The Planning Inspectorate

Appeal Decision

Inquiry Held on 12 – 13 November & 12 December 2019
Site visit made on 13 December 2019

by S D Castle BSC(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/R1038/W/19/3233986
Land at, Plot L, Coney Green Business Park, Coney Green Road, Clay Cross

- 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 Mr Alan Staley (Keepmoat Homes Ltd) against the decision of North East Derbyshire District Council.
- The application Ref 16/01260/OL, dated 07 February 2018, was refused by notice dated 15 April 2019.
- The development proposed is outline planning permission for the development of up to 75 residential dwellings (Use Class C3) with access for determination and all other matters reserved for future determination at Plot L, Coney Green Business Park, Clay Cross.

Decision

1. The appeal is allowed and outline planning permission is granted for the development of up to 84 residential dwellings (Use Class C3) with access for determination and all other matters reserved for future determination at Land at, Plot L, Coney Green Business Park, Clay Cross in accordance with the terms of the application, Ref 16/01260/OL, dated 07 February 2018, subject to the conditions contained within the Schedule at the end of this decision.

Application for costs

2. At the Inquiry an application for costs was made by Mr Alan Staley (Keepmoat Homes) against North East Derbyshire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Amendments were made to the proposal prior to the determination of the planning application. The description of development was amended to, 'outline planning permission for the development of up to 84 residential dwellings (Use Class C3) with access for determination and all other matters reserved for future determination (Major Development/Departure from Development Plan) (Amended Title/Plans)'. This amended description was agreed between the appellant and Council and the required publicity and re-consultation has taken place. I have consequently assessed the appeal on the basis of the revised description.

4. The proposal is for outline planning permission with approval sought at this stage for access only, with layout, appearance, landscaping and scale reserved for future approval. The details submitted with the application include a Parameters Plan[1] and a Feasibility Site Layout Plan[2]. The Parameters Plan sets out the area proposed for housing and is agreed between the main parties. As such, I have treated the Parameters Plan as formally part of the scheme. Whilst the Feasibility Site Layout Plan shows how the site might be developed for dwellings, such detail will be addressed at the reserved matters stage and I have not treated the details as formally part of the scheme.

Main Issues

5. The main issues are:

   - Whether or not the proposal would result in an inadequate local supply of employment land in the area;
   - Whether or not there is a reasonable prospect of the site being used for an employment-based use in the future;

Policy

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the saved policies of the North East Derbyshire Local Plan (NEDLP), November 2005. It has an end date of 2011 and is therefore time-expired. Paragraph 213 of the National Planning Policy Framework 2019 (the Framework) states that existing development plan policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Consequently, the weight to be given to the policies of the NEDLP depends on their degree of consistency with the Framework.

7. The Council's decision notice refers to NEDLP Saved Policies E6 (Existing Employment Areas) and E7 (Development in New and Existing Employment Areas). The appeal site is identified as an existing employment area by Saved Policy E6.

8. Saved Policy E6 is permissive with regards to proposals for employment development within the identified employment areas. It is, however, silent with regards to residential development. As such, whilst the policy clearly forms part of the overarching strategy of the NEDLP with regards to employment land, I am not persuaded that it is engaged given the residential nature of the proposal.

9. Saved Policy E7 sets out a range of criteria for development within existing employment areas, including the requirement that, *'In order to maintain an adequate supply of employment land, planning permission will not be granted for the change of use from employment purposes, unless the local planning*

[1] Dwg no. A099592_003 Rev B
[2] Dwg no. D01

authority is satisfied that adequate local supplies of employment land and premises remain.'

10. Both parties agree that Saved Policy E7 represents a most important policy and is consistent with the Framework. In so far as Saved Policy E7 encourages sustainable economic growth and allows flexibility in terms of the assessment of whether a site is needed for employment purposes, I consider that it is broadly consistent with the Framework, including para 120, which says decisions need to reflect changes in the demand for land. Consequently, its weight is not diminished when assessed in terms of para 213 of the Framework. As such, Saved Policy E7 is not out of date.

11. The Council's submissions also refer to conflict with Saved Policies GS1 and H2. Saved Policy GS1 has the broad aim of maintaining or improving quality of life for communities, maintaining economic growth and preserving or enhancing the District's environment. Saved Policy H2 is generally permissive towards housing development within Settlement Development Limits (SDLs) subject to the land not being identified, required or protected for other purposes.

12. Whilst the broad objectives of Saved Policy GS1 align with the overall thrust of national policy, Saved Policies GS1 and H2 were formulated based on SDLs that were drawn up to accord with housing need at the time that the NEDLP was produced and which only ran until 2011. These policies are more restrictive in their terms than the policies in the Framework. Consequently, I find Saved Policies GS1 and H2 to be inconsistent with the Framework and give them limited weight in relation to this appeal.

13. I have also been referred to a number of policies in the emerging North East Derbyshire Local Plan 2014-2034 (ELP). Policy SS2 of the Publication ELP sets out the spatial strategy and the distribution of development for the district. It states that the Local Plan will make provision for 41ha of employment land for the period 2014-2034.

14. The Publication ELP sets out (in Table 6.1) the employment land availability (April 2017) within the district, finding an overall total of 46.44ha. This overall total includes the appeal site which is identified by Policy WC2 (Principal Protected Employment Sites) as protected for employment uses (Use Class B1, Use Class B2 and Use Class B8).

15. The ELP underwent examination in public in November/December 2018 and March 2019. The Inspector's Interim Findings and subsequent correspondence with the Council has resulted in the Council proposing a total employment supply of 38.42ha against a Plan target of 42.66ha.[3] In response, the Inspector states that, '…additional employment allocations are not necessary for the soundness of the plan's economic strategy.'[4]

16. Whilst the ELP examination is at a relatively advanced stage, there is significant uncertainty regarding its future progress following notification by the

[3] CD61 North East Derbyshire's response to Inspector's Interim findings (27 March 2019)
[4] CD62 Examining Inspector's response (9 April 2019)

Council of its intention to review matters surrounding the ELP.[5] The Inspector has requested[6] that the Council consider three options:

- Proceed with the examination on the basis of the submitted Plan and the main modifications that have been considered to date, subject to finalising their detailed wording. A revised timescale for consultation on the main modifications would need to be agreed.
- Review the evidence base informing site allocations, re-consult on the Council's revised evidence base and proposals and conduct further hearing sessions.
- Withdraw the plan from examination.

17. At the Inquiry, no update on the Council's intentions regarding the ELP was provided. As such, significant uncertainty remains regarding the future progress of the ELP. I note the appellant's concerns regarding the inconsistency of the wording of Policy WC2 with the Framework in so far as it does not provide any flexibility for alternative uses. I also note that the Inspector's Interim Findings do not raise concerns on this specific matter. Overall, given the uncertainty and lack of clarity regarding the future progression of the ELP, and mindful of its stage of preparation and the extent to which there are unresolved objections (including from the appellant), I can afford only limited weight to its relevant policies, including SS2 and WC2.

Reasons

Employment land need

18. The proposal would result in the loss of approximately 2.6ha of existing employment land that is designated by Saved Policy E6. Given the time expired nature of the NEDLP, the employment evidence base for the ELP and associated examination documents provide important evidence to inform this appeal regarding current and future employment land need and supply.

19. To determine whether adequate local supplies of employment land and premises would remain following development of the proposal, it is necessary to take a view on what the future requirements in terms of employment land need are. The Council's evidence in this regard comprises a range of studies, including an Economic Land Review Update[7] (ELRU) and an Employment Topic Paper[8] (ETP).

20. The Planning Practice Guidance states that employment needs should be assessed across the 'functional economic market area'[9] (FEMA). There is no standard approach to defining the extent of a FEMA but the PPG states that factors such as 'travel to work areas' (TTWA), the area of Local Enterprise Partnerships and administrative areas can inform the FEMA. Whilst noting that North East Derbyshire cannot be considered to represent a TTWA given the extent of out commuting, for the purposes of calculating employment land

[5] CD65 North East Derbyshire's letter to the Inspector (12 July 2019)
[6] CD66 Examining Inspector's letter to the Council (2 August 2019)
[7] CD81 North East Derbyshire Employment Land Review Update (August 2017) (Lichfields)
[8] CD76 North East Derbyshire Employment Topic Paper (August 2018)
[9] Paragraph: 019 Reference ID: 61-019-20190315 - Revision date: 15 03 2019

need, the ELRU identifies the FEMA as the administrative area of North East Derbyshire District Council.

21. Over the ELP period of 2014-34, the ELRU recommends that employment land provision should be between 28ha and 41ha. This range reflects several different modelling scenarios, with the highest need figure representing a 'regeneration scenario'. The employment need figure within the Publication ELP Policy SS2 is reflective of the 'regeneration scenario' and provides for growth in several core sectors within North East Derbyshire.

22. As part of the ELP examination, the total need resulting from the regeneration scenario was amended to 42.66ha to reflect an increased flexibility factor of 2 years rather than one. This overall gross need figure comprises 18.76ha net employment land need, 20ha replacement for losses and 3.9ha to provide flexibility to allow for other factors such as delays in sites coming forward. These figures are the Council's current position on employment land need over the ELP period.

23. The appellant has questioned the findings of the ELRU and have set out a list of concerns. Of particular concern to the appellant are the assumptions within the ELRU regarding replacement demand following the loss of employment land to alternative uses and, also, vacancy rates.

Losses

24. The Council's evidence sets out that the replacement allowance of 20ha (representing 1 ha per annum of the ELP period) places greater weight on expected future losses rather than past trends. The appellant asserts that the Council's approach does not pay due regard to past losses and incorrectly derives its loss figure based on pipeline losses. Government guidance on how to forecast employment land need is not prescriptive in this regard. Taking different time periods results in significantly different annualised figures for past losses.

25. The Council's witness[10] with regards to employment land need provided updated information with regards to actual and pipeline losses within his proof (Table 6.5). This evidence indicates that 0.07ha of actual losses occurred between 2004 and 2011. Based on the information within Table 6.5 of Mr Robinson's proof[11], 2.74ha of actual losses between 2014 and 2019 occurred (0.55ha per annum over 5 years).

26. The Council's stated pipeline losses (Clay Cross Plot A, Rotherside Industrial Estate) and the Derbyshire County Council Depot (considered an actual loss by the Council but not by the appellant) would result in a further 2.80ha of losses and a total of 5.54ha actual/probable losses since 2014. The appellant has several criticisms of this approach, including the issue that pipeline losses may never materialise; and the potential for double counting within any annualised period. These are valid concerns given that, whilst a combined actual and pipeline loss figure can provide 'point-in-time' information, to use such a combined figure to extrapolate forward an annualised figure for losses risks distorting the overall future need figure. This risk is clearly illustrated by the

[10] Colin James Robinson BA (Hons) MTP(Dist) MRTPI MIED
[11] CD109 Proof of Evidence of Colin Robinson (Employment Land Need) (North East Derbyshire District Council)

lapsing of the Smithy Brook Rd permission that has previously been counted as a pipeline loss in the earlier Employment Land Review.

27. The appellant's briefing note[12], submitted at the inquiry, calculates a replacement demand for losses over the ELP period (2014-2034) of 10.96ha (approx. 0.55ha per annum) based on their interpretation of actual losses (i.e not including the County Council Depot, Rotherside Industrial Estate and Plot A Coney Green) between 2014 and 2019.

28. Taking the period 2004-2019, the appellant calculates a replacement demand of 3.75ha or 4.32ha (excluding the 2 years where data was unavailable). As such, the range of replacement demand figures argued as appropriate by the main parties varies from 3.75ha to 20ha.

29. Whilst past trends provide useful information to inform future needs, they are backward facing. The evidence shows a significant increase in losses over the past 5 years in comparison to the period 2004 to 2011. Extant but unimplemented permissions provide a forward-looking indication of future losses and these do not indicate that the rate of losses will, in the short term, revert to the 2004-2019 average. Indeed, on my site visit, I noted that the Plot A[13] Coney Green Business Park (CGBP) permission (0.62ha site area) appeared to have been recently implemented. Such an implementation highlights that, whilst it is important to avoid any 'double counting', the Council's focus on pipeline losses when projecting the future employment need also has validity and merit.

30. The ELRU also refers to adopting a 1% allowance for churn as a valid alternative to calculating future losses. This rate of churn allows for all current stock, within a defined area, to be replaced within 100 years and equates to 1.48ha per annum based on the total B-class floorspace figures.[14] In support of this rate of churn, the Council's evidence refers similar or higher figures used by employment land reports covering other areas. The Council's evidence[15] indicates that North East Derbyshire has a higher proportion of pre-1970's B-class floorspace than the other areas covered by the cited employment land studies. This suggests that a churn rate of 1% for North East Derbyshire is reasonable when benchmarked against the other cited areas. How this translates to additional employment land need will depend on what proportion of replacement requirements take place on existing employment sites. The Council's evidence refers to an Economic Development Needs Assessment (Greater Exeter) by Hardisty Jones Associates[16] where a replacement rate of 20% on existing employment sites is used. If applied to North East Derbyshire, this equates to a net annual loss of 1.18ha.

31. Given the cyclical nature of employment data and the differing approaches to projecting future losses of employment land, I find the evidence before me is not definitive. There is validity and merit in both the appellant's and the Council's approach to projecting future losses. The reality of losses will probably lie somewhere in between the figures put forward by the appellant and the Council. Overall, I am satisfied that the Council's losses figure is

[12] SPRU Briefing Note: Further Analysis to Support Employment Land Position submitted by appellant.
[13] CD118 Appeal decision ref: APP/R1038/W/17/3172885 – Plot A, Coney Green Road
[14] Based on total stock of B-class floorspace of 591,000 sq m as shown in appendix 5 of CD109
[15] Table A7.3 of CD109 Proof of Evidence of Colin Robinson (Employment Land Need)
[16] Appendix 8 of CD109 Proof of Evidence of Colin Robinson (Employment Land Need)

supported by an objective analysis of relevant evidence and forms a justified component of the employment land need figure.

Vacancy rates

32. The ELRU sets out that, as of 2017, vacancy rates in the region were 3.4% for office and 4.2% for industrial warehousing. The Council's preferred regeneration scenario includes an uplift of the vacancy rate to 10%. In comparison to modelling using the 2017 vacancy rates, the vacancy adjustment to 10% results in a significant increase in employment land need over the ELP period.

33. The Council asserts that the uplift in the vacancy rate addresses current market signals and would ensure that there is a reasonable level of fluidity and choice of employment land to encourage occupiers to stay in the district. A range of quantitative and qualitative evidence is outlined in Mr Robinson's proof, including reference to a Valuation Office Agency report that estimated vacancy rates for employment land in 2004/5 totalled 8% for the East Midlands; 9% for England; and 10% for NE Derbyshire. These higher vacancy rates coincided with a period of sustained economic growth and Mr Robinson considers that the 10% vacancy rate better reflects the longer-term equilibrium before the last recession.

34. In terms of qualitative evidence, Mr Robinson's evidence highlights that the ELRU refers to commercial property agents identifying low vacancy levels in industrial stock across the market area. Whilst I note the significant effect of the uplift in vacancy rate on the total employment land need figure, on balance, I am satisfied that the Council has appropriately justified the 10% vacancy rate in its projections.

Conclusion on Employment Land Need

35. The Council's future employment need figure is underpinned by the evidence base of the ELP. Whilst I give only limited weight to policy SS2 of the Publication ELP, I am mindful that the Examining Inspector's Interim Findings[17] do not raise fundamental issues with the methodology or the revised need figure of 42.66ha.

36. A range of evidence has been provided with regards to justifying the appropriate calculation of future losses of employment land. I have not found the evidence presented as definitive. This is not surprising given the lack of an accepted single prescriptive model for projecting employment need over a significant period of time into the future.

37. Overall, on balance, I consider the 42.66ha figure for employment land need over the ELP 20 year plan period is appropriately justified with evidence and based on a sound methodology. Whilst it is at the higher end of the range of need projections, sustainable economic growth is a fundamental policy requirement of both the NEDLP and the ELP and is reflective of guidance within the Framework that significant weight should be placed on the need to support economic growth (para 80).

[17] CD60 Examining Inspector's Interim Findings (18 February 2019)

Employment Land Supply

38. The Council's refusal reason states that the '*local level of supply is limited, and lacks flexibility against additional future losses.'* The refusal reason goes on to state, *'if this site was lost to potential employment development it would significantly compromise prospects for employment in the local and wider area.'*

39. The evidence of Mr Cooper, the Council's witness on employment land supply, analyses the adequacy of local supply based on past take-up rates focussed on Clay Cross[18]. It is clear from Mr Cooper's evidence that, whilst he considers need and supply at a district level important[19], the Council's refusal was issued based on evidence focused on the land remaining for employment development 'local' to Clay Cross. He considers that without Plot L, the local employment supply would fall short of the amount necessary for the remaining ELP period (15 years from 2019).

40. The table at para 7.5 of Mr Cooper's proof shows a development rate of 0.96ha per annum (2006 – 2019) and 1.23ha per annum (2011-2019) within the Clay Cross area. Subject to a 6ha reduction in the employment land attributed to the Coalite site, Mr Cooper did not dispute the breakdown of the 'years of employment land supply by area' shown in the SPRU Briefing Note[20]. Following the loss of Plot L, Table 6 of the SPRU Briefing Note indicates 10.5 years supply remaining for Clay Cross (as per Mr Cooper's proof); 24.7 years supply for the 'Chesterfield' sub area (as defined by the NEDLP); 18.2 years supply for the 'South' sub area (as defined in the ELP) and 25.7 years supply for the district. These figures are based on take-up rates over the period 2006-2019. Depending on the historic time period measured, there will inevitably be variation in average annual take-up rates. Mr Cooper notes[21] that the take-up rate, from the beginning of the ELP plan period (2014), is 1.09ha for the district (all at Clay Cross) and that this is similar to the average of the short and long-term rates. Whilst it is important to avoid overly simplistic modelling with no regard to the economic cycle or changing economic conditions, I am satisfied that the use of the 'long-term' rate (2006-19) provides a reasonable benchmark to determine the years of supply in the various areas.

41. Saved Policy E7 does not define what is meant by 'adequate' or 'local' in terms of employment land supply. The approach of Mr Cooper in defining 'local' without reference to the FEMA identified within the ELRU is at odds with government guidance contained within the PPG[22] regarding how authorities should prepare and maintain evidence about business needs. I am not persuaded that taking such a narrow view of 'local' provides the optimal evidence-base to plan for sustainable economic growth. Taking a view on adequacy of local supply without reference to the wider FEMA risks missing relevant market signals regarding the supply and demand of employment land. In this regard, I note that the employment land supply figure for the district (the identified FEMA by the ELRU), based on past take-up rates, significantly exceeds the 15 years of the remaining ELP period. As such, I do not find that

[18] Para 7.39 of CD110 Proof of Evidence of Richard Cooper (Employment Land Supply)
[19] Para 7.2 of CD110 Proof of Evidence of Richard Cooper (Employment Land Supply)
[20] Submitted on day 1 of the Inquiry
[21] Para 7.7 of CD110 Proof of Evidence of Richard Cooper (Employment Land Supply)
[22] Paragraph: 026 Reference ID: 2a-026-20190220

the historic take-up evidence before me indicates that the development of the proposal would result in an inadequate supply of local employment land.

42. The main parties disagree as to whether the Coalite site, as allocated by ELP Policy SS6, should be included within the employment land supply figures. At the inquiry both parties indicated that there is an extant permission for housing on the site and also a current application including employment land [23]. The realignment of the proposed route for HS2 has, however, resulted in significant uncertainty regarding the timing and nature of any future development of the site. As such, I am not persuaded that the employment land at the Coalite site should be given any more than limited weight when assessing employment land supply in relation to this appeal.

43. At a district level, notwithstanding the Coalite site, both main parties accept that the ELP evidence base identifies 38.42ha of employment land, comprising a mix of both sites already allocated in the time expired NEDLP and new sites. The Council asserts that, given their identified employment land need across the ELP period is 42.66ha and only 38.42ha is proposed to be allocated, the loss of the appeal site to housing would unacceptably increase this deficit.

44. As part of the ELP examination, the Council has proposed, '*a main modification that commits to a plan review in the event that there is a shortfall in employment land supply.'* [24] The examining Inspector does not appear to raise any concern with this approach, stating, *'Having regard to the flexibility in supply which may be provided by the Coalite site and Dronfield Regeneration Area, additional employment allocations are not necessary for the soundness of the plan's economic strategy. The Council's proposed approach to monitor employment land take up with provision for an early plan review if necessary is reasonable and the monitoring table should include a mechanism for measuring take up and an appropriate review trigger'.* [25]

45. Whilst I accept that there may be a numerical shortfall in terms of future employment land supply over the ELP period, the Council's proposals to monitor employment land supply and to instigate a plan review, if necessary, does not indicate an imminent undersupply. Indeed, I am mindful that a significant element of the Council's identified need figure within the ELP period allows for anticipated losses of 20ha. The appellant contends that the proposal represents the type of loss that is accounted for within the overall need figure. From a quantitative perspective, the loss of the appeal site (approx. 2.6ha) would not be of such a scale so as to undermine the Council's ability to accommodate future losses, whilst also delivering the 22.66ha required to support the district's future economic growth needs (as set out in the regeneration scenario). The Council's proposal to monitor employment land supply would provide an appropriate safeguard in this respect.

46. There is no requirement within national or local policy for a set number of years supply of employment land to be demonstrated or for the number of years to meet the remaining plan period. The evidence submitted by the Council indicates significant levels of employment land would remain available for

[23] Table 7 SPRU Briefing Note (as amended by Mr Cooper's comments at the Inquiry)
[24] Para 6.6 of CD110
[25] CD62 Examining Inspector's response (9 April 2019)

development, both local to Clay Cross (as defined in terms of years supply by Mr Cooper) and when assessed against the wider district need. Overall, I am not persuaded by the Council's evidence that the proposal would result in an inadequate local supply of employment land in quantitative terms.

Marketing and Qualitative Assessment

47. The Council contends that the site represents a high quality and developer ready serviced plot within a successful business park. The Council refers to the qualitative assessments of Plot L contained within the evidence base to the ELP, including the Aspinall-Verdi Employment Sites Study[26] (ESS) (2017). In relation to Plot L, the ESS states that, '*the site forms an important part of the 'available' employment land supply in the town'.* Benefits of Plot L noted in the ESS include its prominent location, with the possibility of attracting high value uses such as trader counter or showroom type uses; being a relatively large site that could therefore accommodate a range of options and comprise mixed employment use (i.e. B1, B2 and B8); and, its direct access to the A6175 and major road network.

48. The appellant's evidence presents a significantly different qualitative assessment of Plot L, finding it is a poor site for employment use that faces several constraints. The Council accepts that the proximity of residential development to the north, east and south of the site would inevitably need to be considered in assessing the suitability of certain employment uses of the site. Furthermore, the site's history as an open-cast mine, with the legacy presence of a high wall running through the site, also represents a constraint to development. Whilst these factors require consideration and reduce the flexibility for employment development on the site, they do not, in principle, prevent the site from being developed for employment uses. Subject to appropriate layout, designs, use limitations and environmental controls, employment development can neighbour residential development.

49. Potential layouts for the site have been submitted by both the Council[27] and the appellant[28]. It is the appellant's view, however, that such schemes would not be viable. The appellant's witness[29] in this regard provides evidence in the form of development appraisals for two potential schemes; a single-unit scheme and a 10-unit scheme. The appraisals show, including an abnormal cost for piling foundations, a negative residual land value for both schemes, indicating employment development of the site would not be viable.

50. The Council's evidence includes a 'Report on Ground Conditions'[30] that recommends the use of stiffened edge raft foundations rather than pilings in the construction of the potential schemes put forward by the appellant. The report also indicates that at Railway View (a site located off Coney Green Road), a buried high wall was built over with commercial buildings using stiffened edge raft foundations. The Council does not, however, present alternative development appraisals including such foundations for either the appellant's, or their own, potential layout schemes. I have no substantive

[26] CD83 Employment Sites Study (December 2017) (Aspinall Verdi)
[27] CD111 Proof of Evidence of Alastair Fearn (Marketing and Future Prospects) Appendix 9
[28] CD106 Proof of Evidence of Nick Hosking (Marketing of Site and Future Prospects) Appendix 5
[29] Nick Hosking Nicholas John Hosking BSc (Hons) MRICS – Director, Innes England
[30] Submitted 08 November 2019

evidence, therefore, that alternative foundation construction methods or, indeed, alternative employment schemes would be viable on the site.

51. Whilst the appellant's development appraisals test the potential of the site to deliver specific forms of modelled development, robust marketing of the site would provide the opportunity for other parties to come to their own view on the site's possibilities with regard to their own site-specific requirements.

52. Both main parties accept that the site has been marketed since spring 2004. The Council's witness[31], Mr Fearn, contends, however, that there are considerations that explain why, despite being allocated for employment uses, the site has not been developed. For the period 2004 to 2012, the whole Coney Green Business Park (CGBP) was subject to requirements laid down by the East Midlands Development Agency (EMDA). Whilst Mr Fearn's evidence includes a list of 14 enquiries[32] received by FHP[33] for Plot L between August 2005 and December 2007, Mr Fearn's proof also states that only 2 out of a possible 11 plots were sold between 2004 and 2012. Mr Fearn considers this lack of activity to be primarily due to the restrictive nature of the EMDA requirements. These restrictions were removed in 2012 when ownership of the wider CGBP was transferred to the Homes and Communities Agency (HCA). Mr Fearn is critical of the appointment of Thomas Lister as sole marketing agents of the CGBP in 2012 and their subsequent marketing of the site. His criticisms include, amongst others, the lack of local agency presence; failing to include Plot L in auctions including other CGBP plots; failing to update the marketing brochure; and insufficient direct mailing in terms of frequency and geographic area.

53. An 'Evidence of Marketing Undertaken' report[34] by Thomas Lister (November 2016) was submitted with the original application to the Council. Thomas Lister is a practice of Chartered Surveyors and Development Consultants based in the West Midlands. Their report indicates that 4 plots on the CGBP (C, G, E, and K) were sold during the period 2004 to 2011. This correlates with the information shown within appendix 5[35] to Mr Fearn's proof. The Thomas Lister report states that their marketing of the site included (amongst others), an extensive direct mail shot and promotion on the HCA, Thomas Lister and Co-star websites. The report indicates that between 2012 and November 2016, no enquiries were received for plot L for employment use. The Thomas Lister report indicates 15 enquiries were received (up to November 2016) for land within the CGBP. From these inquiries, the report indicates Plots A, D and H were sold on an unconditional basis, whilst F and J were disposed of by way of conditional contracts. The report goes on to state that Plot L was promoted when any enquiries regarding the wider CGBP were received, but interest was declined due to the surrounding residential properties and the costs of subdividing the plot.

54. From the evidence before me, it is clear that from 2016 onwards, there has been an increase in market activity and development relating to CGBP. Mr Fearn considers a key reason that Plot L remains unsold is that it has not been actively marketed for an employment based use whilst the market has been at

[31] Alistair Fearn BSc MRICS – Director, FHP Property Consultants
[32] Appendix 3 Alistair Fearn's Proof
[33] Fisher Hargreaves Proctor Limited T/A FHP Property Consultants
[34] CD10 Evidence of Marketing Report November 2016 (Thomas Lister)
[35] Appendix 5: Schedule Showing Current Status of Each Plot.

its best (since 2016). Mr Fearn states that the site is shown as 'under offer' on the Thomas Lister website and is listed under 'Sold' sites on the Homes England website. As evidence, Mr Fearn refers to his conversation (Oct 2019) with a local developer who was unaware that Plot L was for sale and who expressed an interest in developing the site for employment use.

55. I have had regard to the Council's evidence regarding the high quality of the site and its subsequent importance to the local supply of employment land. Overall, however, given the length of time the site has been allocated and marketed for employment use, the balance of evidence strongly suggests that there has been limited interest in developing the site for employment use. I am satisfied that the site has been reasonably marketed over a very extensive length of time, which has included an appropriate range of economic circumstances. Numerous other plots within the CGBP have been sold (and developed) during both the period subject to the EMDA restrictions and latterly when Thomas Lister were appointed. Notwithstanding this marketing activity by two established agents, the site remains unsold and undeveloped.

56. In terms of constraints, the Fowler Sandford Market Assessment (FSMA) notes that 2 of the 3 developers approached regarding Plot L raised concerns regarding the development of employment land in close proximity to residential properties.[36] The FSMA goes on to state that the neighbouring residential properties present additional challenges and that developers will be more cautious of a site with residential uses nearby than one where it is not.

57. Overall, the development appraisal evidence submitted by the appellant, in combination with the lack of substantive interest in the site over an extensive period of marketing, indicates that, on balance, there is no reasonable prospect of the site coming forward for employment use. These factors do not indicate a high quality employment site and, given the supply of other employment land sites identified within the ELP evidence base, I am not persuaded that the proposal would result in an inadequate local supply of employment land in qualitative terms.

Conclusions on the Main Issues

58. Based on long term take up rates, the Council's evidence indicates that 10.5 years employment land supply would remain for Clay Cross following the loss of Plot L. Taking the wider FEMA as a more appropriate area for employment land assessment, a significantly greater number of years supply, in excess of the remaining ELP period, would remain. The Council's employment land evidence base identifies 38.42ha of employment land and allows for significant losses (20ha) without compromising meeting identified need (42.66ha). The evidence before me, therefore, does not indicate that there is a shortage in employment land in the district. On balance, the evidence indicates that there are qualitative issues with the site and that there is no reasonable prospect of the site coming forward for employment use.

59. I conclude that adequate local supplies of employment land would remain following the development of this brownfield site with dwellings and the

[36] CD19 Paragraphs 7.38, 7.39 & 7.4 of Market Assessment -Plot L, Coney Green, Clay Cross, February 2019 (Fowler Sandford)

proposal is, therefore, in accordance with NEDLP Saved Policy E7. Even if I were to accept that Saved Policy E6 were engaged by the proposal, given I have found compliance with Saved Policy E7, it follows that, based on the evidence before me, only very limited conflict with Saved Policies E6, GS1 or H2 would result from the proposal.

Access

60. In terms of highways impact, an existing access to Plot L has been constructed along Coney Green Road. It is proposed that this existing access will serve the development. The main parties have agreed that the traffic generated by the proposal could be safely accommodated on the existing road network. The County Council's Highways section raises no objections to the development or the suitability of the proposed site access point. I have no substantive reason to consider differently or to contest the agreement between the main parties in relation to highways matters. I therefore conclude that the proposed development would not have an unacceptable impact on highway safety or result in residual cumulative impacts that are severe.

Other Matters

61. The Council states that, as of 31 March 2019, it had an 8.6 years deliverable housing land supply (YHLS). The appellant agreed, prior to the Inquiry, not to contest the Council's position in respect of housing land supply. I note that a Public Inquiry in June 2019 found that, at worst, the Council could demonstrate a 7.4 YHLS[37]. The Framework does not indicate that the ability to demonstrate a 5YHLS should be taken as a ceiling on housing delivery. The provision of additional housing would be a benefit given the Framework's requirement to significantly boost the supply of homes. Both main parties agree that the site is brownfield land. The Framework states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes (para 118c). As such, I give substantial weight to the delivery of homes on this brownfield site within the settlement development limits of Clay Cross, an identified main town within the district. The site is well located to provide good access to a range of facilities, services and public transport.

62. The Council accepts that there is an unfulfilled district wide need for affordable housing. The proposal would include delivery of up to 17 affordable homes. The Framework states that to support the Government's objective to significantly boost the supply of homes, the needs of groups with specific housing requirements should be addressed. As such, I give significant weight to the delivery of affordable housing on this site which, through an approved affordable housing scheme secured by the submitted legal agreement, would meet an identified unmet need.

63. Policy WC2 of the ELP seeks to safeguard the site for Class B1, B2 and B8 uses. For the reasons noted earlier in this decision, I give only limited weight to this policy and, consequently, only limited weight to the proposal's conflict with Policy WC2. Whilst the ELP does not form part of the current development plan,

[37] CD120 Appeal decision ref: APP/R1038/W/18/3216245 – Land East of Little Morton Road, North Wingfield

I have given significant weight to the employment evidence base supporting the ELP in so far as it is the most up to date information regarding employment land need and supply.

64. The appellant has drawn my attention to the appeal decision in relation to Plot A[38] on the CGBP. In that decision, issued 4 August 2017, the inspector found that there was not a strong economic reason why the development of the site with housing would be inappropriate. I have had regard to this appeal decision but only afford it very limited weight given the updated employment evidence and different housing land supply position before me. In any event, I have considered this appeal on its own merits.

65. I note the concerns that the loss of employment land could lead to greater commuting out of Clay Cross, especially given the increased number of dwellings proposed for the settlement. National policy is supportive, however, of applications for alternative uses where the use would contribute to meeting unmet need in the area and where there is no reasonable prospect of an application coming forward for the use allocated in the plan. I have found that it has been demonstrated that there is no reasonable prospect of an application coming forward for the allocated use of the site. Whilst the Council can demonstrate a 5YHLS, as noted above, there is an unmet need for affordable housing within the district. I therefore consider paragraph 120 of the Framework supports the proposal and represents a material consideration of significant weight in favour of the proposal.

66. There would be benefits to the local economy as a result of jobs provided through construction and spending in the local area. I afford such benefits moderate weight given the scale of the development.

67. A number of other considerations have been raised in the submissions of interested parties, including concerns regarding drainage, crime, land instability, living conditions (noise and privacy), layout, loss of green space, education and health infrastructure.

68. Noise issues raised relate to the effect of existing surrounding employment uses on the living conditions of future residents, both within their houses and outdoor spaces. The appellant's noise assessment finds that, subject to appropriate mitigation, noise would not be an adverse impact on the health or quality of life of future residents. At the inquiry, an interested party raised a concern regarding noise mitigation specific to outdoor spaces. Accordingly, I have modified the noise mitigation condition agreed by the Council and the appellant to include outdoor spaces associated with the proposed dwellings. Subject to this condition, I am satisfied noise would not have an adverse impact on the health or quality of life of future residents.

69. Many of the objections in relation to layout and loss of green space appear to relate to the original indicative layout plan (for 75 dwellings) that showed dwellings constructed with back to back gardens against the existing dwellings on Bloomery Way. The amended indicative layout shows a village green in this area and the proposed parameters plan restricts development away from the rear boundaries of the dwellings on Bloomery Way. I note the concerns of

[38] CD118 Appeal decision ref: APP/R1038/W/17/3172885 – Plot A, Coney Green Road, Clay Cross

interested parties regarding security in relation to these rear boundaries and the comments of the Derbyshire Constabulary Designing Out Crime Officer. I am satisfied that such matters can be appropriately addressed at the reserved matters stage by ensuring natural surveillance of the village green and appropriate defensive landscaping.

70. The appellant has submitted a Geo-Environmental Desk Study Report of the site and a constraints plan[39] showing the surveyed location of the top of a buried opencast high wall and the approximate location of the base of the buried opencast high wall. The constraints plan also shows the location of a mine entry to the north of the site and a 20m stand off zone within the proposed village green. The Coal Authority has raised no objection to the proposal subject to further investigations secured by condition. Subject to a condition securing further investigations, I am satisfied the development would not be put at unacceptable risk from, or be adversely affected by, land instability.

71. The provision of infrastructure, education and healthcare are adequately addressed by appropriate financial contributions, which are set out in more detail below. In terms of ecology, having regard to the Ecological Appraisal and the species specific surveys, I am satisfied that impacts can be mitigated and enhancements secured by condition.

72. I am satisfied that the character of the area and living conditions of existing and future residents, given the size of the appeal site, can be addressed appropriately at the reserved matters stage.

73. I have also had regard to concerns regarding the drainage of the site and of the proposals exacerbating existing problems. The appellant's Flood Risk Assessment concludes the site is at low risk from flood sources, including fluvial, sewers, overland flow and groundwater. The submitted parameters plan includes a drainage basin located at the north-eastern corner of the site. The Lead Local Flood Authority has not objected to the development. Subject to an appropriate condition regarding details of the surface water drainage, I have no substantive basis to consider that the proposal would cause or worsen existing drainage problems.

Planning Obligations

74. A signed and completed S106 legal agreement (dated 12th December 2019) has been submitted. I have considered this in light of the statutory tests contained in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations.

75. Saved LP Policy GS9 states that the Council will seek infrastructure through Section 106 obligations that are necessary and required for the development to proceed. The Council has submitted a 'Planning Obligation Justification and CIL Compliance Statement' which demonstrates how the obligations meet the relevant tests in the Framework and the CIL Regulations 2010 (as amended). It supports the need for the provision of on-site housing at a rate of 20% and

[39] Dwg no. 17024/3

several financial contributions. The contributions would be towards education provision at Sharley Park Community Primary School and at Tupton Hall School (secondary and post 16); existing local NHS practices; off-site play facilities at Sharley Park and their maintenance for a period of 10 years.

76. The education contribution is supported by detailed information from Derbyshire County Council (the Local Education Authority) relating to the capacity of local schools, taking account of the likely number of additional children generated as a result of the proposed development. The contribution would be used towards the expansion of local school places. The healthcare contribution is supported by detailed information from Derby and Derbyshire Clinical Commissioning Group which identifies a need to provide for additional capacity at GP surgeries within Clay Cross. I am, therefore, satisfied that the education and healthcare contributions are necessary to make the development acceptable in planning terms, they directly relate to the development and fairly and reasonably relate in scale and kind to the development. They therefore meet the relevant tests in paragraph 56 of the Framework and the CIL regulations.

77. Saved Policy H6 of the NEDLP seeks to secure affordable housing provision and Paragraph 64 of the Framework requires that where major development of housing is proposed, decisions should expect at least 10% of the homes to be available for affordable home ownership. The Council indicates that the most up-to-date market analysis is reflected in the Strategic Housing Market Area Assessment Update and in the 20% affordable housing requirement of Policy LC2 of the ELP. I see no reason to come to an alternative view and I am satisfied the proposed affordable housing contribution would meet the tests of Framework paragraph 56 and CIL Regulation 122.

78. Saved NEDLP Policy R5 sets out a requirement for the provision of children's play space. In this instance, the consultation response of the Council's Streetscene Co-ordinator seeks financial contributions to upgrade and maintain the play facilities at Sharley Park, which is near to the site. The contribution is calculated based on a table of costs[40] last updated in April 2019. I am satisfied, on the evidence before me, that the contribution would be necessary to make the development acceptable and is reasonable in all other aspects.

79. Overall, I am satisfied that the obligations contained within the legal agreement would meet the tests set out in paragraph 56 of the National Planning Policy Framework and Regulation 122 of the CIL Regulations. In reaching a decision on this appeal, I have taken all of the above obligations into account.

Planning Balance

80. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations (including the Framework) indicate otherwise. The Council's sole refusal reason relates to the loss of employment land. The evidence indicates adequate local supplies of employment land would remain following the development of the

[40] Appendix 2 of the Councils Recreation and Open Space SPD. 9

proposal. I have, therefore, found that the proposal accords with NEDLP Saved Policy E7 and, overall, with the development plan when taken as a whole.

81. Whilst I give limited weight to the conflict of the proposal with ELP Policy WC2, I give substantial weight, in accordance with the Framework, to the proposed delivery of homes on a brownfield site (including the contribution to unmet affordable housing needs) where there is no realistic prospect of the allocated employment use coming forward. Economic benefits derived from jobs provided through construction and resident spending would further weigh in favour of the proposed development. Overall, I find that the harm identified, including conflict with the ELP, is outweighed by the primacy of the adopted development plan and the policy support within the Framework for the proposal together with the other benefits identified. On balance, there are no material considerations, taken individually or cumulatively, that outweigh the identified benefits or indicate that the appeal should not succeed.

Conditions

82. The Council and appellant agreed a set of conditions, including pre-commencement conditions, which were discussed at the Inquiry. Where necessary, I have amended the set of conditions for clarity, to ensure compliance with national policy and guidance, and in light of the discussions at the Inquiry. The numbers in brackets relate to the conditions in the schedule.

83. Conditions to ensure the development is implemented in accordance with the reserved matters, required to be first submitted and approved, and within the standard time period, are necessary (1,2,3). For the avoidance of doubt a condition requiring the development to be carried out in accordance with the approved plans (4) would also be necessary, as would one securing a maximum number of dwellings on the site (5).

84. In the interests of the health of future occupiers, conditions addressing potential contamination and land instability are necessary (6,7). These are pre-commencement condition because land stability works/remediation works may need to be carried out prior to the undertaking of any development.

85. In the interests of ecology, living conditions and good design, conditions ensuring appropriate tree protection and landscaping are necessary (8, 14). These are pre-commencement conditions because the open spaces and other ecology measures will need to be provided for as an integral part of the overall layout.

86. In the interests of ecology, living conditions and good design, a condition controlling lighting is required (19).

87. For ecological reasons, a Biodiversity Enhancement Strategy is necessary (9). This is a pre-commencement condition because the open spaces and other ecology measures will need to be provided for as an integral part of the overall layout.

88. In order to prevent increased risks of flooding and in the interests of the principles of sustainable drainage, conditions would be necessary to secure various details and the implementation of measures to ensure the appropriate surface water drainage of the site (10, 11). Details are required prior to

commencement because the design of the drainage system will be integral to the overall design and layout of the scheme.

89. In the interests of protecting living conditions, character and appearance, conditions are necessary to control finished floor levels (13) This is a pre-commencement condition because levels will need to be set out at a very early stage of the development.

90. In the interests of protecting living conditions, character and appearance, conditions are necessary boundary treatments (16), materials (20) and refuse collection (17).

91. A condition to secure the implementation of a Construction Method Statement is also necessary in the interests of highway safety and to protect the living conditions of local residents during the construction period (12). It is necessary that details are approved prior to the commencement of development as the construction management arrangements must be put in place prior to commencement and should remain in effect for the full duration of the development.

92. For the avoidance of doubt and in the interests of highway safety it is necessary for details of have control over the internal access roads to be secured (15). Conditions securing in curtilage car and cycle parking (18) and implementation of a travel plan (22) are necessary in the interests of highways safety and to promote sustainable transport choices.

93. To protect the living conditions of future occupiers, I have included a condition requiring a noise assessment and any necessary mitigation measures to be delivered (21).

94. In the interests of supporting the local economy relating to local construction jobs, a condition is necessary to secure a scheme for the recruitment of employees for the construction phase of the development (23). I am satisfied NEDLP Saved Policy GS1 provides support for such measures in order to maintain economic growth in North East Derbyshire. Details need to be approved prior to commencement to ensure the economic and employment benefits can be derived for the whole of the construction period.

95. The Council suggests a condition to secure provision for public art on the site (24). In light of there being current specific development plan support for such provision, despite not being the case in the emerging Local Plan, I consider this to be a reasonable requirement. Details are required prior to the commencement of the development as the provision may be integral to the overall layout and design of the scheme

96. The Council's suggested condition requiring the reserved matters incorporate the Council's principles for housing layout and design as set out in 'Successful Places' (interim planning guidance) does not meet the tests of either necessity or precision. As such, I have omitted it from the schedule. A condition is not required on the outline permission to ensure an appropriate assessment of layout and design at the reserved matters stage.

Conclusion

97. For the above reasons, I allow the appeal subject to the conditions in the attached Schedule and the planning obligation.

S D Castle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:	
Richard Turney of Counsel	Landmark Chambers, instructed by Darren Abbott
He called:	
Nicholas John Hosking BSc (Hons) MRICS	Director, Innes England
Alex Roberts BSc (Joint Hons)	Director, DLP Planning Ltd
Darren Abbott BSc (Hons) MSc MRTPI	Associate Director, DLP Planning Ltd
FOR THE LOCAL PLANNING AUTHORITY:	
Peter Goatley of Counsel	No.5 Chambers, instructed by North East Derbyshire District Council
He called:	
Colin James Robinson BA (Hons) MTP(Dist) MRTPI MIED	Planning Director, Lichfields
Richard Cooper BSc(Hons) MRTPI	Principal Planning Officer (Policy), North East Derbyshire District Council
Alistair Fearn BSc MRICS	Director, FHP Property Consultants
Susan Wraith Dip URP, MRTPI	Director, 4 Planning Delivery Limited
INTERESTED PERSONS:	
Phillip Woodward	Clerk, Pilsley Parish Council
Charlotte Stainton BA Hons Dip TP MRTPI	Local Resident

DOCUMENTS SUBMITTED DURING THE COURSE OF THE INQUIRY

1. Opening submissions on behalf of the North East Derbyshire District Council
2. Opening submissions on behalf of the appellant
3. Written statement of Phillip Woodward on behalf of Pilsley Parish Council
4. SPRU Briefing Note: Further Analysis to Support Employment Land Position submitted by appellant.
5. Georisk Management Letter dated 11 November submitted by the appellant
6. Written statement of Charlotte Stainton
7. List of employment sites around Clay Cross and associated plan submitted by North East Derbyshire District Council
8. Comments and condition wording regarding noise submitted by appellant and Charlotte Stainton.
9. Executed S106 Legal Agreement dated 12th December 2019
10. Apellant's costs application

DOCUMENTS SUBMITTED AFTER INQUIRY SESSIONS, BEFORE CLOSE OF INQUIRY:

11. Closing submissions on behalf of North East Derbyshire District Council.
12. Costs rebuttal on behalf of North East Derbyshire District Council
13. Updated Scott Schedule
14. Closing submissions on behalf of the appellant

SCHEDULE OF CONDITIONS ATTACHED TO PLANNING PERMISSION

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

2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3. The development hereby permitted shall begin 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 Plan	Dwg. No. AO 99592_001
Parameters Plan	Dwg. No. AO 99592_003 Rev B

5. The development hereby approved shall not exceed 84 dwellings.

6. No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale(s), to remediate the site to render it suitable for the approved development shall have been submitted to and approved in writing by the local planning authority before the development is commenced. The site shall be remediated in accordance with the approved measures and timescale(s) and a verification report shall have been submitted to and approved in writing by the local planning authority before any particular dwelling is occupied. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until provision has been made for additional remediation measures in accordance with details and timescales that shall first have been submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works, including the additional measures, shall have been submitted to and approved in writing by the local planning authority before any particular dwelling is occupied.

7. No development shall commence until a site investigation of the nature and extent of any land instability has been carried out in accordance with a methodology which shall first have been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be submitted to the local planning authority with any reserved matters application submitted pursuant to condition 1 above. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted and a timetable for implementation of those measures shall be submitted with any reserved matters application submitted pursuant to condition 1 above. The site shall be remediated in accordance with the measures and timetable as approved. If, during the course of development, any unexpected land instability issues are found which were not identified in the site investigation, details of additional measures and timescale for their remediation shall be submitted to the local planning authority for approval. The remediation of the site shall incorporate the additional measures and timescale as approved by the local planning authority.

8. No site clearance, preparatory work or development shall take place until tree and hedgerow protection measures have been put in place in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. Within the protected areas shown in the approved details there shall be no alteration to ground levels, no compaction of the soil, no stacking or storage of materials and any service trenches shall be dug and back filled by hand. The tree and hedgerow protection measures shall remain in place for the duration of the carrying out of the development.

9. No development shall commence until a Biodiversity Enhancement Strategy [BES], to achieve biodiversity enhancements and to include bird and bat boxes, connectivity for wildlife and ecologically beneficial landscaping, has been submitted to and approved in writing by the local planning authority. The BES shall include timescales for implementation and details (with timescales) for ongoing management and maintenance of all areas of open space within the development. The BES shall be implemented in accordance with the approved details and timescales and the ongoing management and maintenance measures, as approved, shall be adhered to for the life of the development.

10. No development shall commence until a scheme of arrangements for surface water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall include:

    (i) Details of the design of the scheme which shall be a sustainable drainage scheme unless an assessment of ground conditions has shown that to be impracticable;
    (ii) Details of the assessment of ground conditions undertaken;
    (iii) A timetable for implementation; and
    (iv) A management and maintenance plan which shall include the arrangements for adoption by any public body or statutory undertaker,

and/or any other arrangements to secure the effective operation of the drainage scheme throughout the lifetime of the development.

The drainage scheme shall be implemented and thereafter managed and maintained in accordance with the details and timetable as approved.

11. No development shall commence until details of measures for the avoidance of surface water run-off from the site during the construction phase and a timescale for implementation have been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the details and timescale as approved and shall remain in place for the duration of the construction phase of the development.

12. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

(i) the parking of vehicles of site operatives and visitors;
(ii) loading and unloading of plant and materials;
(iii) storage of plant and materials used in constructing the development;
(iv) the erection and maintenance of security hoardings/fencing;
(v) wheel washing facilities;
(vi) measures to control the emission of dust and dirt during construction;
(vii) a scheme for recycling/disposing of waste resulting from construction works;
(viii) delivery and construction working hours;
(ix) access to the site for construction traffic.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

13. No development shall commence until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

14. The landscaping scheme, to be submitted pursuant to condition 1 above, shall provide for new planting; and shall include indications of all existing trees and hedgerows on the land and identify those to be retained. All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in accordance with a timescale that shall first have been submitted to and approved in writing by the local planning authority. Any trees or plants which, within a period of 5 years from implementation, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

15. Details of the internal access road(s), to be submitted pursuant to condition 1 above, shall include details for their design, geometry and materials of construction. Prior to the laying out of the internal access roads, timescale(s) for their completion and details for their ongoing maintenance and

management shall have been submitted to and approved in writing by the local planning authority. The internal access road(s) shall thereafter be constructed in accordance with the approved details and timescales and shall be managed and maintained as approved for the lifetime of the development.

16. Before occupation of any dwelling a scheme of boundary treatments shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for implementation. The scheme shall be implemented in accordance with the approved details and timetable and retained as such thereafter.

17. Concurrent with the submission of the first reserved matters application a scheme for the storage and collection of refuse and recycling bins, and a timetable for implementation shall be submitted to the local planning authority for approval. The scheme shall be implemented in accordance with the details and timetable as approved and shall thereafter be retained.

18. No particular dwelling shall be occupied until space has been provided within its site curtilage for the parking and manoeuvring of vehicles and secure cycle parking in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the vehicle and cycle parking space(s) shall be retained and kept available for use for their designated purpose.

19. Any external lighting shall be provided only in accordance with an external lighting scheme which shall first have been submitted to and approved in writing by the local planning authority.

20. No works for the erection of any dwelling shall take place above damp proof course level until a scheme of facing materials to be used for the construction of the dwellings and their hard surfaced areas (drives, paths, patios etc), has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No particular dwelling shall be occupied until its hard surfaced areas have been provided in accordance with the details as approved.

21. No development shall take place above damp proof course level until a scheme for protecting the proposed dwellings and their associated outdoor spaces from noise has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed prior to any particular dwelling being occupied and shall be retained thereafter.

22. No part of the development shall be occupied until a full Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include specific proposals for:

    (i) Immediate, continuing and long term measures to promote and encourage alternatives to single-occupancy car use;
    (ii) A timetable for implementation;

(iii) Travel plan targets; and
(iv) Measures for monitoring and review.

The Travel Plan shall be implemented and operated thereafter in accordance with the approved details and timetable.

23. No development shall commence until a scheme for recruitment of employees for the construction period of the development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be operated in accordance with the approved details.

24. No development shall commence until a scheme for the provision of public art, including a timetable for implementation, shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details and timetable and shall be retained as such thereafter.