
Appeal Decision

Site Visit made on 15 July 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday 22 September 2021

Appeal Ref: APP/M0655/W/21/3271800

New House Farm, Hatton Lane, Hatton, Warrington WA4 4DA

- 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 Thomas Jones & Sons (Liverpool) Limited against the decision of Warrington Borough Council (the Council).
 - The application Ref 2020/36311, dated 20 December 2019, was refused by notice dated 23 November 2020.
 - The development proposed is demolition of existing equestrian buildings and the construction of 31 dwellings including affordable housing provision, associated parking, landscaping and infrastructure and creation of a new area of community open space.
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Decision

1. The appeal is allowed and planning permission is granted for proposed demolition of existing equestrian buildings and the construction of 31 dwellings including affordable housing provision, associated parking, landscaping and infrastructure and creation of a new area of community open space, at New House Farm, Hatton Lane, Hatton, Warrington WA4 4DA in accordance with the terms of the application, Ref 2020/36311, dated 20 December 2019, subject to the conditions set out at the attached Schedule.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the opportunity to comment on the relevance of this revision to the Framework to their respective cases, and I have had regard to the comments received.

Background and Main Issues

3. The proposal relates to a site to the south of the village of Hatton, in use as a livery business with stables, paddocks, storage facilities, parking for equestrian vehicles and trailers. The area occupied by buildings and associated hardstanding amounts to some 1.6 hectares, surrounded by open paddocks and fields within the same ownership.
4. The site lies within the Green Belt. It is common ground between the main parties that the proposal would not amount to inappropriate development in the Green Belt. However, several representations from interested parties challenge this position. Whether the proposal would be acceptable in the Green Belt is a fundamental planning consideration; therefore, I consider this as an additional main issue of the appeal.

5. Therefore, having regard to the reasons for refusal and other evidence before me, I consider the main issues in this case are:
- Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies, the provisions of the Framework, the effect on the openness of the Green belt and the purposes of including land within it;
 - Whether the proposal would represent an appropriate location for housing, having regard to the accessibility of the site to local services and facilities;
 - If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development in the Green Belt

6. The Government attaches great importance to Green Belts. Paragraph 149 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but it lists certain forms of development which are not regarded as inappropriate. This includes, at criterion g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would either:
- not have a greater impact on the openness of the Green Belt than the existing development; or,
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
7. The definition of PDL in the Framework specifically excludes land that is or was last occupied by agricultural or forestry buildings. The appellant has submitted a statutory declaration stating that the site has been in use for equestrian/livery purposes since 2004, as distinct from agriculture. The Council does not challenge this position, but Hatton Parish Council does, stating that the site stores agricultural machinery and hay harvested on the land. The appellant sets out that all hay grown on site is for the purposes of the livery business and not for agriculture. The appellant's position is supported by advice from counsel in response to the Parish Council's claims. This advice notes the judgement in *Lee Valley*¹, which held that a building not solely in agricultural use is not excluded from the definition of PDL in the Framework.
8. In this case, beyond reference to agricultural machinery and hay production, there is no substantive evidence of agricultural use at the site. My own observations of the buildings and general operations on the site pointed to an equestrian/livery use, rather than an agricultural one. The buildings were used for the stabling or exercising of horses and storage of equipment and vehicles related to the livery use. Moreover, there is no firm evidence to dispute that

¹ R (Lee Valley Regional Park Authority) v Broxbourne BC and Britannia Nurseries [2015] EWHC 185 (Admin)

the production, storage and use of hay is directly related to the livery use. On the evidence before me, therefore, I am satisfied that the site is not solely in agricultural use and is not excluded from the definition of PDL for the purposes of the Framework and applying Green Belt policy.

9. The extent of the site which is PDL is a matter of common ground between the main parties, and I have no reasons to disagree. It is also common ground that the proposal would contribute to meeting an identified affordable housing need within the Council's area. Therefore, in determining whether the proposal would be an exception to inappropriate development in the Green Belt, it is the second strand of criterion g) of Paragraph 149 which falls to be considered, namely whether or not the proposal would cause substantial harm to the openness of the Green Belt. I note the Parish Council's misgivings about this given the proposal would provide a majority of market housing, but the Framework is silent on any threshold that needs to be met for this exception to be applied, and the evidence before me, including a letter from Warrington Housing Association, indicates an acute need for further affordable housing within the borough. Therefore, I am satisfied that the proposal falls under the second strand of Paragraph 149(g), and the test to be applied is one of substantial harm to Green Belt openness.
10. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The existing site is located amid open fields between the village of Hatton to the north and the M56 motorway to the south. The flat topography and low hedgerow heights along nearby roads allow long views across the landscape, where the existing buildings stand out conspicuously due to their size and spread across the site, and their position on slightly higher ground. Consequently, the existing development has a significant effect on openness both in spatial and visual terms.
11. The proposal would see all existing livery buildings demolished and replaced by an estate layout combining large, detached dwellings to the northern end, semi-detached pairs to the centre and eastern side and two short terraces of smaller dwellings to the south-western corner. The appellant calculates that the proposal would reduce the overall volume and footprint of development on the site by 19.5% and 29.8% respectively, with hardstanding reduced by 29%. The Council does not dispute these figures.
12. The proposal would not retain the same arrangement of built form as exists. In particular, development would extend into the south-western corner of the site where a manège exists at present. This does not have any demonstrable volume, but is concealed by tall berms which have some effect in themselves in terms of openness. However, the spread of the dwellings would retain areas of open space between them and none would replicate the massing of the largest livery buildings on site. Neither would any of the proposed dwellings exceed the height of the tallest building on site.
13. I note the concerns of interested parties that agricultural-type buildings are not inappropriate in the Green Belt, whereas residential buildings are generally inappropriate. However, openness is concerned with spatial and visual aspects, rather than matters of landscape character or visual amenity. The proposal would involve a wider spread of buildings across the site than at present, but this would be offset to some extent by their lower height, smaller individual massing and retention of open space between them. The arrangement of

buildings is also such that in many views, particularly from the north and east, the spread of buildings would not be readily observed as it would be concealed behind dwellings in the foreground.

14. Taking these considerations together, I find that the proposal would have a greater effect on openness than the existing development, but compared to the existing situation, the difference would be limited in scale, and so would not amount to substantial harm to the openness of the Green Belt.
15. Consequently, I conclude that the proposal would accord with the second strand of criterion g) of Paragraph 149 of the Framework, and would not amount to inappropriate development in the Green Belt. Therefore, there would be no conflict with Policies CS1 and CS5 of the Adopted Local Plan Core Strategy (July 2014) (the CS), which together set out that proposals within the Green Belt will be supported where they accord with relevant national policy.
16. Given my findings in this respect, it is not necessary for the appellant to demonstrate that very special circumstances exist so as to justify inappropriate development in the Green Belt.

Accessibility

17. The most relevant policies concerning the accessibility of new development, as cited by the Council, are Policies CS1 and MP1 of the CS. Policy CS1 sets out the overall spatial strategy for the Borough to achieve sustainable development. Amongst other measures, development is required to have regard to the need to develop sites, services and facilities in appropriate locations accessible by public transport, walking and cycling. Policy MP1 relates specifically to transport and supports development which reduces the need for private car use through its location, travel planning, marketing and other measures to change travel behaviour.
18. The Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It adds that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services, and where there are groups of smaller settlements, development in one village may support services in a village nearby. With respect to transport, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
19. The appeal site is located a short distance to the south of the village of Hatton and is within the countryside. The village has limited facilities but includes the Hatton Arms, a pub/restaurant and B&B, and a bus stop. The appellant points to further facilities in Stretton village some 2 km away, including two pubs/restaurants, a post office, convenience store, doctor's surgery, primary school, church, two hotels, leisure centre, park and outdoor gym. Further facilities are identified in Daresbury, also around 2 km away to the west. These include two large employment centres – Daresbury Science Park and Daresbury Business Park.
20. The Council, through a statement provided by the Local Highway Authority, argues that the site is not in an appropriate location accessible by public transport, walking and cycling. It points to footpaths being too narrow, lacking

tactile paving and dropped kerbs and having limited visibility at points where traffic passes at speed. It further argues that the roads surrounding the site are not conducive to cycling given their narrow width, 40 and 60 mph speed limits and absence of street lighting. With respect to public transport, it is argued that the bus service is suitable only for discretionary trips and is not practical for regular commuting.

21. It is evident that Hatton itself has limited facilities and future residents of the scheme would be required to travel on to Stretton, Daresbury or Warrington, some 7 km to the north, to avail of most services. However, given the Framework's recognition that sustainable transport solutions will vary in rural areas, and that developments can be capable of supporting services in other villages nearby, it is not a fatal drawback of the proposal that Hatton itself has limited facilities, if other facilities can reasonably be reached by sustainable modes of transport.
22. The route to the bus stop is a short walk of around 5 minutes by way of a continuous footpath from the site entrance. There is some street lighting to the opposite side of the road, with further lighting proposed to be secured by planning condition. I also saw that the bus stop benefits from a small, covered shelter. Pedestrians continuing to the Hatton Arms can avail of dedicated crossing points with lowered kerbs and tactile paving. Whilst the Council is critical of the standard of existing footpaths, the fact that there are footpaths at all between the site and bus stop is an advantage over many rural areas. The appellant indicates the footpath to be around 1.5 metres wide along its length, which would accord with the minimum acceptable width under Manual for Streets for a wheelchair user and walker to pass one another. Having observed the route, I am satisfied that it provides a suitable means to access the bus stop and the public house on foot.
23. The Council is critical of other routes out of the village, but equally states that there are no destinations close enough which would encourage walking in these directions. I note the concerns regarding the lack of visibility at the junction of Hatton Lane and Pilmooss Lane and an absence of footpath on the route to Stretton. I accept that this route would not be conducive to walking to facilities in Stretton, though the distance is likely to be as much a deterrent as the lack of footpaths. However, not every facility in a rural area can be reached by all modes of travel, and I do not regard the limitations on walking beyond the limits of Hatton to be a severe drawback of the proposal.
24. The distances to the nearest villages means that various services could be reached by bicycle. I saw several recreational cyclists travelling through the village during my site visit, indicating the local roads are used by cyclists, notwithstanding the speed limits, though I accept that the road conditions would not appeal to all users, and cycling is unlikely to be a realistic option for those making journeys for shopping. Inclement weather and darkness would also deter residents from opting for cycling as a mode of transport.
25. The Council is critical of the bus service, pointing to it being an amalgamation of three services which results in a varying timetable not easily understood. Therefore, the Council disputes the practicality of this service, arguing that it is not frequent enough or available at the right times to encourage its use for regular commuting. Representations from interested parties state, to the

- contrary, that the service has long been well-used by school children on a daily basis to travel to and from schools in nearby settlements.
26. I accept that the service provided is not comparable to that which may be available in a larger town or city, but this is the case in many rural villages and is better than some which have no service at all. It provides daily services to Stretton and onwards to Warrington where travellers could connect with onward train services. There are three services in the morning, three in the evening and one at lunchtime in both directions. I find this level of service would make commuting a possibility for some future occupants, and would provide them with an alternative to travel by private car.
27. In addition, the Framework definition of sustainable transport modes includes ultra-low and zero emission vehicles. The proposal would include an electric vehicle charging point for each dwelling. This would constitute a further alternative to traditional petrol and diesel cars, and one that is likely to see increasing uptake in the coming years given the direction of travel of the car industry. The appellant has also submitted a travel plan intended to inform and encourage use of alternative modes of transport by future residents.
28. On the evidence before me, therefore, there would be a number of alternative modes of transport available for future residents. Each has its limitations, whether in terms of the facilities reachable by walking, the road conditions for cycling or the frequency of the bus service. I also acknowledge that the proximity of the site to the M56 motorway would be an incentive for car use by future residents for longer journeys.
29. However, people living in rural areas, even in the centre of villages, will invariably require private modes of transport for the majority of trips. Given the number of facilities available in neighbouring villages, many journeys would be short and would be little different in terms of environmental impact than if the site was located within the main built-up area of the village. Moreover, sustainability in terms of the Framework encompasses more than just locational accessibility. The additional population would help to support services in neighbouring villages beyond Hatton and would contribute to the local rural economy. These factors would reduce the degree of impact from private car use by occupants of the development.
30. Taking these considerations together, I acknowledge that the environment surrounding the appeal site does not provide a high level of access to local services and facilities by all other means of transport. However, there are a good number of services within 2km of the site and walking, cycling and public transport are all available to varying degrees. These alternatives, alone or in combination, alongside the proposed infrastructure for electric vehicles and implementation of a travel plan, mean there would be sustainable forms of transport for future residents to avail of, which would reduce reliance on petrol and diesel cars.
31. For these reasons, I find the level of alternative transport options would be reasonably good for the rural location of the site and the scale of development, and the proposal would therefore represent a suitable location for housing in terms of accessibility to services and facilities. Therefore, I find no conflict with the aforementioned aims of Policies CS1 and MP1 of the CS. Moreover, the proposal would accord with the approach of the Framework set out above to development and sustainable transport in rural areas.

Other Material Considerations

Provision of housing

32. In light of the Council's shortfall in its supply of deliverable housing sites, and the importance placed on housing delivery in the Framework as a factor in achieving sustainable development, the provision of 31 dwellings in an accessible location must be regarded as a very significant benefit of the proposal. Interested parties have stated that the village is short of bungalows. I do not have evidence to verify whether such need exists, but given the Council's housing supply position, favourable weight must be afforded to all housing types.
33. Policy SN2 of the CS requires development proposals of 15 units or more which are located outside of the town centres and on PDL to provide 30% on-site affordable housing. The Council's latest Local Housing Needs Assessment (March 2019) shows significant under-delivery of affordable housing between 2014/15 and 2018/19 against its identified need. The proposal would provide 30% affordable housing, equating to 9 dwellings (4 affordable rent and 5 shared ownership).
34. The proposal would therefore accord with Policy SN2, and with the aims of the Framework to increase the provision of affordable housing. Given the significant and persistent shortfall in delivery of affordable housing in the Borough, the provision of 9 affordable units is an important benefit which merits considerable weight in favour of the proposal.

Character and appearance

35. The Council has not opposed the appeal scheme on the basis of its effect on the character and appearance of the area. The scheme would involve the redevelopment of a historic cluster of development within the landscape, which is indicated to reflect the past pattern of development around Hatton where the built form expanded around individual farmsteads. The overall spread and massing of development would not be significantly different from the existing arrangement of buildings on the land, and so would not meaningfully alter the extent to which views are possible across the rural landscape from Hatton and surrounding roads.
36. The proposal would introduce a residential character, but the use of perimeter landscaping would help to embed the development in the open landscape. It would also filter views of the development from the main public viewpoints on Hatton Lane to the north and north-west and from Pilmoos Lane to the south-east. The positioning of the larger, detached dwellings to the northern side would reflect the style and density of development on Hatton Lane, with the more suburban layout of terraces towards the interior of the site and away from public view. The proposed dwellings have also been designed to reflect a local vernacular in terms of materials and architectural features.
37. Overall, and taking into account my observations on site, I have no compelling evidence to lead me to a different view on the effect of the proposal on the character and appearance of the area from that reached by the Council. There would be no conflict with the Framework's recognition of the intrinsic character and beauty of the countryside or its aim of ensuring developments function well and add to the overall quality of the area.

Heritage Impacts

38. The Council did not make a finding of harm to the significance of any designated or non-designated heritage asset (NDHA). I concur with the Council's conclusions that the settings of the nearest NDHAs, two cottages located some 85 metres to the north of the site on Hatton lane, would not be adversely affected by the proposal, given the proposal would replace substantial existing buildings and would not significantly alter the visual context in which the assets are experienced.

Living conditions

39. The nearest neighbouring dwelling is a bungalow, The Orchard, located on Hatton Lane. I note that the nearest proposed dwelling would be some 13 metres from the rear elevation of The Orchard, but this would be an improvement compared to the tall farm building at some 10 metres distance presently in situ. Elsewhere, the dwellings would be set well away from the existing farmhouse and the nearest properties on Hatton Lane. Therefore, I find no harm in respect of neighbours' living conditions.
40. I note the proposed dwellings would meet or exceed the requirements of the Nationally Described Space Standards, would be provided with adequate amounts of private amenity space, with those to the southern boundary enclosed by acoustic bunding and fencing to mitigate, so far as is practical, noise from the M56 motorway. I am satisfied that the proposals would provide an acceptable standard of accommodation for future occupants and would accord with the aims of the Framework to ensure development creates places with a high standard of amenity for existing and future users.

Highway safety

41. No objection is raised by the Council to the proposal in terms of highway safety. I note concerns raised by interested parties, particularly relating to the capacity of the surrounding road network to accommodate the traffic generated by the development and the suitability of the access near to what are considered to be dangerous bends in the road.
42. However, the appellant's Transport Statement (TS) sets out that the development is likely to generate 16 vehicles per hour during the peak hours, equivalent to one every four minutes. The net increase would be lower than this as existing traffic to and from the livery business would no longer occur. I saw the roads around the site and the general area were not heavily trafficked, though I accept this was only a snapshot and not at peak travel times. Nonetheless, the appellant's estimates of traffic generation appear reasonable, and are not contradicted by other evidence. Therefore, I am satisfied that such volume would not cause demonstrable harm in terms of congestion, travel times or highway safety.
43. Moreover, whilst the concerns of local residents are noted, the TS indicates that the access would have visibility splays of 2.4m x 56 metres in both directions, suitable for speeds of up to 60 kph or 37.5 mph, well above the posted 30 mph limit at the site entrance. I have no compelling evidence to dispute the details of the appellant's TS, on the basis of which, and my observations of site, I am satisfied that the proposed access would operate in a safe manner and not pose a significant risk to highway safety. The proposal would therefore accord

with the Framework which sets out that permission should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Flooding and Drainage

44. The site is indicated to lie entirely within Flood Zone 1, with only very localised surface water flood risk identified, which would be improved through the provision of the proposed drainage system to serve the residential development. No other flood risk has been identified, and I am satisfied that the proposal would not pose a demonstrable risk in this respect.

Ecology and Biodiversity

45. The appellant's Preliminary Ecology Appraisal (PEA) shows a bat roost in one of the buildings to be demolished, and bat roost potential in two others. All species of bats are protected by law under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981. The presence of a protected species is a material consideration when development is being considered which would be likely to result in harm to the species or its habitat.
46. The demolition of the buildings would clearly result in the loss of existing bat roosts. The PEA acknowledges the legal requirements in this situation and sets out proposed mitigation on the basis that the use of the site is considered to be of low level significance in terms of Common Pipistrelle bats and their current status. The mitigation would include dismantling of all parts of the buildings identified as having roost access or roost potential under the supervision of an ecologist, the erection of pole-mounted bat boxes within the site to replace the roosts lost, further assessment for the presence/absence of bats before work commences and management of external lighting within the site.
47. The Council's Ecologist has recommended a condition requiring the issuing of a licence by Natural England (NE) prior to any work taking place. On the evidence before me, I have no reasons to doubt a licence would be issued by NE and I am satisfied that the condition would ensure appropriate mitigation is put in place to address the impact on protected species present on the site. This would accord with the requirements of Policy QE5 of the CS and the Framework in terms of safeguarding protected species and habitats.

Planning Obligation

48. The signed Section 106 Agreement makes provision for the delivery of the proposed affordable housing in accordance with the Council's preferred ratios, and would secure financial contributions in relation to the provision of sustainable transport. I am satisfied that each sought obligation meets the three tests set out in Paragraph 57 of the Framework for planning obligations. As a result, I have taken the completed planning obligation into account.

Other matters raised

49. It has been raised that existing substantial buildings on the site should be retained and re-used. However, it is indicated that the brick stable block would require extensive works to make it habitable, and it is in any event partially within a pipeline blast zone where residential development should not take

place. As indicated by the Council, whilst the Framework encourages re-use of buildings, it is not a mandatory requirement. I also note that the building has been subject to significant alterations which has eroded much of its heritage significance, and consequently it is not judged to be an NDHA. For these reasons, the demolition does not weigh against the proposal.

50. An area of community open space and orchard is proposed within an offshoot of the main site to the north of the main entrance, stretching to the bend on Hatton Lane. Provision of such a facility is not required by policy, but has been offered as a benefit of the scheme by the appellant. I note some concern from interested parties regarding the cost and effort of maintaining the space; however, its management could be secured by condition requiring details of how the facility would be managed in the long term.
51. Interested parties have questioned the contribution new residents would make to the local economy, given the limited facilities in Hatton, whilst at the same time raising concern that existing services, such as the local primary school at Stretton, would come under greater pressure from increased demand. On the first point, both the public house and bus service would benefit from additional custom from new residents. Moreover, the Framework approach to the rural economy is not based on individual villages being self-sufficient, but residents supporting businesses across a wider network of settlements. In this case, residents would be able to support the aforementioned facilities in Stretton and Daresbury.
52. I understand the contrary view that some services may come under pressure; however, the Council indicates that the school is not over-subscribed and would be capable of meeting the additional pupil demand arising from the development, even taking into account other nearby developments. In other respects, the Council has indicated that the proposal is below the threshold for financial contributions towards infrastructure improvements, and I have no compelling evidence to contradict this position.

Planning Balance

53. On the main issues of the appeal, I have found no conflict with the aims of the development plan either in terms of the impact on the Green Belt or the accessibility of the site's location.
54. It is common ground between the main parties that the Council is unable to demonstrate a five year supply of deliverable housing sites. By its own admission, the Council can demonstrate a supply of just 3.4 years. Therefore, pursuant to paragraph 11(d) of the Framework, the presumption in favour of sustainable development applies. As I have not found harm in respect of the Green Belt, it is not paragraph 11(d)(i) which applies but paragraph 11(d)(ii), which for decision-taking means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
55. I have found that the other material considerations in this case do not raise adverse impacts but conversely there would be significant benefits in terms of housing delivery, both market and affordable, at a time when the Council cannot demonstrate a sufficient supply of deliverable housing sites. In the context of paragraph 11(d)(ii), therefore, there are no adverse impacts

associated with granting planning permission which would significantly and demonstrably outweigh the benefits. Overall, therefore, the proposal accords with both the development plan for the area and the Framework.

Conditions

56. I have had regard to the list of suggested conditions provided by the Council and the appellant's comments on them. Where necessary, I have amended their wording to ensure they meet the relevant test for conditions set out in the Framework. The appellant has also confirmed their agreement to those conditions which would be pre-commencement.
57. In addition to the standard time limit for implementation, a condition setting out the approved plans is necessary to provide certainty.
58. A condition requiring the issuing of a licence by NE authorising development to proceed is necessary to safeguard protected species. A condition is also required in relation to a programme of archaeological work to ensure any archaeological remains are properly recorded and preserved. Conditions are also required in respect of a local employment scheme and a construction environmental management plan in the interests of providing local employment during the construction phase and managing environmental impacts of construction. Each of these conditions is required to be pre-commencement as they relate specifically to the construction phase and would be ineffective or lead to harm or loss were they required to be addressed at a later stage.
59. Conditions are also required in respect of finished land levels and floor levels, roofing and facing materials and site landscaping to ensure a satisfactory appearance to the development. Conditions requiring details of highway improvement works, specifications of the roads proposed for adoption, details of the proposed site access and visibility splays are all necessary in the interests of highway safety. Details of glazing, ventilation and acoustic barriers are required in the interests of safeguarding occupants' living conditions.
60. Conditions requiring preliminary risk assessments and, where necessary, remediation strategies and long-term monitoring, along with measures to address unexpected contamination, are necessary given the nature of the existing use and the need to safeguard human health. It is necessary to condition the submission, approval and implementation of a Travel Plan, and to require installation of electric vehicle charging points, in the interests of promoting sustainable transport.
61. Conditions requiring details of management plans for the sustainable drainage systems, unadopted and communal areas and roads are required in the interest of managing flood risk and maintaining a high quality development. Provision of bat and bird boxes is necessary in the interests of protected species. It is also necessary to require the parking areas to each dwelling to be retained so as to prevent potential hazards from indiscriminate parking.
62. Finally, the Council has sought the removal of several permitted development (PD) rights from the proposed dwellings². The Framework sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The reasons

² As set out under Schedule 2, Part 1, Classes A, B, C, D, E and F of the Town and Country Planning (General Permitted Development) (England) Order 2015, and Schedule 2, Part 2, Class A of the Order

given by the Council are to prevent the addition of disproportionate additions to dwellings in conflict with national and local Green Belt policies. However, national PD rights are not restricted in Green Belt areas, and most dwellings within the Green Belt retain these rights, even where it may result in disproportionate additions that might not be considered acceptable against Green Belt policy on application to the Council. As such, I do not find there to be clear justification for removal of PD rights on these grounds.

63. However, the consistent appearance of the development could be undermined by development under PD, particularly extensions to the dwellings and rooflines, along with use of differing boundary treatments. Living conditions of neighbours could also be undermined by extensions, particularly to the rear where the back elevations of dwellings stand on the same line. For these reasons, I find there is clear justification for removal of rights under Classes A and B of Schedule 2, Part 1, and Class A of Part 2. However, I see no reason to restrict the more minor development allowed under Classes C, D, E and F of Schedule 2, Part 1 which would have only limited effects in terms of character and appearance or neighbours' living conditions.

Conclusion

64. For the reasons set out, I conclude that the appeal should be allowed.

K Savage

INSPECTOR

Schedule of Conditions

Time Limit/Plans

- 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:
2341-101F (Location plan); 2341-114 (Existing buildings elevations); 2341-116K (Site layout); 2341-117C (Street Scene); 2341-118 (Section Plot 2 - Existing Bungalow); 2341-250B (House types A & A1 - plans & elevations); 2341-251B (House types A & A - plans and elevations); 2341-252B (House type B - plans and elevations); 2341-253B (House type B1 - plans and elevations); 2341-254B (House type C - floor plans); 2341-255C (House types C – elevations); 2341-256A (House type D - floor plans); 2341-257B (House type D – elevations); 2341-258A (House type E - floor plans); 2341-259B (House type E – elevations); 2341-260A (House type F - floor plans); 2341-261B (House type F – elevations); 2341-262A (House types X1-X2-Y – floor plans); 2341-263A (House types X1-X2-Y-elevations); 2341-264A (House types Y & Z - floor plans); 2341-265A (House type Y & Z – elevations); 8355/01 Rev B (Topographical survey); M3128-PA-02-V8 (Landscape Layout); M3128-PA-03-V3 (Boundary Treatments Plan); M3128-PA-04-V3 (Boundary Cross Sections); M3128-PA-06-V1 (Built form and hardstanding overlay); M3128-PA-06-V2 (Bund Plan); M3128-PA-07-V1 (Site Street Scene); SCP_190245_ATR02 Rev B (Swept path analysis - refuse vehicle); SCP_190245_ATR03 Rev C (Swept path analysis); SCP_190245_ATR04 (Swept path analysis - 12m rigid truck); SCP_190245_SK01 Rev K (Forward visibility); SCP_190245_SK02 Rev E (Forward visibility)).

Pre-commencement conditions

- 3) None of the development hereby approved, insofar as any act of demolition or part demolition of any building is concerned, shall commence unless the local planning authority has been provided with either:
 - a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations (Various Amendments) (England and Wales) Regulations 2018 authorizing the specified activity/development to go ahead; or
 - b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
- 4) No development shall commence until a local employment scheme has been submitted to the local planning authority for approval. The scheme shall outline the means of maximising the local impact from the development in terms of contracting and supply chain opportunities for local businesses and job opportunities for the local community/residents. The approved employment scheme shall be fully implemented.
- 5) Prior to the commencement of any works on site, the developer shall provide in writing a Construction Environmental Management Plan (CEMP) to the LPA for written approval. The CEMP shall review all construction

operations proposed on site and shall cover as a minimum the following areas of work on a phase by phase basis, identifying appropriate mitigation measures as necessary:

- Proposed locations of Site Compound Areas including contractor and staff parking
- Proposed Routing of deliveries to Site Compounds or deliveries direct to site
- Proposed delivery hours to site and delivery routing; supervision; scheduling; waiting and phasing
- Proposed Construction Hours
- Acoustic mitigation measures
- Control of Dust and Air Quality on site and consideration for joining a Considerate
- Contractors Scheme
- Measures for the prevention of pollution of the nearby watercourses
- Delivery and waste management
- Loading and storage areas
- Hoarding
- Gates and security

The CEMP shall consider matters relating to construction and demolition - noise, dust, odour, control of waste materials and vibration. Once approved in writing, all identified measures within the CEMP shall be implemented in accordance with the requirements therein and shall be reviewed on a regular basis and in case of receipt of any justified complaint.

- 6) No development hereby permitted shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.

Conditions to be met during construction

- 7) Prior to the excavation of any footings, the finished land levels and the floor levels (FFLs) of each building hereby approved, in relation to the existing FFLs and garden levels of adjoining residential properties, shall be submitted for approval to the local planning authority. The development shall be built according to such land levels and FFLs as are so agreed.
- 8) There shall be no construction above slab level until written and photographic details of the external roofing (in the case of the houses) and facing materials (including manufacturer's details and/or samples) have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details/samples and retained thereafter.
- 9) No development (other than demolition and site clearance works) shall take place until a scheme for the design and construction of highway improvement works, including timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. For avoidance of doubt, the works shall include:

- additional street lighting from the access road north along Hatton Lane to a point where street lighting is already present;
- Drainage works necessary to facilitate the highway and access works.

The approved scheme shall subsequently be implemented prior to first occupation of the development hereby approved.

- 10) No development (other than demolition and site clearance works) shall take place until full engineering, drainage, street lighting and construction details of the roads proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 11) No development (other than demolition and site clearance works) shall take place until a detailed scheme for the design and construction of the site access has been submitted to and approved in writing by the Local Planning Authority. The access shall be designed in accordance with the principles set out in the approved drawing SCP/190245/ SK02 Rev E. The site access shall have footway widths of two metres, and shall include pedestrian crossing points and tactile paving. The approved scheme shall subsequently be constructed to binder course surfacing level and completed prior to first occupation of any dwelling. The access shall be kept available for use at all times.
- 12) Notwithstanding the details provided on Drawing No. SCP/190245/ SK02 Rev E, no development (other than demolition and site clearance works) shall take place until details of the construction and finish of the access road have first been submitted to and approved in writing by the Local Planning Authority. The approved works shall be constructed in accordance with the details so agreed.
- 13) No development (other than demolition and site clearance works) shall take place until the steps in Sections A and B below are undertaken:

A: CHARACTERISATION: With specific consideration to human health controlled waters and wider environmental factors, the following documents must be provided (as necessary) to characterise the site in terms of potential risk to sensitive receptors:

- Preliminary Risk Assessment (PRA or Desk Study)
- Generic Quantitative Risk Assessment (GQRA) informed by an Intrusive Site Investigation
- Detailed Quantitative Risk Assessment (DQRA)
- Remedial Options Appraisal

Completing a PRA is the minimum requirement. DQRA should only be submitted if GQRA findings require it.

B: SUBMISSION OF A REMEDIATION & VERIFICATION STRATEGY: As determined by the findings of Section A above, a remediation strategy (if required) and verification (validation) strategy shall be submitted in writing to and agreed with the LPA. This strategy shall ensure the site is suitable for the intended use and mitigate risks to identified receptors. This strategy should be derived from a Remedial Options Appraisal and must detail the proposed remediation measures/objectives and how proposed remedial measures will be verified.

The actions required in Sections A and B shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

- 14) No development (other than demolition and site clearance works) shall take place until full details of the proposed arrangements for future management and maintenance of the proposed roads within the development have been submitted to and approved in writing by the Local Planning Authority. The roads shall thereafter be maintained in accordance with the approved management and maintenance details, for the lifetime of the development.

Pre-occupancy conditions

- 15) Prior to the first occupation of any dwelling, glazing and ventilation shall be uprated in accordance with the details within section 5 of the submitted acoustic report - Spectrum Acoustic Consultants, New House Farm, Hatton Lane, Warrington, WA4 4DA, Proposed Residential Development, Report Ref NDT6094/19276/2, dated 10.09.20. Specifically (colour coded) glazing & ventilation requirements that are detailed in the site layout plans within Appendix H for ground floor habitable rooms and site layout plans within Appendix I detailing first floor bedroom requirements (and first floor living/dining rooms for flat 15) shall be implemented in full prior to first occupation and shall be retained thereafter.
- 16) Prior to the first occupation of any individual dwelling, a ventilation strategy shall be submitted for approval in writing by the Local Planning Authority. The strategy shall detail passive ventilator requirements where applicable but will additionally require details of a suitable mechanical ventilation system with manual boost facility for any habitable room in that dwelling that external noise levels exceeds 60dB daytime or 55dB night time in accordance with the detail presented in appendix F (daytime noise levels) and G (night time noise levels) of the submitted acoustic report – Spectrum Acoustic Consultants, New House Farm, Hatton Lane, Warrington, WA4 4DA, Proposed Residential Development, Report Ref NDT6094/19276/2, Version 2, dated 10.09.20. The passive and mechanical ventilation strategy, once approved, shall be implemented in full prior to first occupation of any individual dwelling and shall be retained thereafter.
- 17) Prior to the first occupation of any individual dwelling, the acoustic barrier shall be erected in accordance with the submitted acoustic report – Spectrum Acoustic Consultants, New House Farm, Hatton Lane, Warrington, WA4 4DA, Proposed Residential Development, Report Ref NDT5858/19276/2, dated 10.09.20. Details of the positioning and height are detailed within the recommendations of paragraph 5.1 and shown by the faint bold green line with Appendix E of that report. The acoustic fence shall be imperforate and shall have no gaps between panels or the ground and the barrier itself.
- 18) Subject to the outcome of the requirements of Condition No 13, the dwellings hereby approved shall not be occupied until the following requirements have been met and required information submitted to and approved by the Local Planning Authority (LPA):
- A: REMEDIATION & VERIFICATION: Remediation (if required) and verification shall be carried out in accordance with an approved strategy.

Following completion of all remediation and verification measures, a Verification Report must be submitted to the LPA for approval.

B: REPORTING OF UNEXPECTED CONTAMINATION: All unexpected or previously unidentified contamination encountered during development works must be reported immediately to the LPA and works halted within the affected area(s). Prior to site works recommencing in the affected area(s), the contamination must be characterised by intrusive investigation, risk assessed (with remediation/verification measures proposed as necessary) and a revised remediation and verification strategy submitted in writing and agreed by the LPA.

C: LONG-TERM MONITORING & MAINTENANCE: If required in the agreed remediation or verification strategy, all monitoring and/or maintenance of remedial measures shall be carried out in accordance with the approved details. The site shall not be taken into use until remediation and verification are completed. The actions required to be carried out in Sections A to C above shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

- 19) No dwelling hereby approved shall be occupied until the visibility splays defined on Drawing Numbers 2341-116 K and SCP/190245/SK02 Rev E are cleared of all obstructions to visibility exceeding 600mm in height above footway level. The visibility splays shall subsequently be maintained free of any visual obstruction thereafter.
- 20) Prior to the occupation of the dwellings hereby approved, a scheme for the provision of electric vehicle charging points, or passive provision, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be provided prior to first occupation of each unit and retained as such thereafter.
- 21) Prior to the first occupation of the first dwelling hereby approved, a detailed Travel Plan, based on the submitted Framework Travel Plan SCP/190245/TP/1, shall be submitted for approval to the local planning authority. The detailed Travel Plan which is agreed shall be implemented in accordance with the approved details and shall remain in place for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.
- 22) Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
 - a) Arrangements for adoption by an appropriate public body or statutory undertaker or management and maintenance by a resident's management company;
 - b) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime;
 - c) Measures to prevent the discharge of surface water on to the public highway.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

- 23) A scheme for the management and maintenance of all un-adopted and communal areas on the site, including all areas of bunding and landscape planting (including that in the community open space/ orchard), shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling. Management and maintenance of all such areas shall be carried out in complete accordance with the approved scheme.
- 24) Prior to the first occupation of any dwelling hereby approved, a scheme for the provision of bat, bird and hedgehog boxes shall be submitted for approval to the local planning authority. Such scheme as is approved shall be implemented in accordance with an agreed timetable.
- 25) Prior to the occupation of the first dwelling hereby approved, a scheme of detailed landscape planting, including all woodland and orchard planting, showing the number and species of all trees, shrubs and plants shall be submitted for approval to the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any planting which, within a period of five years from initial planting, dies, is removed or becomes seriously damaged or diseased shall be replaced with new planting to be agreed in advance with the local planning authority.

Removal of permitted development rights

- 26) Upon the commencement of the development hereby approved, and 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 development as set out in Schedule 2, Part 1, Classes A and B and Schedule 2, Part 2 Class A of the said Order, shall take place on the site unless a planning application for that development has been first submitted to and approved by the Local Planning Authority.
- 27) The parking provision shown within the curtilage of each approved dwelling shall be provided prior to first occupation of the dwelling to which it relates. The parking provision shall not be used for any other purpose other than the parking of vehicles. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that order), no building works, which would reduce this provision, shall take place except following the express grant of planning permission.

END OF SCHEDULE