



Appeal Decision

Inquiry (Virtual) held on 15 to 18 June 2021

Site visit made on 21 June 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2021

Appeal Ref: APP/E3715/W/21/3268629

Land North of Coventry Road, Long Lawford, CV23 9BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Joseph (Bloor Homes Limited) against the decision of Rugby Borough Council.
 - The application Ref R17/1089, dated 16 January 2018, was refused by notice dated 10 December 2020.
 - The development proposed was originally described as '*development of 153 residential dwellings with associated landscaping, public open space and infrastructure, including an amended junction between the A428 Coventry Road and Back Lane*'.
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Decision

1. The appeal is allowed and planning permission is granted for development of 149 dwellings with associated landscaping, public open space and infrastructure, including an amended junction between the A428 Coventry Road and Back Lane at Land North of Coventry Road, Long Lawford, CV23 9BT in accordance with the terms of the application, Ref R17/1089, dated 16 January 2018, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr David Joseph (Bloor Homes Limited) against Rugby Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of the development in the heading is taken from the planning application form. However, the appellant and the Council agreed to a revised description to account for a reduction in the number of dwellings proposed. I have determined the appeal based on the development as set out in the revised description. This is reflected in the formal decision above.
4. Occupiers of Lelleford House were represented at the Inquiry under Rule 6 of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (hereafter 'the R6 Party').
5. The planning application was refused for 3 reasons. However, the Council defends only its second refusal reason, which relates to the effects of the proposed highway arrangement on the living conditions of the occupiers of Lelleford House. Notwithstanding this, the R6 Party has objections to the

proposal that relate to all the refusal reasons. The main issues are framed accordingly.

6. A completed Section 106 legal agreement (S106), dated 18 June 2021, was submitted during the Inquiry. Additionally, a drawing to support a suggested condition relating to archaeological work was submitted. I have taken it into account as I am satisfied that this will not prejudice any parties.
7. On 20 July 2021, a revised version of the National Planning Policy Framework (the Framework) was published. It replaces the version from 19 February 2019. The appellant, Council and R6 Party were provided with an opportunity to provide comments regarding any implications of the changes. I have taken the revised Framework and the comments received into account in deciding the appeal.

Main Issues

8. The main issues are:
 - i) the effect of the proposal on highway safety, with particular regard to vehicular access to and egress from Lelleford House;
 - ii) the effect of the proposal on the living conditions of the occupiers of Lelleford House; and
 - iii) whether or not the proposal makes adequate provision for affordable housing.

Reasons

Site and policy context

9. The site is located within the settlement boundary of Long Lawford, as identified by the Rugby Borough Council Local Plan 2011-2031 (LP). It consists mostly of agricultural land bound by trees and hedgerows and includes parts of Coventry Road, Rugby Road and Back Lane, which form a crossroads junction with Bilton Lane. Coventry Road and Rugby Road form the A428. The adjacent development within the settlement is largely residential in nature. The land outside the settlement consists mostly of agricultural fields. Lelleford House is a residential property with ancillary office accommodation located outside the settlement boundary and adjacent to the junction.
10. Long Lawford is designated as a Main Rural Settlement by LP Policy GP2. The policy states that development will be permitted within such locations. Additionally, the site is allocated for around 150 homes and associated infrastructure and uses by LP Policy DS3.

Highway safety

11. The proposal involves the stopping up of part of Back Lane which forms the junction with the A428 and Bilton Lane. Back Lane would then be realigned to join Coventry Road further from the junction and near to the vehicular access to Lelleford House. Access for most of the proposed dwellings would be gained from an access off the realigned Back Lane. However, 26 dwellings would be accessed via Kerry Hill Drive, which is an estate road that runs through residential development adjacent to the site (Long Lawford Phase 3). The proposed arrangement includes dedicated right turn lanes from the A428 into

- the realigned Back Lane and Bilton Lane, with a sheltered area between them for vehicles moving to and from Lelleford House.
12. The highway implications of the proposal have been assessed in several respects. Amongst other things, trip rates and traffic collision data have been considered, traffic flows have been modelled, and 3 Stage 1 Road Safety Audits (RSAs) have been undertaken to account for changes to the proposal over time. The RSAs involved 2 suitably qualified persons independent from the design team assessing the highway arrangements together having visited the site. Based on the work carried out and the procedures involved in undertaking the RSAs, highway safety has clearly been considered thoroughly.
 13. No objection to the scheme has been raised by the Highway Authority and the Council does not argue that the highway arrangement would be unsafe from a technical perspective. In addition, the R6 Party's highway witness confirmed orally that he did not dispute the latest traffic generation forecasts or the outputs of the modelling. However, both the R6 Party and the Council are concerned regarding the potential 'real world' implications of the proposed arrangement, particularly for users of the Lelleford House access.
 14. The Highway Authority identifies the existing crossroads as an accident cluster site. Whilst the appellant and the R6 Party dispute the specific causes and precise locations of the accidents at the junction, the Highway Authority's records nonetheless demonstrate that several accidents have occurred near the junction in recent history. Moreover, the evidence indicates that traffic will increase over time without the development and more still with it. It is thus logical that conflicts at the junction are likely to increase in the future if it remains unaltered. Although there are no specific LP requirements for the junction alterations, the evidence shows that changes to it are necessary. Indeed, the Highway Authority states that junction improvements would be sought even if a different site access arrangement was advanced.
 15. The Design Manual for Roads and Bridges (DMRB) states that staggered junctions are safer than crossroads where significant proportions of flows on the minor roads are cross movements¹. The appellant's traffic survey data indicates that there are a significant number of movements between Back Lane and Bilton Lane during the morning and evening peak periods. The offsetting of Back Lane from Bilton Lane would result in a staggered junction and therefore cross movement conflicts between the lanes would be negated entirely. There would be less scope for accidents at the junction as a result.
 16. Additionally, when I visited the site, I observed that buses turning left into Back Lane swing out into the opposing lane for traffic approaching the junction. Similar issues occur when vehicles turn right into Back Lane due to its width and the geometry of the junction. Evidently these issues will result in conflicts at the junction. In contrast, the appellant's tracking drawings indicate that large vehicles entering and exiting the realigned Back Lane would not have such issues. Highway safety would be improved due to the alterations to the junction.
 17. No changes to the Lelleford House access or its visibility splays are proposed. The existing arrangement requires drivers seeking to turn into Lelleford House to wait on the A428 for suitable gaps in traffic to manoeuvre safely. Similarly,

¹ Paragraph 2.21 of CD123 Geometric design of at-grade priority and signal controlled junctions, Revision 2

drivers wishing to turn out of the property must wait at its access for a space between vehicles to manoeuvre. This would also be the case for the proposed arrangement as, although there would be dedicated right hand turn lanes on the A428, those driving from or to Lelleford House would still have to wait for a suitable gap in traffic to manoeuvre safely. Consequently, the arrangements for those moving to and from Lelleford House would be similar in practice.

18. Although highway modelling has limitations and cannot simulate the real world perfectly, it is an established and widely accepted means by which highway impacts may be assessed objectively. Moreover, the model used in this case is the Warwickshire County Council (WCC) Rugby Wide Area S-Paramics Model. Its use is supported by the Highway Authority and has been accepted for schemes elsewhere in the borough. The model accounts for predicted traffic growth, other development and driver behaviour. Technical evidence to counter the outputs of the model, such as alternative modelling, has not been presented. Convincing reasons have also not been provided to suggest that it inadequately represents the workings of the proposed arrangement in reality.
19. Informed by the modelling, the Highway Authority confirms that traffic flows on the A428 would be steady rather than concentrated and that there would be less queuing in the vicinity of the junction in the future with the scheme than without it. Though the model shows that queuing would still occur, vehicles would largely be transient, the queues would be short and clear quickly, and the sheltered area to Lelleford House would be mostly unobstructed. Critically, based on the robust assumptions of a total of 4 vehicular trips to and from Lelleford House during peak hours and driver visibility limited to 5 metres, the Highway Authority confirms that the modelling shows that there would be no issues or significant delays for vehicles moving to or from the access. Additional modelling set out in the proof of evidence by the appellant's highway witness reinforces these findings.
20. The sheltered area for Lelleford House would be insufficiently deep to accommodate the length of all vehicles turning right out of its access. Such vehicles would overhang the A428's westbound lane. However, it is clear from Rule 173 of the Highway Code that those vehicles should not occupy the sheltered area if unfettered entry into the eastbound lane is unachievable. The turn should be completed in one manoeuvre instead. Similarly, even if queues on the A428 were to occasionally be longer than modelled, or vehicles were to block the sheltered area or visibility between the eastbound and westbound lanes, drivers should just wait for a suitable gap in the traffic to manoeuvre. However, based on the evidence, the resulting delays to vehicles existing Lelleford House would not be significant.
21. The right turn lane into Back Lane would be long enough to accommodate 2 vehicles of varying sizes, including multi-purpose vehicles that would have space between them. Depending on the alignment and position of queuing vehicles within the lane, there may nonetheless be some overhanging of the westbound carriageway or blocking of the sheltered area. However, this is more likely to be the case with larger vehicles and such vehicles would be in that lane at the same time infrequently. Furthermore, any overhanging of refuse, heavy goods or similarly sized vehicles would be significant and obvious enough to the drivers approaching from behind that they would be able to react accordingly.

22. The existing junction provides no dedicated turning or deceleration areas for vehicles turning right into either Back Lane or Bilton Lane. However, such areas are proposed. Although the deceleration distance for vehicles turning right into Back Lane would be 1 metre, which is substantially below the DMRB standard of 40 metres², it would feature a 10 metre turning area in accordance with the standard and this could be used for decelerating. Moreover, the latest RSA did not indicate that this arrangement would be unsafe. For these reasons, the proposed arrangement would be an improvement on, and be less likely to result in collisions than, the existing one.
23. The R6 Party indicates that the departure from the DMRB may require the sheltered area to be removed following further auditing by the Highway Authority. Even if this were to be the case, an earlier iteration of the scheme did not include the sheltered area and thus had a longer lane for decelerating vehicles. It was also subject to an RSA that raised no significant concerns. As such, even if the design were to alter in this way, this would not alter my views on the highway safety impacts of the scheme. Further to this, a condition could be imposed to require the final detailed highway design is approved prior to the construction of the dwellings. This would provide scope for such alterations to be made to the arrangement but still ensure that it would be safe.
24. The A428 would not become so wide that cyclists would be unable to cycle across the road to turn in and out of the Lelleford House access in a safe manner. Although it may be that cyclists would need to wait for larger gaps in traffic than drivers of motor vehicles, the principle of waiting for an appropriate gap to manoeuvre safely remains the same as the current arrangement.
25. Concerns are raised in respect of the safety of pedestrians and cyclists moving along Bilton Lane, which connects to Bilton School and lacks footways and lighting. However, the S106 includes a contribution that would enable the existing footway along the A428 to become a cycleway connecting to the Lawford Road to Rugby Cycle Route. The contribution, and another for local road safety initiatives, aims to discourage the use of Bilton Lane by non-car users in order to provide a safe route for those travelling to the school. This is supported in the consultation response from WCC's Infrastructure Team.
26. Having regard to the presence of an existing controlled pedestrian crossing on the A428 near to the site, additional crossing points would be unnecessary. Footpaths would be available for pedestrians in the vicinity, including on at least one side of Kerry Hill Drive. Furthermore, due to the curved layout of the highway, vehicle speeds along that road are low. No highway safety issues would arise from the proposed dwellings being accessed from it. In addition, firm evidence indicating that the main access from Back Lane would be unsafe has not been advanced. I am satisfied that safe access to the site from the surrounding area would be secured for all highway users.
27. For the above reasons, I conclude that the proposal would not decrease highway safety at the access to Lelleford House and its occupiers would continue to be able to move freely to and from the property. Overall, there would be an improvement to highway safety in the vicinity because of the changes to the existing junction. The proposal accords with LP Policy D1 and paragraphs 110 and 111 of the Framework which, amongst other things,

² Table 5.22 of CD123

require development to mitigate transport impacts, provide safe and suitable access and to not have an unacceptable impact on highway safety.

Living conditions

28. The refusal reason in respect of this issue refers to LP Policy SDC1, which seeks to ensure that development safeguards living conditions. Although the Council raises no technical highway safety issues with the development, it is argued that the changes to the highway would be considerable and that the arrangement would be complex. It is advanced that those driving to and from Lelleford House would find the arrangement difficult to navigate and feel unsafe and be fearful and anxious as a consequence. The R6 Party confirms this but also has outlook and air, noise and light pollution concerns.
29. In both the existing and proposed arrangements, drivers seeking to turn right out of the Lelleford House access must consider traffic approaching from the left and the right. Bilton Lane would be unchanged. Although the realigned Back Lane would be closer to the Lelleford House access than the existing one, it would not be directly opposite the access to Lelleford House. In addition, vehicles approaching or emerging from the realigned Back Lane would be more readily apparent to drivers at Lelleford House than is currently the case as the vehicles would be seen in forwards rather than angled views from the access. As identified for the above main issue, the proposed arrangement would be similar to the existing one in practice. Therefore, I am not satisfied that the proposed arrangement would be unduly complex or difficult for users of the Lelleford House access to navigate.
30. In principle, feelings of safety, fear and anxiety are health and wellbeing matters that can be relevant to considerations of living conditions. Chapter 8 of the Framework seeks to promote health and wellbeing. However, it explains that decisions should aim to achieve safe places. I do not doubt that the occupiers of Lelleford House have genuine trepidations about the scheme. However, the lack of safety and fear and anxiety about the arrangement are perceived subjectively. The evidence indicating that the proposal would not give rise to highway safety issues for the users of the Lelleford House access in actuality is robust, and I have concluded that the arrangement would not be unduly complex. Accordingly, the trepidations about the proposal are not of such weight that they would justify a refusal of planning permission.
31. The appellant has provided assessments from air quality and noise consultants to address the R6 Party's concerns that air quality and noise impacts have not been considered for the occupiers of Lelleford House. The air quality assessment concludes that concentrations of air pollutants at Lelleford House and elsewhere would result in negligible impacts. The noise evidence indicates that there would be negligible disturbance arising from the increase in traffic. Even if vehicles did queue near to the façades of Lelleford House, it is logical that the dominant source of noise would be vehicles travelling at speed along the A428. The Council's Environmental Health Officer raises no concerns regarding pollution subject to mitigation measures being secured. I am satisfied that the assessments are sound, and no evidence to counter them has been presented. Therefore, the living conditions of the occupiers of Lelleford House would not be harmed by air or noise pollution.
32. The R6 Party contends that light from vehicle headlights would harm the occupiers of Lelleford House. However, it is commonplace for properties to be

located at the end of a road or adjacent to a junction. While vehicles would turn left out of the realigned Back Lane more frequently than those turning right from Back Lane currently, vehicles that turn out in the present scenario come closer to Lelleford House than would be the case with the proposed arrangement. Moreover, vehicles emerging from the realigned Back Lane will have travelled through a residential area and so it is likely that headlights would mostly be dipped, which would mitigate the impacts. Any additional disturbance from headlights would thus be negligible.

33. Forward views from Lelleford House principally include the agricultural land and hedges within the site, the A428 and Back Lane. The proposal involves the widening of the A428 and the creation of an area of landscaping between the existing and amended Back Lane. Whilst outlook from the property would clearly change, the proposed built form would be set away from it and open and unobstructed outward views from it would endure. Further to this, vehicles travelling past the property would be largely in motion and any blocking of views from it would be intermittent and infrequent, which is currently the case as a result of existing traffic.
34. Overall, the proposal would not result in unacceptable harm to the living conditions of the occupiers of Lelleford House. It accords with LP Policy SDC1. It also complies with LP Policy HS5, which requires that adverse impacts of noise are addressed.

Affordable housing

35. Policy H2 of the LP identifies an affordable housing provision target of 30% of development on greenfield sites such as this one. However, it enables the provision level to be lowered if robust financial viability evidence demonstrates that the development would be unviable with the target level of affordable housing included. Paragraph 58 of the Framework explains that viability assessments should reflect the recommended approach in national planning guidance, which is set out in the Planning Practice Guidance (PPG).
36. The appellant prepared a viability assessment in support of the application and an update to it is provided within the proof of evidence of the appellant's viability witness. Both assessments clearly set out the assumptions made. An open book approach has been adopted as per the requirements of LP Policy H2.
37. The first assessment was independently assessed by a viability consultant appointed by the Council. Its findings were accepted. Moreover, it is common ground between the appellant and the Council that its baseline data and calculations reflect viability appraisals undertaken to support other proposals in the borough. The second assessment differs from the first one insofar as it is based on more recent data, and accounts for all the specific house types proposed and the planning obligations identified within the S106.
38. The assessments indicate that the scheme would be unable to viably include 30% affordable housing with a developer return of 20% of gross development value (GDV) for the market housing and 6% of GDV on the affordable housing. Whilst the appellant considers that such returns are appropriate in the circumstances of this case, it is put forward that 15.4% of the housing can be provided for social rent. Based on the appellant's most recent evidence, this would result in a return of 15.2% or 15.8% of GDV, depending on whether a contribution of £267,868 or £74,010 is secured for healthcare services.

39. The R6 Party argues that the sales prices assumed in the assessments are conservative, that second hand sales should not be taken into account and that Land Registry data shows that average new house prices have increased across Rugby since Long Lawford Phase 3 was completed. However, the latest assessment is informed by a market research report that considers Land Registry data, market competition and comparable new build and second hand sales. Additionally, second hand sales will clearly have some bearing on the sales prices of new homes. In my view the report provides comprehensive and recent evidence to support the values adopted. Comparable evidence to counter it has not been presented. In my view, the appellant's approach complies with the PPG.
40. Critically, even if I were to accept revised viability assessment inputs such as those put forward by the R6 Party, it has not undertaken a comprehensive assessment of its own. Therefore, I cannot be certain as to what effects, if any, revised inputs would have on the viability of the scheme.
41. Both assessments use Building Costs Information Service (BCIS) data to inform the cost inputs for the assessments. The PPG does not expressly preclude a developer's historic build costs from similar schemes from being used as an assessment input, and thus the costs of Long Lawford 3 could have been taken into account for assessing the proposal's viability. However, actual costs may vary greatly from one developer to another and paragraph 58 of the Framework supports standardised inputs and the PPG clearly sets out BCIS data may be used³.
42. Although there may be the potential for an assessment to be informed by other data sources, there is nothing to indicate that the use of BCIS data is inappropriate in such instances. In this regard, the second assessment includes costs for additional requirements arising from prospective changes to Part L and Part F of the Building Regulations that are not currently reflected in BCIS data. I consider that it is reasonable to include these costs and there is no compelling evidence to the contrary.
43. At the Inquiry the appellant's viability witness stated that it was arguable as to whether the BCIS costs for flats should apply to this scheme. It was put forward that if only the BCIS costs for houses were included there would be a cost saving of approximately £200,000. However, the developer return would still be significantly below 20% of GDV in such a case, especially if the higher healthcare contribution is secured.
44. The viability assessment informing the LP examination⁴ supports the 30% affordable housing target set out at LP Policy H2; however, its findings are based on a series of assumptions. Although the appellant's build costs and developer return inputs reflect the assumptions within the LP assessment, the proposal's abnormal costs would be more than twice those assumed. Furthermore, paragraph 3.8.8 of the LP assessment states that detailed site specific information and considerations will inevitably see appraisal inputs and outputs alter. I cannot be sure that the appellant was cognisant of all the scheme's costs when the site's allocation was being examined and, in any case, LP Policy H2 enables assessments to be provided at planning application stage.

³ Reference ID: 10-012-20180724

⁴ Rugby Borough Council Local Plan & Community Infrastructure Levy (CIL) Viability Assessment, July 2017

45. Several applications have been highlighted that secured 30% affordable housing provision, but Long Lawford Phase 3 did not achieve that target. The appellant states that other schemes failed to do so too. Nevertheless, the viability of other schemes does not indicate that this one is viable, particularly given that the appellant's assessments indicate otherwise.
46. The PPG indicates that, for the purposes of plan making, suitable returns for developers could be 15% to 20% of GDV. Even if only BCIS costs for houses are taken into account, the anticipated developer return is at the lower end of that range. This indicates that the scheme is nearing the limits of deliverability with 15.4% affordable housing and the planning obligations included.
47. Overall, the appellant's assessments provide robust evidence that no further affordable housing can be viably provided. I therefore find that the proposal makes adequate provision for affordable housing and that it accords with LP Policy H2. The Council's refusal reason in respect of this issue also refers to paragraph 62 of the 2019 version of the Framework, which corresponds with paragraph 63 in the current one. However, it sets out criteria that policies should include rather than specific requirements for development proposals and so I find no conflict with it.

Other Matters

Planning obligations

48. The S106 includes several planning obligations that would come into effect if permission is granted. I have considered these having regard to the statutory tests contained in Regulation 122 of the CIL Regulations⁵ in addition to the tests set out at paragraph 57 of the Framework.
49. The affordable housing provision is secured by the S106. It is common ground that there is a need for such housing in the borough. Its provision on site would contribute to addressing this need. I am satisfied that the obligation is necessary to make the development acceptable, directly related to the development, and fairly and reasonably related to the development in scale and kind. It thus accords with the tests for planning obligations.
50. The University Hospitals for Coventry and Warwickshire NHS Trust (the Trust) seeks the higher contribution of £267,868 towards healthcare services. Representatives of the Trust explained in writing and at the event that it is currently operating at full capacity in the provision of acute and planned healthcare and its funding is agreed annually based on its activities in the previous year. Consequently, new housing development generates a funding gap in the first year of occupation from new occupiers using healthcare services. This is the case irrespective of any phasing of development.
51. The contribution would address the funding gap, which is based on formulae that accounts for the anticipated number of new occupiers, average admission rates and healthcare requirements. At the Inquiry the appellant stated that the contribution satisfies the tests for obligations. In addition, the appellant did not seek to argue that the contribution would render the scheme undeliverable on viability grounds. I am satisfied that the requested contribution of £267,868 is necessary, directly related to the development and reasonably related to it in scale and kind. The contribution complies with the tests for obligations.

⁵ The Community Infrastructure Levy Regulations 2010

52. Contributions would also go towards the staffing, equipment, premises and vehicle requirements of Warwickshire Police and improvements to the library facilities at Rugby Library. The contributions would address the impacts of the occupiers relying on these services. Both contributions are based on established methodologies within the borough and reflect the number of new occupiers. They meet the tests for planning obligations. Similarly, a contribution to address identified shortfalls in education provision also satisfies the tests.
53. The S106 secures the delivery of the open space within the site and includes provisions for its ongoing ownership. It also secures a contribution towards play space elsewhere in the parish, which meets the needs of the future occupiers using calculations and is informed by open space standards set out in LP Policy H4. In addition, the S106 secures provision and a mechanism for any future transfer in ownership of the sustainable drainage systems on site. These obligations also satisfy the tests.
54. The development would result in a loss of biodiversity units at the site. However, the S106 secures a contribution that would be used to compensate for this by enabling a greater number of biodiversity units to be created at an improvement scheme at Ryton-on-Dunsmore or elsewhere in the borough. This would ensure that the development would result in an overall net gain in biodiversity as required by LP Policy NE1. This obligation meets the tests.
55. The aforementioned cycleway and local road safety initiative contributions are necessary for the reasons already identified. I am satisfied that the former is proportionate to the work required. The latter is based on the number of dwellings proposed and is reasonably related in scale to the development. Both satisfy the tests.
56. An obligation to require the approval of a travel plan is included. This is needed to encourage the use of sustainable transport modes and subsequently enable the development to achieve air quality neutral standards as required by LP Policy HS5. Additionally, a contribution towards the ongoing maintenance of bus stops to be provided as part of the development is necessary to make sure that those bus stops are maintained to an adequate standard and thereby continue to encourage the use of sustainable modes of transport and achieve air quality targets.
57. As I am satisfied that the planning obligations specified above satisfy the tests set out in the CIL Regulations and the Framework, I have taken them into account in deciding the appeal.
58. The S106 also includes a contribution of £1490 for use by WCC to promote sustainable travel in the vicinity. Whilst this may further encourage the use of sustainable transport modes and thus contribute to the Council's air quality goals, details as to the specific ways in which the contribution would be used have not been provided. Consequently, I am not satisfied that the contribution satisfies the tests for obligations. I therefore give the sustainable travel promotion contribution no weight in making this decision.

Listed building

59. Avon Lodge is a Grade II listed late 18th Century farmhouse located on the opposite side of the A428 to the site, adjacent to a crossroads and surrounded mostly by fields. The Council undertook an assessment of Avon Lodge within the Rugby Borough Council Local Plan: Heritage Asset Review, which informed the preparation of the LP. The appellant has also undertaken assessments⁶ regarding the effects of the proposal on the listed building.
60. The evidence indicates that Avon Lodge has evidential, historic, aesthetic and communal value. The Council's review suggests that its significance is derived in part from its isolated and prominent location in the countryside, whereas the appellant contends that factors such as 20th Century development and the evolution of infrastructure along the A428 have denigrated its historic rural setting and thus the contribution that this makes to its significance. Notwithstanding that the area has undoubtedly evolved over time, and the proximity of Avon Lodge to existing buildings suggests that it is not isolated, the site and the surrounding fields provide it with a prevailing open, undeveloped, and rural setting that contributes positively to its significance.
61. The development would inevitably affect the site's contribution to the setting of Avon Lodge. However, the listed building is set back from the A428 behind vegetation and the proposed housing would be positioned away from it behind landscaping. The scheme's layout and intervening features would reduce intervisibility between Avon Lodge and the housing in short distance views. Moreover, in longer distance views the open and rural characteristics of the listed building's setting would endure due to the continued prominence of the surrounding fields. It would remain sited within a landscape of prevailing rural character. As such, there would be a minor amount of harm to its setting.
62. Concerns have been expressed that Avon Lodge would be affected by piling operations necessitated by the development. Piling can cause ground vibrations over large distances. However, a condition could be used to necessitate the approval of a construction method statement and require foundations to be designed to prevent damage to the listed building.
63. Paragraph 199 of the Framework advises that when considering the impacts on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In addition, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest.
64. The development would result in less than substantial harm to the significance of the listed building. In such circumstances LP Policy SDC3 and paragraph 202 of the Framework require the harm to the significance of the heritage asset to be weighed against the public benefits of the development. I consider this matter below in the planning balance.

⁶ Heritage Environment Desk-Based Assessment, November 2017; Archaeological Statement, May 2021, within Appendix 6 of Mark Rose's proof of evidence.

Other considerations

65. Parties opposing the development contend that the concerns regarding the proposal would be addressed if the principal vehicular access into the site was taken from a different location. Alternate access arrangements from the A428 have been put forward by the R6 Party. It is also claimed that alternatives to the proposed junction improvements should be considered.
66. It is a basic planning principle that each application must be considered on its own merits. Furthermore, case law⁷ indicates that alternative proposals are normally irrelevant in the absence of harm or conflict with planning policy. The proposal is not harmful in respect of the main issues identified and accords with the LP policies relating to those issues. No RSAs of the R6 Party's alternative access arrangements have been undertaken. Moreover, those would necessitate other changes to the scheme, which could have wide ranging impacts on the scheme in other respects such as its viability. A comprehensive alternative scheme has not been put forward and I can have no certainty that any alternatives would be safe or otherwise acceptable. Hence I give no weight to any potential alternatives to the scheme.
67. The Council contends that the proposal fails to accord with paragraph 10.7 of the LP, which supports LP Policy SDC1. It sets out an expectation that applicants will work closely with those directly affected by their proposals to evolve designs that take account of views of the community. Whilst there was no direct contact with the R6 Party from the appellant during the application process, I do not doubt that the appellant considered the implications of the proposal on the R6 Party and gave due regard to their views during the process. In any event, there is nothing in the policy or its supporting text which directs that permission should be refused where community engagement has not occurred.
68. The R6 Party alleges that the proposal conflicts with LP Policy HS2, which requires proposals including 150 or more dwellings and on sites of 5 or more hectares to be subject to an assessment of the potential impacts of health and wellbeing. However, as the proposal seeks permission for fewer than 150 homes, LP Policy HS2 is not relevant.
69. Prior to the adoption of the LP, the site was within the Green Belt. The R6 Party argues that the Inspector examining the LP may have decided that the site should have remained in the Green Belt if it was known that development of the site could not include the provision of 30% affordable housing. However, there is no evidence indicating that this would have been the case.
70. Paragraph 131 of the Framework sets out that existing trees should be retained wherever possible. It also states that applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.
71. The proposal requires the removal of hedgerow fronting the A428 and a mature ash tree near the junction to the realigned Back Lane. It was clear from my visit that trees and hedges beside the highway are common features in the vicinity. Longer distance views along the A428 and throughout the wider area

⁷ R (on the application of Mount Cook Land Limited and Mount Eden Lane Limited) v Westminster City Council [2003] EWCA Civ 1346

would continue to be dominated by trees and vegetation if the ash tree and hedgerow were removed. This aspect of the proposal would have a limited and localised impact on the landscape. A planting scheme, which would include the planting of semi-mature trees beside Back Lane, would offset the loss of the tree and hedgerow in time. This approach accords with paragraph 131 of the Framework identified above. The scheme would also provide a suitable boundary to the settlement alongside retained vegetation beside the A428. Taken as a whole, the scheme would be compatible with the existing landscape and contribute to its character in accordance with LP Policies NE3 and SDC2.

72. Policy NE1 of the LP sets out that designated areas and species of importance for biodiversity will be protected. The appellant's latest bat survey, which involved an ecologist climbing the ash tree and assessing potential roosting features, indicates that it has negligible potential to support roosts. No evidence of previous use by bats was observed. Comparable surveys of the tree to suggest otherwise have not been undertaken. Although the tree and the aforementioned hedgerow provide foraging habitats for bats, the replacement landscaping would also do so. Moreover, I have already identified that an overall net gain in biodiversity would be achieved. Having regard to the appellant's surveys and in the absence of any formal international, national or local designations, the site is not a site of biodiversity importance for the purposes of LP Policy NE1. Furthermore, no firm evidence has been advanced which indicates that protected species would be harmed.
73. Neither the Lead Local Flood Authority nor the Environment Agency have objected to the proposal on flooding or drainage grounds. The Council agrees with the appellant that a suitable surface water drainage scheme could be installed. A condition to require the approval of a detailed drainage scheme prior to commencement would ensure that adequate provision is made and that flood risk is minimised.
74. Interested parties have raised concerns that there is limited infrastructure capacity in Long Lawford because of recent development in the area. However, the S106 secures contributions to a wide range of services and facilities and there are no substantive reasons to find that further infrastructure contributions are needed to make the development acceptable. There are also concerns regarding the potential impacts of the scheme on the amenity of the occupiers of adjacent properties, but the proposed housing would be located far enough from the site's boundaries to safeguard neighbours' living conditions.
75. Several other matters have been raised by interested parties, including concerns regarding the construction process, crime and security, the proposed housing mix, land ownership, parking and emergency vehicle access and the density and design of the development. These matters are largely identified in the Council's committee report and were considered when its decision was made. The Council has not concluded that these matters would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions on these matters subject to the planning obligations and the imposition of planning conditions.

Conditions

76. The appellant and the Council agreed to a schedule of conditions during the Inquiry. Additionally, the appellant agreed to the wording of those conditions with pre-commencement requirements. I have considered whether the suggested conditions meet the tests set out at paragraph 56 of the Framework. Minor editing of some of the conditions is necessary for precision and clarity.
77. A condition to require that the development is carried out in accordance with the approved plans is necessary in the interests of certainty. The main parties agreed to additional conditions to require the development to be constructed in accordance with materials and finished floor levels plans. However, those conditions are unnecessary as the plans can be included alongside the others.
78. A condition is needed to ensure that any walls, fences and gates are provided to make sure that the future occupiers benefit from adequate living conditions. A condition to require the provision of noise mitigation measures as specified within the noise assessment is needed for the same reason.
79. A condition to require the approval of details of a phased programme for the landscaping works is needed to ensure that the landscaping is delivered and the development integrates successfully with its surroundings in a timely manner. The Council also suggested a condition to require that the landscaping within each plot is provided prior to the occupation of the dwelling to which it relates, but this is unnecessary as suitable timings for this work can be secured as part of the condition approval process. However, a condition to require the play area to be provided in accordance with an approved scheme is needed to ensure that timely provision is made in the interests of the amenity of the occupiers.
80. Conditions requiring the approval of an arboricultural method statement, a tree protection plan, a construction environmental management plan and the construction method statement prior to commencement of the development are needed so that the living conditions of the occupiers of residential properties, highway safety, Avon Lodge, trees identified for retention and any protected species present on site are safeguarded during construction. Similarly, a condition to require the implementation of a programme of archaeological work prior to commencement is required so that any archaeological remains of interest are identified.
81. Further to the aforementioned drainage scheme condition, another one to secure details of the arrangements for the ongoing maintenance and management of the surface water systems is necessary to make sure those systems continue to be effective. A condition to ensure that any contaminated land is dealt with appropriately is required in the interests of public health.
82. Details of specifications for and locations of hedgehog holes are needed to ensure adequate provision. Details of any external lighting are required to prevent adverse impacts on wildlife. The approval of a scheme for the provision of water supplies and hydrants for fire safety purposes is necessary to make sure that adequate provision is made.
83. Conditions to require the approval of the detailed design of the proposed highway works and the construction of the estate roads in accordance with the standard specification of the Highway Authority are necessary in the interests

of highway safety. In order to ensure that adequate parking provision is secured within the site, a condition is needed to require the garages to be kept available for the parking of motor vehicles.

84. LP Policies D2, SDC4 and SDC9 require electric vehicle charging points, water efficiency measures and broadband infrastructure to be provided respectively. This infrastructure is required to promote sustainability and internet connectivity for the future occupiers. To ensure that the development has an acceptable impact on air quality, the dwellings must be provided with boilers to the standard specified in the air quality assessment.
85. Paragraph 54 of the Framework explains that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. A condition is clearly needed to prevent the construction of additions and alterations to the rear and side elevations and roof planes of the dwellings nearest The Green under the provisions of classes A, B and C of Part 1, Schedule 2 of the GPDO⁸ to prevent overlooking of the existing properties. Additionally, a condition is clearly required to ensure that the first floor windows of some dwellings are obscure glazed and fixed shut to prevent overlooking.
86. It is also suggested that the use of permitted development rights is restricted to prevent the construction of porches and outbuildings for the dwellings nearest The Green and that the erection of means of enclosure in front of all the dwellings should be prevented in the interests of visual amenity. However, only single storey porches and outbuildings can be constructed by means of permitted development rights such that this form of development would not result in harm to the living conditions of the occupiers in The Green. Further to this, there are no specific reasons to prevent means of enclosure being erected across the entirety of the site. Clear justification for such restrictions has not been made and therefore these conditions are unnecessary.

Planning Balance

87. The main parties dispute whether the Council can demonstrate a 5 year supply of deliverable housing sites. The Council contends that it currently has a supply of 5.75 years and that this may increase next year to 6.09 years. However, even if I were to agree with the Council, the proposal would nevertheless make a valuable contribution to the delivery and supply of housing in a location that is allocated for such purposes and is identified as accessible in the LP. The proposal would also provide 23 affordable homes that would contribute to local housing needs being addressed. These constitute significant public benefits weighing in favour of the development.
88. Furthermore, the occupiers of the development would support local services and facilities and thus contribute to the vitality of Long Lawford. There would also be economic benefits arising from the construction process. The proposed alterations to the highway would bring about an overall improvement to safety by reducing the potential for traffic accidents at the crossroads. In addition, the open space provision on site and the off-site play space, cycleway and bus stop contributions would bring about benefits to the local community more widely.

⁸ The Town and Country Planning (General Permitted Development) (England) Order 2015

89. Whilst I give considerable importance and weight to the desirability of preserving the setting and significance of Avon Lodge, the harm to the heritage asset is outweighed by the public benefits of the development. The proposal accords with LP Policy SDC3 as a result. In addition, paragraph 202 of the Framework does not indicate against the development in respect of this matter. Moreover, I conclude that the proposal accords with the Framework when it is considered in its entirety.
90. I have found in favour of the development in respect of all the main issues identified. The proposal accords with the development plan taken as a whole. I have carefully considered the views of the parties opposing the development. However, material considerations do not indicate that a decision should be taken other than in accordance with the development plan.

Conclusion

91. For the reasons given above, the appeal should be allowed.
92. Planning permission is granted subject to the planning obligations that I have found to accord with the tests for obligations set out in the Framework and the CIL Regulations, and the conditions set out in the attached schedule.

Mark Philpott

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Satnam Choongh, of Counsel	instructed by Bloor Homes Limited
Sean McGregor BA(Hons) MSc(Eng)	Travis Baker Transport Planning Limited
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John Turner BSc(Hons) MRICS	Turner Morum LLP
Mark Rose BA(Hons) MA DipUD	Define
MRTPI	
Kirstie Clifton	Define

FOR THE LOCAL PLANNING AUTHORITY:

Hashi Mohamed, of Counsel	instructed by Rugby Borough Council
Chris Kingham BA(Hons) MA MTRPI	Principal Planning Officer
Martin Needham	Senior Planning Officer
Sarah Chapman	Legal Services Team Leader/Deputy
	Monitoring Officer

FOR THE RULE 6 PARTY:

Ian Gidley BA(Hons) BTP MRTPI	instructed by Hugh and Rebecca Walker
Simon Prescott HNC MIHE	Tutum Consulting Limited
Rebecca Walker BA MArch DipArch	

INTERESTED PARTIES:

Cllr Andrew Bearne	Rugby Borough Council
Philip Taylor	Local resident
Leenamari Aantaa-Collier	University Hospitals Coventry &
	Warwickshire NHS Trust
Daniel Gilks	University Hospitals Coventry &
	Warwickshire NHS Trust

DOCUMENTS submitted at the Inquiry

1. Opening statement on behalf of the appellant
2. Opening statement on behalf of the Council
3. Opening statement on behalf of the R6 Party
4. Application for costs by the appellant against the Council
5. Statement of Rebecca Walker
6. Further information on submitted documents in relation to housing supply and associated appendix, prepared by the Council
7. Response to appellant's application for costs on behalf of the Council
8. S106, dated 18 June 2021, with manuscript amendments
9. Revised schedule of suggested conditions
10. Email on behalf of the appellant confirming agreement to pre-commencement conditions
11. S106, dated 18 June 2021, with further manuscript amendment
12. Further revised schedule of suggested conditions
13. Email on behalf of the parties to the S106, confirming agreement that an officer from the Council's legal department may sign the further manuscript amendment to the agreement.
14. Closing statement on behalf of the Council
15. Closing statement on behalf of the R6 Party
16. Closing statement on behalf of the appellant

DRAWING submitted at the Inquiry

1. R17/1089 – Archaeological Condition Fig 1

DOCUMENTS submitted after the Inquiry

1. R6 Party comments on the revised National Planning Policy Framework
2. Appellant comments on the revised National Planning Policy Framework

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SM557-PL-001/A; SM557-SL-003AD; SM557-SL-004/Q; SM557-EN-003/J; SM557-EN-027/B; SM557-SL-006/D; SM542-LS-012I; SM542-LS-013H; SM542-LS-014I; SM542-LS-015I; SM542-LS-016I; SM542-LS-017I; SM542-LS-018I; SM542-LS-019I; SM542-LS-020I; SM542-LS-021I; SM542-LS-022I; SM542-LS-023I; SM542-LS-025; SM542-LS-026H; 277_277-1.PL-01; 290.PL-01; 290.RV101.PL-02; 372_372-1.PL-01; 372-PL01; 381_381-1.PL-01; 381_381-1.PL-06; 381_381-1.PL-02; 381_381-1.PL-05; 390.PL-01; 470.PL-01; 470.PL-06; 470-1.PL-01; 472.PL-01; 472.PL-02; 472.PL-05; 472-1.PL-01; 472-1.PL-02; 472-1.PL-05; 475.PL-01; 475-1.PL-01; 475-1.PL-02; 476.PL-01; 476.PL-07; 476.PL-06; 476-1.PL-01; 476-1.PL-06; 487.PL-01; 487.PL-02; 487-1.PL-02; 807.PL-01; 807.PL-03; 807-1.PL-01; 807-1.PL-03; 1BF04.PL-01; 1BF04.PL-03; 858.PL-01; 858.PL-03; 858.PL-05; 858.PL-06; 858-1.PL-01; 858-1.PL-03; 2B4P.PL-01; 861.PL-01 (4 terrace); 861.PL-03 (4 terrace); 861.PL-01 (3 terrace); 861.PL-03 (3 terrace); GL01.PL-01; GL02.PL-01
- 3) All walls, fences and gates shall be provided in accordance with drawing reference SM557-SL-005/Q. Any wall, fences and gates that enclose the boundary to the plot of a dwelling shall be provided as approved prior to first occupation of that dwelling.
- 4) The development shall include the noise mitigation measures specified within Noise Assessment reference 17/0766/R1-1, including acoustic glazing to specific dwellings in accordance with specification 18/0766/SPC1 and figure 17/0766/GM1-1.
- 5) The dwellings hereby permitted shall incorporate measures to limit water use to no more than 110 litres per person per day within each dwelling in accordance with Regulation 36(2)(b) of Part G2 of the Building Regulations 2010 (or in equivalent standards if replaced).
- 6) The first floor windows in the side elevations of the dwellings at plots 26, 43, 44, 69, 80, 105, 114, 118 and 124 and in the rear elevation of the dwelling at plot 39, as shown on drawing reference SM557-SL-003AD, shall be fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floors of the rooms in which they are installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.
- 7) The estate roads serving the development including footways, cycleways, verges and footpaths shall be constructed in accordance with the standard specifications of the Highway Authority.
- 8) No works, demolition or development shall commence within areas A, B or C identified on drawing reference R17/1089 Archaeological Condition Fig. 1 unless and until a programme of archaeological work has been implemented in accordance with a Written Scheme of Investigation which shall first be submitted to and approved in writing by the local planning authority. The programme of works shall be carried out in accordance with the approved details.

- 9) No works, demolition or development shall commence unless and until an Arboricultural Method Statement and Tree Protection Plan(s) to reflect drawing reference SM557-SL-003AD for the protection of all retained trees (in accordance with sections 5.5 and 6.1 of BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations') have been submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved details.
- 10) No development, including site clearance work, shall commence unless and until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. This shall include details of pre-commencement checks for the presence of protected species and appropriate working practices and safeguards for habitats and wildlife that are to be employed whilst works are taking place on site. The agreed Construction Environmental Management Plan shall thereafter be implemented in full.
- 11) No development shall commence unless and until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall include details of:
- i. Construction Phasing Plan;
 - ii. hours of construction and deliveries;
 - iii. the control of noise and vibration emissions from construction/demolition activities including groundworks, plant/generators and the formation of infrastructure as well as arrangements to monitor noise emissions from the development site during the construction/demolition phase;
 - iv. the control of dust including arrangements to monitor dust emissions from the development site during the construction/demolition phase;
 - v. measures to control emissions from non-road mechanical machinery;
 - vi. HGV Routing Plan;
 - vii. the location of site compound, delivery and servicing area(s), HGV holding area(s) and car parking provision for contractors within the site;
 - viii. measures to ensure that mud and debris will not be deposited onto the highway as a result of construction traffic; and
 - ix. vibration reducing and sound deadening foundation techniques for the development at plots 110, 111 and 134-142 inclusive; and
 - x. foundation designs to ensure that damage is not caused to the Listed Building of Avon Lodge to the south of the site.

The development shall not be carried out other than in accordance with the approved Construction Method Statement.

- 12) No development shall commence unless and until a detailed surface water drainage scheme for the site, in accordance with the approved Flood Risk Assessment and Drainage Strategy reference 16131/D and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and

approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details concurrently with the part of the development to which it relates.

The scheme to be submitted shall:

- i. provide an assessment of flood risk from all sources of flooding including fluvial, pluvial and groundwater flooding;
 - ii. include infiltration testing, in accordance with BRE Digest 365 Soakaway Design guidance, which shall be completed and the results submitted to demonstrate suitability (or otherwise) of the use of infiltration Sustainable Drainage Systems (SuDS);
 - iii. demonstrate that the surface water drainage system(s) are designed in accordance with CIRIA C753 'The SuDS Manual' (or as subsequently updated);
 - iv. provide evidence that the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm has been limited to the QBar runoff rates for all return periods;
 - v. demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme(s), including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the drainage system for a range of return periods and storms durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods;
 - vi. if discharging to a drainage system maintained/operated by other authorities (Environment Agency, internal drainage board, highway authority, sewerage undertaker, or Canals and River Trust), present evidence of consultation and the acceptability of any discharge to their system for consideration; and
 - vii. demonstrate the proposed allowance for exceedance flow and associated overland flow routing.
- 13) Notwithstanding the details shown on drawing reference SM557-SL-005/Q, no above ground development shall commence unless and until full details of hedgehog holes, including their location, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. Any hedgehog holes to be located within the boundary features of a plot of a dwelling shall be provided as approved prior to first occupation of that dwelling.
- 14) No above ground development shall commence unless and until details of a phased programme for the landscaping of the site, as detailed on the approved plans in condition 2, have been submitted to and approved in writing by the local planning authority. Each phase of the landscaping scheme shall be implemented in accordance with the approved details. If within a period of 10 years from the date of planting, any tree/shrub/hedgerow is removed, uprooted, destroyed or dies, (or becomes in the opinion of the local planning authority seriously damaged or defective), another tree/shrub/hedgerow of the same species and size originally planted shall be planted at the same place.

- 15) No above ground construction of any dwellings shall commence unless and until the detailed design of the improvement works of the Back Lane/A428 Coventry Road/Bilton Lane junction, including the realignment of Back Lane together with the retention of access to the existing properties to the east of Back Lane, primary vehicular access to serve the development site and bus stops onto the A428 Coventry Road (together with all ancillary works), has been submitted to and approved in writing by the local planning authority. The detailed design shall be in general accordance with the drawing reference T16131/SK03/H. Thereafter the highway works shall be implemented in accordance with the approved details. No dwelling shall be occupied until the approved site access works have been completed.
- 16) The development shall not be occupied until a detailed maintenance plan giving details on how the surface water systems within the site will be maintained has been submitted to and approved in writing by the local planning authority. The systems shall thereafter be maintained as approved.
- 17) The development shall not be occupied until a scheme for the provision of adequate water supplies and fire hydrants necessary for firefighting purposes within the site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.
- 18) Notwithstanding the approved plans, the development shall not be occupied until details of the play area, including its layout, equipment and specification have been submitted to and approved in writing by the local planning authority. The play area shall be provided in accordance with the approved details prior to 50% of the dwellings being first occupied.
- 19) Prior to the first occupation of each dwelling a passive electric vehicle charging point, comprising cabling and fuse point(s), shall be provided to that dwelling.
- 20) Prior to the first occupation of each dwelling broadband infrastructure including ducting to enable high speed broadband connectivity shall be provided to that dwelling.
- 21) Prior to the first occupation of each dwelling a boiler that meets the minimum standard of 40mg/kWh, as specified within Air Quality Assessment reference J3133A/2/F2, shall be provided within that dwelling.
- 22) If contamination is found at any time when carrying out the development having regard to the recommendations of Geo-Environmental Assessment Report reference 16131/R02 then it shall be reported in writing immediately to the local planning authority. If contamination is found, the following shall be submitted to and approved in writing by the local planning authority:
 - a) an investigation and risk assessment which shall be undertaken in accordance with a scheme to assess the nature and extent of contamination on the site, whether or not it originates on the site;
 - b) a detailed remediation scheme where remediation is necessary to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment; and
 - c) a verification report that demonstrates the effectiveness of the remediation carried out which shall be prepared following completion of measures identified in the approved remediation scheme.

- 23) No external lighting shall be installed within the site unless and until full details of the type, design and location of that lighting have been submitted to and approved in writing by the local planning authority. Any lighting shall be installed in accordance with the approved details.
- 24) The garages hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.
- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additions or alterations within classes A, B or C of Part 1 of Schedule 2 of the Order shall be constructed to the rear or side elevations or roof planes of the dwellings at plots 142 to 149 inclusive, as shown on drawing reference SM557-SL-003AD.

End of schedule