there would be a decrease in the commercial use and likely reduction in light and heavy goods vehicles. The road improvements would have a significant effect in terms of the safety of pedestrians and cyclists using the lane and the capacity of the road either side of the bridge, and I note that the appellant has specifically addressed the junction with the commercial

operator, whose entrance is located near to the footpath to the station, as well as pedestrian routes into town.

42. Traffic leaving the site may disperse along Oxclose Lane or Grove Way, although the latter represent the most likely route for cars. Included in the proposals are agreed improvements, including to the Station Hill/Priory Square T-junction, improvements to the bus stops and contributions to CCTV coverage at the local junctions.

43. While I also note the concerns of a local business regarding the loss of employment land, it is accepted by the Council that this land is surplus to District requirement, even under the growth scenarios presented in the eLP. I am satisfied that the evidence of alternative land availability for the businesses is sufficient, as do the Council in that they have not sought to pursue their original reason for refusal on this matter.

Planning Obligation

44. I have considered the submitted UU and Community Infrastructure Levy (CIL) Compliance Note[3] against the tests set out in the Framework and in Regulation 122 of the CIL Regulations (as amended). In addition to the provision of an on-site open space, management of which is addressed in the UU, the Council have justified, by reference to Policy H2, the necessity to address increased pressure on the facilities at Yeoman Hill Park as a result of increased residents.

45. The actual contribution proposed is less than that set out in the Council's adopted Note[4] but is a reflection of an agreed position based on the viability of the scheme. Accordingly, specific, costed projects have been identified.

46. Turning to affordable housing, while LP expectations may be higher, the Council's 'Whole Plan Viability Assessment, June 2018' provides up to date evidence on expected provision of affordable housing. This concludes that a minimum of 5%, as now offered here, is viable on brownfield sites. The UU does address the Access Management Plan, but in this case, I have found, in accordance with paragraph 54 of the Framework and the Planning Practice Guidance[5], that this can practically be addressed by condition.

47. Consequently, I consider that the obligations set out in the UU are fair, reasonable and directly related to the development. They accord with the tests in the CIL regulations and I have therefore taken them into account.

The Planning Balance

48. As set out above, the LP is of some considerable age and time-expired and an eLP is approaching adoption to replace it. As a result, I consider the Council have been eminently pragmatic in their approach to the policies most important for determination of the application.

49. They have accepted that the site effectively lies within the settlement boundary of Mansfield Woodhouse, a settlement boundary that is defined in the eLP. It has not therefore applied LP Policy H3, dealing with development outside of settlements. At the Inquiry, the Council further conceded that the LP policy

[3] Document 13
[4] Recreation Provision on New Residential Development
[5] ID21a-011-20140306

regarding employment land, E4, was out of date as it sought to protect such land at a time when it was accepted there was a shortage. The employment policies in the eLP are reflective of evidence that now shows that such a shortage is no longer recognised, and the Council, subject to the further information on land availability, withdrew their objection and accepted that the proposal complied with the second criteria of LP Policy E4 in this regard; I concur.

50. The appellant argues that the acceptance of the need to alter the settlement boundary, the consequential non application of Policy H3 and the acceptance that Policy E4 was relevant to a period of employment land shortage all point to the development plan being out of date.

51. However, in light of the Council's pragmatic approach, I am content that the policies most important to determination are LP Policies BE1, H2 and E4. Policy H14 regarding affordable housing is also relevant, but here the Council have again been pragmatic recognising the latest evidence of a 5% commitment, and raising no further case regarding delivery or viability. While compliance with LP Policy E4(2) is accepted, Policies BE1 and H2 are policies that seek to positively support housing delivery within the settlement boundary subject to a high quality of design.

52. Consequently, despite their age, Policies BE1 and H2 are consistent with the Framework, which, while seeking to boost the supply of housing retains the fundamental importance of a high standard of design. Despite the Council case that only limited weight can be afforded to the eLP, I note that the adoption of the latest affordable housing and employment position and the use of the extended settlement boundary are indicative of a greater weight being given to those parts of the emerging plan.

53. In light of the progress made on that plan, and particularly the reported lack of objection to the settlement boundary here and the employment policies, I consider it appropriate to give moderate weight to those elements and consider that the Council's pragmatic approach was appropriate. To have argued that the site was outside of the settlement boundary or was of such economic importance that there was conflict with Policy E4 would have strongly implied a reliance on out of date policies. As it is, I find the reliance on the design elements of LP Policy BE1 and H2 should be given due weight relative to their consistency with the Framework.

54. The appellant further argues that the Council cannot demonstrate a 5YHLS and thus the relevant policies are out of date in any case. Following considerable discussion at the Inquiry, the following table highlights the respective positions.

	Mansfield District Council		Appellant	
Supply (net)	1663		1372	
Target	272	325	272	325
5-year requirement	1428	1722	1428	1722
5-year Supply	5.82	4.82	4.80	3.98

55. I set out these matters in order to consider the application of national guidance to the scheme under Framework paragraph 11.

56. I have found limited harm associated with the restricted opportunity for integration with the wider area, and the very low risk to public safety. These minor harms must be set against the benefits of the scheme.

57. There would be visual and environmental improvements arising from both the road enhancements and the removal of the former concrete works buildings and extensive concrete hardstanding. While there is some employment use of the site, the maintenance or replacement of the buildings would require substantial investment, which has not been shown to be viable. Consequently, without alternative development only the very low-level of employment use would continue while the buildings and site overall are likely to degrade further. The environmental enhancement and the optimal replacement of this previously developed site with a future beneficial use represents significant weight in favour of the scheme.

58. The delivery of housing on the site, irrespective of the housing land supply position, can be given at least moderate weight, while the 5% affordable housing delivery, while small, also represent moderate weight in terms of the need within the area. Some limited weight also arises in relation to direct and indirect economic benefits during construction and to residents' spend and support of local services in the area.

59. Finally, I afford some limited weight to the benefits to other users, particularly those walking to the country park, as a result of the pedestrian improvements along Oxclose Lane.

60. Matters weighing against the scheme are limited in this instance and without the fact of the single access point, this otherwise would be an exemplar site for housing development. Even taking the access into account, there are a wide range of supportive development plan and national policies with which the proposal would comply. Consequently, I find that on balance, the proposal would comply with the development plan as a whole.

61. Overall, I am satisfied that the site is sustainably located and on any balance the benefits of the scheme would outweigh the harm I have identified. On this basis, nothing is served by a forensic examination of the contrary positions regarding the 5YHLS. Even were I to conclude with the appellant's arguments regarding the quantum of need and the shortage in supply, the application of the presumption in favour of sustainable development, or the 'tilted balance', would not alter my overall findings.

Conditions

62. A set of conditions was submitted[6], which were mostly agreed between the main parties, with some alternative wording or approaches suggested. I have considered these conditions in the light of the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard outline conditions, I have imposed a condition specifying the relevant drawings and plans (4) as this provides certainty, and one restricting the number of dwellings that can be provided on the site (5).

63. To address highway safety, noise, vibration, dust and site lighting impacts as well as possible contamination, I have imposed conditions requiring the

[6] Document 12

submission of construction plans and method statements (6, 7), which I have refined to allow flexibility depending on the contractual approaches taken to the relevant phases; remediation schemes if required (22); installation of the height barrier to the bridge (8) and a scheme for CCTV works on nearby road junctions (16). To provide certainty in the delivery of the extensive road improvements proposed I have required submission of a programme (9).

64. Notwithstanding the brownfield nature of the site, updated ecological surveys are necessary (10), as is confirmation of finished ground and floor levels (11). To mitigate safety concerns, I have required installation of a fire hydrant (12) and development and implementation of the Access Management Plan, which I consider can be adequately addressed by condition in this case (13). To promote options for alternatives to the use of the private car, I have imposed conditions requiring bus stop improvements (15), improvements to pedestrian facilities (17) and development of a Travel Plan (18).

65. To address environmental and flooding issues, I have imposed conditions for foul and sustainable surface water schemes (14, 21), and with regard to the relationship with the railway and Oxclose Woods, a condition to agree the means of enclosure (20). Finally, to provide for the future occupants, I have required a scheme for the provision of open space (19). Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

66. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Mike Robins

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alex Goodman He called:	Of Counsel
Peter Evans	Nottinghamshire County Council – Highways
Tony Rivero	Network Rail
Clare Cook	Development Management Team Leader - Mansfield District Council
Katie Mills	Planning Policy Team Leader - Mansfield District Council
Tom Dillarstone	Principle Planning Officer - Mansfield District Council
Bob Woolard BSc(Hons) MA MRTPI	Planning Consultant P&DG

FOR THE APPELLANT:

Mr Giles Cannock QC He called:	Instructed by Shoosmoths LLP
Chris Bancroft HNC DIPTS, FCILT	Director – Bancroft Consulting – Highways
Craig Straw BSc MRICS	Equity Director – Innes England Limited – Employment
David Hutchinson MSc MRTPI	Principal Planner – Boyer – Housing Land Supply
Tony Aspbury BA MRTPI	Director – Aspbury Planning Limited

INTERESTED PERSONS:

Mrs Connolly	Local resident
Mr Chambers	Local business owner

DOCUMENTS

1 Council's Notification List
2 Updated Plans List
3 Appellant's Opening Statement
4 Council's Opening Statement
5 Local Resident's Statement – Mrs Connolly
6 Housing Land Supply tables
7 Extract – Mr Woollard's Proof of evidence – App Ref 3230027
8 E-Mail – Homes England re The Ridge
9 Housing Land Supply Summary Position
10 Housing Land Supply Schedule and Site Proformas
11 Building Control Notice – Skegby Lane, and Discharge of Conditions – Berry Hill
12 Draft Conditions
13 CIL Compliance Note
14 Paul Newman New Homes Ltd v SoS HCLG and Aylesbury Vale Ref: [2019] EWHC 2367 (Admin)
15 Draft Unilateral Undertaking
16 Council's Closing Statement
17 Appellant's Closing Statement

Submitted after the appeal

18 Unilateral Undertaking

CONDITIONS SCHEDULE

1) Details of the access (other than works to Oxclose Lane), 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 three years from the date of this permission.

3) The development hereby permitted shall take place 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 plans: Site Location Plan 1036-101; Site Plan 1036-800 Rev C; Illustrative Master Plan 1036-100 Rev A; Oxclose Lane Access General Arrangements F14068/08; Oxclose Lane Vertical Alignment F14068/02 Rev B; Oxclose Lane Swept Path Analysis F14068/03 Rev A; Station Hill/Priory Lane T Junction F14068/04; Potential Height Restriction Barrier F14068/10.

5) No more than 150 residential dwellings shall be erected on the site.

6) No development for the reclamation and remediation; the provision of infrastructure, services and utilities, including the creation of a site access; internal access roads; works to the public highway and drainage works; or for the erection of buildings, including construction of below ground structures (footing and foundation) and above ground structures (frames, walls, roofs etc), shall take place until Construction Management Plans or Construction Method Statements relating to these works have been submitted to and approved in writing by the Local Planning Authority.

   The approved plans/statements shall provide for:

   a. Routes for construction traffic travelling to and from the site;

   b. proposed temporary traffic restrictions;

   c. pedestrian and cyclist protection;

   d. arrangements for turning vehicles on the site;

   e. the loading and unloading of plant and materials;

   f. the storage of plant and materials;

   g. the parking of vehicles of site operatives and visitors;

   h. the location and nature of contractor's compounds, means of enclosure thereof and associated temporary buildings;

   i. site security measures;

   j. temporary lighting arrangements during construction required for safe working or security; and

   k. method for prevention of mud and other detritus being carried onto and deposited on the public highway (including wheel washing and street cleaning arrangements)

The approved plans/statements shall be implemented and adhered to throughout the construction period of the development.

7) No development for the reclamation and remediation; the provision of infrastructure, services and utilities, including the creation of a site access; internal access roads; works to the public highway and drainage works; or for the erection of buildings, including construction of below ground structures (footing and foundation) and above ground structures (frames, walls, roofs etc), shall take place until Construction Environmental Management Plans or Construction Environmental Method Statements relating to these works have been submitted to and approved in writing by the Local Planning Authority.

The approved plans/statements must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting and to prevent the discharge of pollutants to the air, ground and waterbodies/courses. The plans/statements should include, but not be limited to:

a. Arrangements for the recovery, on-site storage and off-site disposal of any contamination material;

b. a scheme for recycling/disposing of waste resulting from the demolition and construction works;

c. procedures for maintaining good public relations, including complaint management, public consultation and procedures for the prevention of crime and anti-social behaviour during the construction phase;

d. arrangements for liaison with the Council's Environmental Health/Pollution Control Team.

e. construction works and delivery of materials shall only take place between 0700-1900 Monday-Friday, 0800-1400 Saturdays and shall not take place at any time Sunday or any public holiday;

f. deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above;

g. mitigation measures, as defined in BS5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works;

h. procedures for emergency deviation from the agreed working hours;

i. control measures for dust and airborne pollutants, (these arrangements must take into account the need to protect any local resident who may have particular susceptibility to airborne pollutants); and

j. measures for controlling the use of site lighting, whether required for safe working or security purposes.

The approved Construction Environmental Management Plans/Method Statements shall be implemented and adhered to throughout the construction period for the development.

8) No development/works including site preparation, clearance, remediation, and reclamation works shall be commenced until the physical height

restriction barrier, as outlined on F14068/10 has been erected. This barrier shall be retained for the life of the development.

9) Before development/work commences a programme shall be submitted to and approved in writing by the Local Planning Authority covering the implementation of the approved improvements to Oxclose Lane, including road/footway/cycleway works, visibility splays, street lighting, drainage and outfall works, utility services and any proposed structural works.

The development shall be carried out in accordance with the agreed programme.

10) Before development/work commences an Ecological Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Assessment should include the following:

a. A desktop study of existing ecological information, including consultation with the Nottinghamshire Biological and Geological Records Centre (NBGRC);

b. an Extended Phase 1 Habitat Survey, to identify and map habitats and identify evidence of or potential for protected/notable species;

c. targeted surveys for protected species if required;

d. details of avoidance, mitigation and compensation measures, if required, and opportunities for enhancements (such as retention of existing vegetation, native planting, multifunctional water attenuation features, incorporation of bat and bird boxes within new dwellings, etc.); and

e. as several buildings are to be demolished, a Bat Scoping Survey will need to be included within the Ecological Assessment.

11) Before development/work commences full details of the proposed finished levels above ordnance datum of the ground and the ground floor levels of the proposed dwellings, in relation to existing ground levels, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved levels.

12) Before development/work commences, details of the location and design of the fire hydrant shall be submitted to and approved in writing by the Local Planning Authority. The hydrant shall be installed and be rendered operational before first occupation of any dwelling. Thereafter it shall be retained and maintained for the lifetime of the development.

13) Before development/work commences, an Access Management Plan, developed from the draft plan submitted to the Council, 31 October 2018, shall be submitted to and approved in writing by the Local Planning Authority. The approved Plan and the measures it encompasses shall be implemented before first occupation of the dwellings hereby approved and shall thereafter be adhered to throughout the lifetime of the development.

14) Before development/work commences, a scheme for foul drainage, including foul sewerage, for the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, no dwelling shall be

first occupied until the approved scheme has been implemented, is fully operational and the dwelling concerned is connected to it.

15) Before development/work commences, other than site preparation, clearance, remediation and reclamation, a scheme for the upgrading of bus stops MA0257 and MA0465 in Swan Lane, Mansfield Woodhouse, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the 20th dwelling on the site is first occupied.

16) Before development/work commences, other than site preparation, clearance, remediation and reclamation, a scheme for the installation of CCTV equipment to provide for real-time adjustment of the traffic signals at i) Debdale Lane / Priory Square / Priory Road / Sherwood Street, and ii) Chesterfield Road (A6191) / Abbott Road / Debdale Lane (A6075) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme relating to junction i) shall be implemented before first occupation of the first dwelling on the site, and the approved scheme relating to junction ii) shall be implemented before first occupation the 50th dwelling on the site.

17) Before development/work commences, other than site preparation, clearance, remediation and reclamation, a scheme for improvements to pedestrian facilities at the Grove Street / Grove Way junction and along Oxclose Lane / Park Road / Swan Lane towards Mansfield Woodhouse Town Centre shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved scheme shall be implemented before first occupation of the 50th dwelling on the site.

18) Before development/work commences, other than site preparation, clearance, remediation and reclamation, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The measures contained in the Travel Plan shall thereafter be implemented in accordance with the timetable set out in the Plan. The Plan shall include the appointment of a Travel Plan Co-ordinator for monitoring and for annual reporting for a period of five years from the completion of the development.

19) Before development/work commences, other than site preparation, clearance, remediation and reclamation, a scheme for the provision of on-site communal open space, including children's play space, shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include a timetable for the implementation of the open space and measures for the management and maintenance thereof. The approved scheme shall be implemented in accordance with the approved timetable.

20) Before development/work commences, other than site preparation, clearance, remediation and reclamation, details of the means of enclosure of the external perimeter of the site and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The means of enclosure shall be erected as approved.

21) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local

planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

i) provide information about the design storm period and intensity,

ii) 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;

iii) include a timetable for its implementation; and,

iv) provide, 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.

Thereafter no dwelling shall be occupied until the approved surface water drainage system for the site has been completed in accordance with the submitted details. The drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

22) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how the unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority for remediation works. The approved remediation strategy shall be implemented as approved.