



Appeal Decision

Hearing Held on 2 December 2021

Site visit made on 16 December 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2022

Appeal Ref: APP/P1133/W/21/3273012

Land at Tollgate Farm, Chudleigh Knighton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Baker Estates Ltd against Teignbridge District Council.
 - The application Ref 20/01736/FUL, is dated 18 September 2020.
 - The development proposed is outline application for circa 60 residential dwellings, access, open space, drainage pond and associated infrastructure.
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Decision

1. The appeal is allowed and outline planning permission is granted for circa 60 residential dwellings, access, open space, drainage pond and associated infrastructure on Land at Tollgate Farm, Chudleigh Knighton, in accordance with the terms of the application, Ref 20/01736/FUL, dated 18 September 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal application was made in outline form with all matters save for access reserved for future consideration. As such, all details pertaining to the layout shown in the illustrative plans have been treated as purely indicative.
3. The appeal was submitted against the failure of the Council to determine the application within the prescribed period. The Council did not strictly specify its putative reasons for refusal, but the main issues have been drawn from the Statement of Case and were agreed and discussed as part of the hearing.
4. At the hearing, the appellant provided a copy of a signed unilateral undertaking (UU). However, it was subsequently identified that it had not been completed. The final completed version of the UU received by email is dated 3 December 2021 and provides for: 30% affordable housing, contributions towards travel planning and secondary school transport, biodiversity land provision and management, provision of public open space, including equipped areas of play, custom build housing plots, and a contribution towards the Torbay and South Devon NHS Foundation Trust. I return to this matter later in the decision.
5. On the 14 January 2022, the Government published the 2021 Housing Delivery Test results. Both parties were invited to comment on the relevance of the results and these have been taken into consideration in the determination of the appeal.

Main Issues

6. The main issues in relation to this appeal are:

- whether the scale, location and nature of the development accords with development plan policies that seek to direct most new development to the larger settlements, reduce the need to travel and maintain the character of the rural areas;
- whether the Council can demonstrate a five year supply of housing land;
- whether the scheme would be adequately connected to the remainder of the village so as to encourage walking and cycling;
- whether the density of the scheme would represent an effective use of land;
- whether the proposal would harm the integrity of the South Hams Special Area of Conservation (SAC);
- whether the proposal would have a mixed, inclusive layout, with particular regard to the cluster sizes of affordable dwellings; and
- whether the scheme provides sufficient measures to provide for custom and self-build housing.

Reasons

Context

7. The appeal site comprises two agricultural fields on the north-eastern edge of the village of Chudleigh Knighton. Chudleigh Knighton is within approximately 9 - 13 kms of Teignbridge's largest settlements, Kingsteignton and Newton Abbott. Chudleigh Knighton itself is of a reasonable scale and has a modest range of facilities, including a primary school, public house and access to regular bus services.
8. The proposal seeks to develop a market housing-led scheme of around 60 dwellings, including 30% affordable housing. The single vehicular access point would be from the B3344 to the south. The site also connects to a larger area of farmland forming Tollgate Farm, outlined in blue, much of which would be dedicated as biodiversity mitigation land.

Location and nature of development

9. Policy S21 of the Teignbridge Local Plan (2013 – 2033) (adopted 2014) (LP) identifies Chudleigh Knighton as one of the 'villages' that are appropriate locations for 'limited' development, where such development aims to help meet the village's social and economic needs, protects their rural character and is consistent with the need to minimise travel. The emphasis of the Policy is on the provision of affordable housing, employment services, facilities, environmental enhancements and small scale developments brought forward through Neighbourhood Plans (NPs).
10. Corresponding LP Policy S21A highlights the existence of the settlement limit plans for each of the villages and indicates that development will be permissible within the respective limits, where consistent with the other provisions and policies of the LP.
11. Policy S4 of the LP indicates that the LP is targeting 640 dwellings per year with a distribution based on broadly 50% being provided within the heart of Teignbridge (Kinkerswell, Kingsteignton, Newton Abbott); about 15% in South

West Exeter; about 10% in Dawlish; 5% in Chudleigh, and 5% in Bovey Tracey. The inference is that the remaining 10% should be distributed across the defined villages, which includes Chudleigh Knighton.

12. The Council's evidence includes an admission that Policy S4 is out of date, owing to the fact that the housing target materially changed in 2019 when the LP reached its fifth anniversary and the standard method for calculating housing set by the National Planning Policy Framework (the Framework) took effect. The result is that Policy S4 should have a target of c. 760 dwellings per annum, as opposed to 640.
13. Owing in part to this and other areas where changes are considered necessary, the Council is in the process of producing its Local Plan Review, though given its early stage of preparation, the Council does not seek to attribute weight to it. The background document that commenced the review process indicated that other than for Policies S4, S1A (the internal tilted balance) and WE2 (affordable housing targets), that all other policies of the LP were otherwise generally consistent with the Framework and could still be regarded as up-to-date.
14. The current adopted development plan, the LP, has policies that seek to deliver housing according to a logical spatial distribution that is based on the relative scale and sustainability of its settlements. The policies dealing with villages provide a degree of opportunity for certain types of growth, albeit placing a heavy emphasis on the role of NPs to encourage, where desirable, housing growth other than the limited affordable housing schemes provided for by Policy S21.
15. In the open countryside outside the settlement boundaries, LP Policy S22 seeks to strictly manage development, only allowing for the following types of new housing: affordable housing for local needs, replacement housing, Gypsy and Traveller pitches, and dwellings for a wide range of rural workers.
16. In respect of the appeal scheme, it is proposed on a site that is outside of, but adjoining the settlement limit for Chudleigh Knighton. The scale of the proposal is not 'limited' and nor is it focussed on the delivery of affordable housing, comprising of 70% market homes. Chudleigh Knighton, within the parish of Hennock, does not have an adopted or emerging NP that seeks to promote the scheme based on the area's social or economic needs either. Therefore, as a large-scale scheme, technically within the countryside given its location outside of the village's settlement limit, and given its market housing-led nature, I am of the view that the scheme conflicts with LP Policies S21, S21A and S22.
17. In not specifically providing for large-scale, market housing-led schemes adjoining villages, the development plan seeks to prevent such types of development occurring, unless promoted by an NP. The omission is deliberate and it should not be necessary for a policy to list all precluded types of development. Consequently, I do not consider that there is silence within the development plan on the type of development proposed; it is simply not compliant therewith.
18. There appears to be some allowance for development outside of the settlement boundaries defined by the plan, and I heard that the village of Chudleigh Knighton has received an affordable-housing led development in the fairly recent past. I am also aware that representatives have been working with the

Council to promote an affordable housing-focussed scheme, which will presumably be considered to accord with the development plan. As such, whilst the appellant asserts that LP Policies S21, S21A and S22 are all out of date insofar as they are too restrictive and constrain growth of the villages, I do not specifically agree. The outdatedness relates specifically to the numerical housing target in Policy S4, but, unless housing delivery has fallen short of said target, it is not possible to conclude that the other policies that guide how and where development should occur have been 'infected' to the point that they are also out-of-date. The outdatedness of the LP policies is inextricably linked with the delivery performance, details of which are discussed below.

Five year housing land supply (5YHLS)

19. The appellant's case made in relation to the Council's 5YHLS position as at April 2020 was that only a 3.87 years supply could be demonstrated. At that time, the Council was of the opinion that it was capable of demonstrating a supply of around 7.11 years' worth, even based on the then newly-derived target calculated using the Framework's standard method.
20. The Council's 'Five Year Land Supply Statement at April 2021'¹, revised the 5YHLS position down to 6.33 years. In discussions between the parties in advance of the hearing, it was agreed that the respective 5YHLS positions should be tailored to the same baseline date of April 2021. Consequently, the appellant's evidence was updated and considered the Council's supply to be in the region of 2.86 years' worth. The agreed Statement of Common Ground (SoCG) sets out that the Council consider it can currently demonstrate a 6.26 year supply of housing, whereas the appellant asserts that only a 3.08 year supply can be demonstrated.
21. The 5YHLS is made up of a variety of sources, of which a significant proportion is the allocated sites forming part of the LP, considered by the Council to be 'deliverable'. The supply also includes a 5% buffer.
22. The appellant speculated that the 2021 Housing Delivery Test (HDT) outcomes would be likely to show a downward trend on housing completions for a third consecutive year, which was in fact borne out by the publicised HDT results that showed an 86% delivery against the target. This triggers the requirement for an 'Action Plan' to be put into place. The Council reiterate that the outcome does not trigger an additional buffer or the 'presumption', and also highlights that the appellant's assertions about the policies being out-of-date are unsupported. Conversely, the appellant highlighted that the figures only very narrowly exceed the 85% threshold and that the poor levels of delivery in Teignbridge compared with neighbouring areas should be of significant concern, prompting the need for action to address poor and declining delivery.
23. The appellant challenged many of the assumptions about the deliverability of allocated sites and extant permissions in the context of the Framework's clear definition of deliverable, claiming that many of the yields and timeframes are overly optimistic. The Council's evidence in reply was particularly sparse. The Council alluded to the fact that such evidence existed, but, in my view, very little had been provided to support the appeal beyond the brief commentary in the SoC appendix 24. This gave rise to the complication that much of what was offered verbally at the hearing was new evidence, prejudicial to the appellant's

¹ Published May 2021

case. It was claimed that the Council felt that much of this required evidence, though allegedly compiled to support the production of the 5YHLS position statements through discussions, emails and meetings with developers and the HELAA² working group, was commercially confidential in nature, thus not being suitable for wider publication or submission with the appeal.

24. I accept that there may be an issue with disclosing information of a commercially confidential nature, but the Framework is unambiguous in its requirement for clear evidence. Very little such evidence has been provided to enable me to concur with the Council's 5YHLS position. In terms of the timing, whilst I accept that the appellant's evidence was configured to align with the Council's April 2021 5YHLS position a short while before the hearing, and was submitted during discussions between the parties on the SoCG, the information is largely similar to that presented in the appellant's original case based on the April 2020 position, which was in the Council's possession for a substantial period of time; a period which should have been sufficient to allow for the production of an evidence basis for defence of its case.
25. The consequence is, that, specifically in relation to this appeal, I can only concur with the appellant in relation to the 5YHLS position at April 2021. The Council sought to introduce an update to the April 2021 5YHLS statement in mid-December, after the close of the hearing, having presumably resolved the issue of commercial confidentiality, but this was declined because it would necessitate reopening of the hearing to allow examination of the additional evidence. However, that the Council sought to introduce this after the event reaffirms my view that it was absent from the appeal evidence. It also gives rise to doubt that my 5YHLS finding would hold true beyond this appeal should the Council present said evidence in a comprehensive and timely manner in response to a similar challenge. Nevertheless, my view based on the evidence available to me is that the appellant's 5YHLS supply position at April 2021, of 3.08 years' worth, is the more reliable basis for decision making.
26. Returning to the potential outdatedness of the policies as a side matter, despite healthy delivery rates in 2019 and 2020, the 2021 HDT outcome, which triggers the production of an Action Plan, does start to bring the longer-term suitability of the Policies into focus. However, the reasons behind under-delivery, ways to reduce the risk of further declining delivery and measures for improvement should be detailed in the Action Plan. As I have found the most relevant policies to be out-of-date based on the absence of a 5YHLS³ in this case, an assessment of the outdatedness of the policies could not yield an alternative outcome in any event. Therefore, the pertinent conclusion that I have reached is that the Council is unable to demonstrate a five year supply of housing land, contrary to the provisions of the Framework.

Walking and cycling permeability

27. The development of the site is proposed with only a single vehicular and pedestrian access point, via the B3344, effectively creating a large cul-de-sac.
28. The creation of a link through to Teign View would assist in providing options to pedestrians and cyclists from the development, and vice versa, to access alternative routes to local facilities and to facilitate social integration. Such a

² Housing and Economic Land Availability Assessment

³ As directed by Framework, paragraph 11 d)

connection would potentially offer a route along quieter roads for school journeys and into the village centre. Though the difference in journey times is disputed, and even if the longer journeys would be well within an acceptable range, I consider that the provision of an alternative link should be made in the interests of permeability and good design.

29. During the hearing, a condition was offered by the appellant to provide a pedestrian and cycle link to Teign View, with one location offered as being potentially suitable for such. Whilst limited details were offered in this regard, and cognisant of the principles established in Wheatcroft⁴, there appears to be a means to provide a connection and, given the outline nature of the scheme, the opportunity to do so has not been missed. Consequently, I consider that requiring a link by condition would be reasonable, and anticipate that the design of such will also need to consider the mitigation measures required for the protection of bats, given the site's location within proximity of the SAC.
30. Given the opportunity that exists to enhance the permeability of the scheme by way of planning condition, the proposal can achieve compliance with, in particular, Policy S2 of the LP which seeks to create places that are easy to navigate, whilst promoting health, well-being, community cohesion and safety.

Density

31. The Council indicated that the village of Chudleigh Knighton has a gross density of around 31 dwellings per hectare (dph), which includes the land take for the main road through it. Whilst the Council indicated that the density of the scheme would be in the region of 14.6 dph, the appellant provides the figure of 25 dph, based on a reduced net developable area of 2.7 hectares.
32. I agree, based on the submitted indicative masterplan, that the density of the scheme would be lower than that of the existing built form of the village, which has pockets of relatively high density housing, particularly at Teign View, which borders the western edge of the site. The proposed density would appear lower than 25 dph and would more closely resemble the peripheral linear arrangement of housing that tapers out towards the edges of the settlement.
33. I have taken into account the desire for lower building heights in the rearward field forming part of the site to minimise the visual impact, which will likely have the effect of increasing the associated footprint sizes of dwellings. Added to this would be the need for the development to incorporate significant bat mitigation measures, particularly around hedgerows, which would also suppress the density, along with the large areas of open and play space which the development is required to incorporate. Furthermore, the scale of the site as a whole and its edge-of-settlement location also suggest that a more tapered form of development would create a softer transition between the urban form and rural landscape.
34. Whilst I note the concerns about the inefficiency of the use of land, the Council would have the role of ensuring an acceptable mix of housing is secured with due regard to the site constraints at the detailed application stages. So, whilst the truer density calculations are not strictly known at this stage, on the face of the evidence before me, I cannot assume that driving an increased basic density ratio would be sure to result in better planning outcomes for the area.

⁴ Wheatcroft Ltd V SSE [1982]

35. As such, the proposal complies with LP Policy S2, which, amongst other things, seeks to ensure development is specific to the place, based on a clear process which analyses and response to the characteristics of the site and its wider context, whilst also making the most effective use of land.

South Hams Special Area of Conservation (SAC)

36. The SAC is designated under the Habitats Regulations⁵ for its population of Greater Horseshoe Bats (GHBs). The site is approximately 0.46km southeast of the SAC boundary, but approximately 1.7km from the SAC's notable 'Chudleigh Roost'. All of the site is within the Sustainment Zone linked to the SAC.
37. The proposal is made in outline form and it was clear that prior to submission of the appeal, the appellant and Council were in dispute about what level of information and detail on mitigation measures would be necessary to allow for sufficient certainty to be reached in the application of the Appropriate Assessment (AA) process under the Habitats Regulations.
38. Bat survey efforts, confirmed by Natural England to be acceptable, have identified the baseline level of use of the site by GHBs. The site is not considered to be of particular importance, other than as an area of landscape that GHBs fly over whilst foraging and commuting elsewhere without a specific pattern of use other than close to hedgerows as navigational features. In light of this, the site is generally considered to be sub-optimal in terms of GHB usage when considered against the SAC Guidance⁶. The hedgerows, whilst the most valuable landscape features on the site for GHBs, are also compromised to some extent by the levels of lighting to which they are already exposed by existing adjacent development.
39. Owing to the findings, significant effects from the proposal were considered likely, considered alone or in combination with other similar schemes within the area. Following on from extended discussions on the level of detail required for the AA, the appellant produced a Baseline Lighting assessment (Illume Design. 2021a), a Lighting Strategy (Illume Design. 2021b), an Avoidance and Mitigation Strategy, and later, a Shadow Appropriate Assessment.
40. As part of the AA process, I have taken account of the Council's residual concerns about the mitigation proposed in relation to the outline proposal and its likely effectiveness. In my view, the site size is sufficiently generous to enable the mitigation measures to be designed to be effective. There is adequate information to provide certainty that the detailed proposals, if undertaken in line with the indicative layouts and submitted mitigation measures, will avoid any harm to the integrity of the SAC, and rather, will provide enhanced provisions for GHBs closer to the SAC itself. The mitigation measures can be comprehensively secured by a combination of conditions and the completed S106 planning obligation.
41. The conditions would secure the Avoidance Mitigation Strategy Plan and Lighting Strategy; a construction environmental management plan (CEMP); a landscape and ecological management plan (LEMP); a phasing plan condition – to include for delivery of biodiversity mitigation works; a design code which also seeks to secure details of the design of dark corridors as a means of

⁵ The Conservation of Habitats and Species Regulations 2017

⁶ South Hams SAC Steering Group - South Hams Special Area of Conservation (SAC) Greater Horseshoe Bats. Habitats Regulations Assessment Guidance (2019)

mitigation; full details of landscaping shown indicatively within the Avoidance Mitigation Strategy Plan; and removal of permitted development rights and prohibiting lighting with specific relevance to bats.

42. The completed UU, a planning obligation under S106 of the Act, requires the provision of the bat mitigation land within the blue line area and provisions for its ownership and maintenance in perpetuity, the latter of which is to be agreed with the Council.
43. With these mitigation measures capable of being comprehensively and robustly secured, and having sought further advice from Natural England as the Statutory Nature Conservation Body for this purpose, I conclude that the development could proceed without harm to the integrity to the South Hams SAC. It therefore complies with the Habitats Regs and Policies S22, WE11, EN8, EN9, EN10 and EN11 of the LP.

Integration of affordable housing

44. The outline proposal provides for 30% of the circa 60 dwellings as affordable dwellings and broadly sets out within the documentation that this 30% will comprise a mix of 2 and 3 bed bungalows and 2, 3 and 4 bed houses. The tenures proposed include affordable rented and intermediate affordable dwellings.
45. LP Policy WE4 and the associated Affordable Housing SPD⁷ seek to ensure the creation of inclusive, mixed communities, with the tenures intermixed within the site, avoiding concentrations of affordable housing within any part of a site. Owing to this, the Council's contention is that the UU only provides for two clusters of up to 9 affordable dwellings in each (related to the two notional phases of development outlined in the submitted Phasing Plan; one per field).
46. Given the scale of the scheme, I agree that if it was to come forward with only two highly concentrated areas of affordable housing then it would likely conflict with Policy WE4 and the guidance within the Affordable Housing SPD, as a far greater integration is likely to be achievable. But, despite the wording of the UU to prevent clusters of 'no more than 9' forming part of the detailed scheme, there is clearly flexibility to secure a higher number of smaller clusters.
47. For the purposes of simply dividing the apportion of affordable dwellings between the two logical phases of delivery, I consider the use of the term 'no more than 9' within the UU sufficiently clear and understandable, but I do not consider that it prevents the Council from seeking a more ambitious degree of intermixing and inclusivity within the detailed scheme/s to better accord with its Policy and guidance. This aspect is more appropriately considered at the detailed stages, but the basic terms of the UU do not infer accepted cluster sizes of specifically 9 dwellings within each respective phase.

Custom and self-build housing

48. Policy WE7 of the LP refers to 'custom build dwellings' which in the UU are referred to as 'self-build dwellings' and/or 'self-build plots'. The Council's Policy requires that on sites of more than 20 dwellings, 5% of dwellings shall be made available for those wishing to build or commission their own homes. The UU

⁷ Affordable Housing Supplementary Planning Document (SPD) (Draft, July 2015)

- provides for 5% of the total number of dwellings as self-build plots, the location of which would be specified within the reserved matters applications.
49. In the UU, no more than 50% of the open market dwellings are to be occupied until all of the self-build plots have been serviced. A period of 12 months is specified as the duration over which the marketing of the self-build plots shall be undertaken. Following the end of that period, if the plots are not purchased, the self-build plots are to be offered for a further period of 4 months to the Council and an Affordable Housing Provider at open market value. Should those offers not result in disposal of the plots, the restrictions and obligations on the respective plots would fall away.
50. The Council is concerned that the drafting of the UU is inconsistent with its Custom and Self-Build Housing SPD (2016) (the SPD), that the means of marketing is unclear and that the developer could make the location of the plots less attractive for their intended purposes. Annex B of the SPD sets out a draft form of wording for inclusion within S106 obligations which involve the provision of custom and self-build housing.
51. Insofar as the marketing period is concerned, the 12 months set out in the UU is that also required by the SPD and so I find no inconsistency there. What is less clear is when the marketing of the self-build plots should formally begin as per the UU, whereas the SPD sets out that the required 12 month marketing period should only begin from the date of the plot/s having been serviced.
52. The other area where the UU differs from the draft form of wording sought by the Council is in relation to the agreement of a marketing strategy. The UU does not provide for this at all, but the SPD envisages that before the plots are ultimately released from the obligations, that it has the necessary information to be sure that they have been marketed appropriately, i.e. proactively, on a range of databases and accommodating of requests for viewings.
53. The SPD also states that beyond the minimum marketing period, the unsold plots may remain on the market as Self Build plots, be offered for purchase to the Council or partner Housing Associations, or be built out by the landowner. In this sense, what the UU provides for is what is specified by the SPD, although a timeframe of four months has been applied. I do not consider that four months is an unreasonably short period, but rather consider it sufficiently long enough to enable either the Council or another provider to be responsive to the situation and work towards delivery of the respective dwellings.
54. There is no requirement set out in the Policy or SPD for the developer to deliver any alternative form of housing on the self-build plots should there be an absence of demand. As such, I do not consider it necessary or reasonable to stipulate such requirements in this case. My concerns relate specifically only to the absence of clarity about the means of marketing and implications if less than proactive means of such were employed.
55. In view of the above, I regard that whilst the proposal technically complies with the basic requirements of LP Policy WE7, it does fall short of the more comprehensive requirements for marketing and agreement to the release of the obligations as set out in the Custom and Self-Build Housing SPD.

Other Matters

56. I have considered the submitted representations from interested parties and took account of views expressed at the hearing that the low number of representations stems from a feeling of 'consultation fatigue' amongst local residents, rather than an acceptance that the site should be developed. I also note the suggestions that the appellant's own community consultation efforts were lacking, which whilst regrettable, has not affected the consideration of the proposal on its own merits.
57. The Parish Council submitted its stakeholder responses to suggest that the appeal site would be consider preferable to the alternative site within the village, but the number of 31 houses would be the most that it could support on a rural exceptions basis. Whilst I note the scale of the development and extent of the site in relation to the size of the existing village, I do not consider that circa 60 dwellings should be considered out of scale or excessive.
58. I note the suggestion that the proposal would be 'generic' or result in another soulless development, devoid of a sense of community. The resultant form and quality of the development would be determined at the reserved matters stage. It would, however, contain areas of public open space that could be used by the existing community, and I regard a condition to add another link to the village as necessary to better integrate the development therewith. Whilst I cannot be certain that the required open space will allow for teenage activities and ball games, it would meet the standards required by the Council's own policies in relation to such.
59. I have considered comments in relation to the lack of space for the expansion of the school, but note the comments from the County Council in relation to the available capacity within the local schools to cater for children that may become future residents of the village.
60. I note the agreement between the parties in the SoCG on other matters including landscape and character effects, highways, and drainage, requiring conditions or consideration at reserved matters stage where necessary. I have found no reason to disagree with the findings in these regards.

Planning Conditions and UU

Conditions

61. I have considered the suggested conditions in light of the Framework and Planning Practice Guidance. Some conditions have been amended and amalgamated for elimination of duplication, clarity, and to accord with the relevant guidance or views offered by relevant consultees, i.e. Natural England.
62. Standard conditions are required on the approval of the reserved matters and on the commencement of development. Further conditions are required to ensure that the submission of reserved matters and later details comply with the agreed parameters.
63. In the interest of clarity, the precise matters permitted by the planning permission is set out. A condition confirming the approved plans is needed to define the site and is reasonable in the interests of proper planning.

64. Whilst it was put to me that a condition could limit the development to a maximum of 60 dwellings rather than circa 60, no compelling need to do so was justified by either party. Therefore, no such condition has been imposed.
65. In the interests of proper planning, a phasing plan is required to ensure the manageability of both the agreement of the reserved matters proposals and their implementation, inclusive of the custom build plots.
66. To secure a consistency in the high quality of the design across all phases, a condition is necessary to secure the submission of a Design Code.
67. For environmental reasons and to ensure the development performs satisfactorily against Policy EN3 of the LP, a condition is necessary to secure a carbon reduction plan and subsequent compliance therewith.
68. In order to secure an adequate quality of development, a condition is necessary to work alongside the required Design Code and completed UU to secure the necessary areas of green open space, equipped play space and other elements of green infrastructure.
69. In the interests of protecting the quality of the environment, a condition relating to the provision of sustainable surface and ground water drainage (SUDS) is deemed necessary to ensure adequate infrastructure is provided.
70. Given the ecological sensitivities of the site in the context of the nearby SAC, a condition requiring the full landscaping detail for the mitigation measures is necessary. Similarly, full details of the lighting scheme to be implemented are necessary by way of condition.
71. Conditions securing CEMPs are necessary to ensure that the amenity of occupiers of surrounding premises are not adversely affected by dust, noise and to most efficiently route construction traffic to minimise impacts on highway safety and the free flow of traffic, and to protect the ecological sensitivities of the development site.
72. In the interests of human health, the site's current agricultural use warrants investigation into possible contamination and remedial measures, if found.
73. In the interests of long-term environmental quality and protection of biodiversity interests, a condition requiring submission and subsequent adherence to an approved LEMP is necessary.
74. In the interests of minimising waste and the negative effects of the development on the environment, a waste audit statement is necessary for each respective phase of the development.
75. In the interests of maintaining a safe and effective highway network, full details of the site access, associated works within the existing highway, and internal site road layout and design are required by way of condition prior to their construction.
76. In the interests of providing a safe and effective highway, full details of the highway layout and associated design are required prior to construction.
77. In the interests of future-proofing the development and securing carbon reduction measures, a condition requiring the provision of electric vehicle charging points is necessary. I do not regard the potential duplication with

Building Regulations as an adequate reason to avoid imposing the condition as there can be no certainty that the respective regimes would require the same, or a higher standard than is otherwise sought under Policy S9 of the LP.

78. Lastly, in the interests of protecting the integrity of the SAC, conditions are necessary to remove certain specified permitted development rights for wind turbines and for householder alterations within the ecologically sensitive areas.

Unilateral Undertaking

79. A completed Unilateral Undertaking (UU) was submitted and contains a range of provisions, as set out below.

- 30% affordable housing, including provisions for timing of delivery, tenures, local qualifying connection criteria, clustering and subsequent occupations. The justification for these obligations lies within LP Policies S4, WE2, WE3 and WE4.
- A contribution towards travel planning, in order to promote or facilitate journeys by means other than by private vehicle and maximise the use of sustainable modes of transport. The justification for this obligation is set out in LP Policies S1 and S9.
- A contribution towards the costs of transporting secondary school-age pupils to Teign School in light of the site's distance therefrom. The justification for this obligation is provided by LP Policies S1, S5 and S9.
- The provision of the biodiversity land and its future management is required as detailed in the AA to preserve the integrity of the SAC under the Habitats Regulations and Policies S22, WE11, EN8, EN9, EN10 and EN11.
- The provision of public open space, including equipped areas of play of specified sizes, types and to meet the different needs of groups in the community is required by LP Policies S2, S5 and WE11.
- The provision of 5% of dwellings in the form of plots for custom build housing to help meet the needs of those in the community wishing to build or commission their own homes is a requirement of LP Policy WE7.

80. All of the above provisions in the UU are necessary, in order to make the development acceptable taking into account the terms of the submitted CIL Compliance Statements and with reference to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs), as amended.

NHS Foundation Trust Contribution

81. A planning obligation has been sought by the Torbay and South Devon NHS Foundation Trust (FT) to mitigate the short-term impact of the additional residents on healthcare services in the area, amounting to £42,824 for 60 dwellings, sought in full prior to commencement. The contribution amount appears to be based on a number of factors including: cost of provision, the likely increase in population, and the demand that would be expected to be placed by residents on the service in the first year in an area where the provision of acute and planned healthcare is currently operating at full capacity.
82. The development is not allocated in the LP and therefore, the potential population increase has not been accounted for in any forecasts for NHS

funding. In fact, much of the issue appears to relate to the need to contribute towards cost of providing capacity for the FT to maintain service delivery during the first year of occupation of each unit of the accommodation within the development, until the centralised NHS funding streams catch up.

83. The appellant has provided for an obligation within the UU to cover the requirements of the FT. The obligation is subject to clause 4.2 which introduces conditionality. The obligation will only be enforceable in the event that it is considered to meet the tests of Regulation 122 of the CIL Regs.
84. Two recent appeal decisions have been provided in respect of this issue, including one relating to an allocated site within the same LP area⁸. Following a request for comments on one of the appeal decisions (provided after the hearing), the Council responded that it would be more reasonable to expect the technical arrangements to be addressed through proper application of the NHS funding process, rather than dedicating considerable developer contributions towards short term service provision. Notwithstanding this view, the Council also provided evidence from 2017 that the majority of new homes in the area are purchased for occupation by residents already local to the area and that a similar trend is observed in relation to secondary market sales. This evidence, albeit limited, suggests that approximately 70 per cent of homes (new and resales) are purchased by people moving elsewhere from within the FT area. In light of this, were the obligation to be considered acceptable, the Council suggest a factor of 0.30 may be appropriate to better relate the likely number of *new* residents to the area not already placing demands on the FT.
85. I accept that the formula offered by the FT is intended to link the demand created by this unallocated development to the cost of provision of planned and acute healthcare services, even though it may not be intended to physically expand capacity at the affected practices. However, what is less clear is how many genuinely *additional* residents to the FT area would be created by a scheme of circa 60 dwellings (rather than an exact known number at this stage), 30% of which would be affordable housing and thus, specifically occupied by residents already within the area. In the absence of such evidence, I cannot be certain that the requested obligation would be fairly related in scale and kind to the development. Furthermore, I do not have sufficient evidence to assume that applying a factor of 0.30 would necessarily result in a more appropriately-scaled contribution.
86. As I am incapable of seeking an obligation which I cannot be sure is fairly related in scale and kind to the development, the obligation fails to meet the tests in the CIL Regulations and therefore, falls away.

Planning Balance and Conclusion

87. In respect of its location outside of the settlement, its scale, and its market housing emphasis, the development conflicts with LP Policies S4, S21, S21A and S22 of the LP, and therefore with the LP when considered as a whole.
88. The Framework sets out the application of the 'tilted balance' in paragraph 11 d), stating that where the relevant development plan policies are out-of-date, permission should be granted unless either the application of specific policies of the Framework provide a clear reason for refusing the development

⁸ Appeal Refs: APP/P1133/W/18/3205558 dated 3.06.20 and APP/Y1110/W/21/3270745 dated 6.12.21

- proposed, or where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
89. Owing to my finding that the Council cannot demonstrate an adequate five year supply of deliverable housing sites, the most relevant policies specific to the delivery of housing, i.e. LP Policies S4, S21, S21A and S22, are considered to be out-of-date as per the Framework, and the tilted balance is engaged for the purposes of this appeal.
90. Whilst the SAC is a protected area and there are Framework policies that afford it specific protection that could direct me towards a dismissal, this is not so for this development. As competent authority in this regard, I consider that the development can proceed without adverse effects on the integrity of the protected site.
91. I have not identified any other adverse harm or conflicts with other policies of the LP, such as those relating to specific development management matters in relation to highways, character or density. The tension with the Custom and Self-Build Housing SPD in respect of the related UU obligations is the only other area where a degree of adverse harm has not otherwise been mitigated by condition or comprehensive provisions within the planning obligation.
92. The benefits of the proposal relate to the provision of c. 60 dwellings in an area where the lack of a five year housing land supply is the only conceivable conclusion based on the available evidence. The provision of affordable housing in an area of evidenced need is also a material benefit. Economic benefits from the construction phase would eventually be replaced by the economic benefits from introducing residents to the village, with their demands for goods and services available in the locality.
93. In view of the above, the benefits of the proposal are not outweighed by significant or demonstrable harms. As such, the tilted balance forms a consideration of such materiality to this case that it indicates that a decision should be taken other than in strict accordance with the development plan.
94. Consequently, the appeal is allowed.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Simon Collier	Collier Planning
Mr Richard Ayre	Baker Estates Ltd
Mr Julian Arthur	Tyler Grange
Ms Caroline Waller	Clarke Willmott Solicitors

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Douglass	Teignbridge District Council
Mr Stephen Carroll	Teignbridge District Council
Ms Anna Holloway	Teignbridge District Council
Ms Mary Ridgway	Teignbridge District Council
Ms Helen Williams	Teignbridge District Council
Ms Suzanne Walford	Teignbridge District Council
Ms Mary Elkington	Figura Planning

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1:	Signed unilateral undertaking
Document 2:	List of agreed suggested planning conditions
Document 2:	CIL compliance statement from TDC
Document 3:	Costs application from TDC

SCHEDULE OF CONDITIONS

- 1) The development hereby approved may be delivered in a phased manner in accordance with either the approved phasing plan reference 0719-1002 (Rev A) or an alternative phasing plan which is subsequently approved by the Local Planning Authority pursuant to condition 7, and as such reserved matters may be sought for each of the phases separately.
- 2) Details of the layout, scale, appearance and landscaping, including boundary treatments, (hereinafter called "the reserved matters") for each phase shall be submitted to and approved in writing by the Local Planning Authority before any development on the relevant phase begins, and the development shall thereafter be carried out as approved.
- 3) The first application for approval of reserved matters shall be made to the Local Planning Authority no later than 2 years from the date of this permission.
- 4) Application(s) for approval of all the reserved matters of the development hereby permitted shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission, except in the case of any phase which is agreed by the Local Planning Authority (through approval of an updated phasing plan pursuant to condition 7) as being for the provision of a custom build dwelling, in which case application(s) for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of 6 years from the date of this permission.
- 5) Development of each phase shall be begun before the expiry of 2 years from the date of approval of the final reserved matters for that phase.
- 6) Outline planning permission is hereby granted for circa 60 dwellings (including affordable housing and custom build), with details of access from the B3344 approved in full. The development hereby permitted shall be carried out in accordance with the following approved plans/reports/documents:
 - Proposed Site Access, ref 20056-SK01 Rev B dated 04.11.2020
 - Location Plan, ref 0719-101 Rev A dated 22.12.2020
 - Bat Mitigation, ref 11964_R09a Rev A, prepared by Tyler Grange dated 30 March 2021
 - Bat Avoidance and Mitigation Strategy, ref 11964/P16b dated March 2021
 - Lighting Strategy prepared by Illume Design, dated 30.03.21.
- 7) Prior to, or as part of the submission of the first reserved matters application, a detailed phasing plan covering the whole site shall be submitted to and approved in writing by the Local Planning Authority. Although the plan may contain further information (including sub-phases), the extent of the phases shall be in general accordance with the submitted Phasing Plan ref 0719-1002 Rev A dated 22.12.2020).

The phasing plan shall identify the plots for proposed custom build dwellings. The phasing plan shall also specify the proposed timing for biodiversity mitigation works to ensure that the Biodiversity Mitigation Land is functional (including completion of planting) before development

impacts occur, the delivery of the areas of public open space/green infrastructure, including all roads and pedestrian and cycle routes on each phase, as well as the construction programme for the housing (including self or custom build housing) and other built elements of the development, and illustrate how these would be delivered.

The development shall be implemented in accordance with the approved details.

- 8) Prior to, or as part of the submission of the first reserved matters application in relation to any phase of the development or open space, a Design Code for the relevant parts of the site shall be submitted to and approved in writing by the Local Planning Authority. The Design Code, which shall include Custom Build plots, shall include the following details:
- (a) The identification of "key character generators" that are drawn from distinctive character of the local area such as settlement form, building materials and details. This could include other site features, existing landscape or emerging elements of the masterplan;
 - (b) Character areas plan and set of principles for each area within the development;
 - (c) The proposed movement network delineating the primary, secondary and tertiary streets and pedestrian and cycleway connections, setting out the approach to estate design, treatment of non-vehicular routes and car and cycle parking;
 - (d) The proposed layout, use and function of all open space within the development;
 - (e) The approach to and design principles to apply to car parking;
 - (f) Phased layout principles to include urban structure, form and layout of the built environment, building heights (which shall not exceed the roof heights set out on submitted Building Heights Plan, ref 0719-1001 Rev A dated 22.12.2020 in the areas shown), densities, legibility, means of enclosure, key gateways, landmark buildings, key frontages and key groups;
 - (g) The design approach for areas within the public realm including landscaping and hard surface treatments, lighting, street trees, boundary treatments, street furniture and play equipment;
 - (h) Servicing, including utilities, design for the storage and collection of waste and recyclable materials;
 - (i) External materials, to include a palette of wall and roof finishes, windows, doors, porches, heads, cills, chimneys, eaves and verges and rainwater goods;
 - (j) The design principles that will be applied to the development to encourage security and community safety;
 - (l) The design principles for the incorporation of a Sustainable Urban Drainage System (SUDS) throughout the development; and,
 - (m) The location and accommodation of existing Greater Horseshoe Bat corridors and mitigation measures such as the 'green lane' dark corridors,

along with the creation of additional Greater Horseshoe Bat habitat with linkages to existing Greater Horseshoe Bat routes; and

(n) A safe and conveniently located pedestrian and cycle link from the proposed development to the adjacent development at Teign View.

The reserved matters and condition discharge applications shall thereafter accord with the approved Design Code.

- 9) Prior to, or as part of the submission of the first reserved matters application, a Carbon Reduction Plan (for the whole site) shall be submitted to and approved in writing by the Local Planning Authority. The Carbon Reduction Plan shall set out how the development will meet the requirements of policies S7 and EN3 of the adopted Teignbridge Local Plan. Each reserved matters application shall thereafter demonstrate its compliance with the approved Carbon Reduction Plan and the measures agreed shall be delivered in accordance with that approval.

- 10) A site-wide green infrastructure masterplan setting out how the following requirements will be met shall be submitted to and approved in writing by the Local Planning Authority either prior to the submission of, or with the first reserved matters application for layout:

- 10 sqm per dwelling of childrens' and young persons' space, plus,
- 100 sqm per dwelling of other forms of green infrastructure.

The masterplan shall detail the types of green infrastructure proposed and their areas, with cross references to the design approach set out in the Design Code. Following the approval in writing of the green infrastructure masterplan, the landscaping details set out in reserved matters applications for the relevant phase shall accord with the approved green infrastructure masterplan, and shall be implemented in accordance with the reserved matters approval.

- 11) Prior to, or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(a) Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.

(b) A detailed drainage design, including network model results, based upon the approved Flood Risk Assessment and Drainage Strategy for the Proposed Development At Tollgate Farm, Chudleigh Knighton, Ref 18.10.244 Rev 03, dated 26.01.2021 and the results of the information submitted in relation to (a) above.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site.

Prior to commencement of any phase of the development, the following information shall be submitted to and approved in writing by the Local Planning Authority:

(e) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby

permitted. The development shall thereafter be constructed in accordance with this approval.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

- 12) The reserved matters application(s) for landscaping for any phase of the development shall comply with the submitted Ecological Assessment ref 11964_R04b (dated 23 December 2020) and Bat Avoidance and Mitigation Strategy, ref 11964/P16b dated March 2021, and shall include a detailed package of ecological mitigation and enhancement measures, including (but not necessarily limited to) the following details:
- Full details of the proposed green lane / dark corridors / hedge bank / scrub proposals set out indicatively in the Bat Avoidance and Mitigation Strategy plan, ref 11964/P16b;
 - Full details of the proposed SuDs attenuation basin (with surrounding habitat);
 - New tree planting, including street trees;
 - New hedgerow planting details and full details of any works proposed to existing hedgerows;
 - Landscape treatment of proposed new access to the B3344;
 - Full details of the proposed publicly accessible open space (including 'children's and young persons play space') and other communal landscaping areas;
 - Full details of other habitat creation and connectivity measures, to include bird, bat, and dormice boxes, and measures for invertebrates and hedgehogs as set out in section 3 of the Ecological Assessment.

The works shall be carried out in accordance with the approved details prior to the first occupation of any dwelling in the relevant phase or in accordance with an alternative timetable where this has been agreed in writing in advance by the Local Planning Authority.

- 13) The reserved matters application(s) shall be accompanied by a full scheme of external lighting, in accordance with the Lighting Strategy prepared by Illume Design dated 30 March 2021, which shall be agreed in writing by the Local Planning Authority.

The scheme to be agreed shall ensure that a <0.5 lux illumination level is achievable within the dark corridors; shall include arrangements for monitoring light levels at site boundaries and within dark areas/corridors; details of heights, mounting, cowling, and lamp bulb details; a detailed dark areas/corridor map (plotted on a detail scheme layout) and contour lux modelling. The impact of house height, orientation and screening of roads and turning heads to retain darkness in corridors shall be considered, and measures to limit light spill from dwellings in sensitive parts of the site shall also be incorporated in the lighting proposals.

The agreed scheme, shall thereafter be implemented prior to the occupation of any dwelling hereby permitted and maintained as such thereafter.

Following the approval of lighting measures, and notwithstanding the provisions of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additional external light sources shall be installed on the site (including to individual dwellinghouses).

- 14) No development shall take place on any phase of the development until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority for that phase.

The CEMP: Biodiversity shall accord with the submitted Ecological Assessment, as well as with specifications in BS42020: Biodiversity and subsequent applications (and BS5837:2012 in respect of Trees and Hedgerows) and shall include the following:

- (a) Risk assessment of potentially damaging construction activities;
- (b) Identification of biodiversity protection zones;
- (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- (d) Measures to prevent encroachment into the greater horseshoe bat habitats during construction;
- (e) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs;
- (f) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the 'CEMP: Biodiversity', and the actions that will be undertaken;
- (g) Responsible persons and lines of communication; and,
- (h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

No development shall take place within an approved phase of the development hereby permitted until relevant ecological (including tree and hedgerow protection) measures have been implemented in accordance with the approved details. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 15) No phase of the development shall commence until a Construction Environmental Management Plan (CEMP) regarding the prevention of disturbance/nuisance caused by noise, vibration and dust to sensitive properties has been submitted to and approved in writing by the Local Planning Authority. The approved method statement shall be implemented on approval and complied with at all times. The approved Construction Environmental Management Plan (CEMP) may be reviewed and updated subject to approval by the Local Planning Authority.

The CEMP should note the anticipated sources of noise, vibration and dust and the respective control measures that will be implemented to minimise any impact on nearby residents. The document should include, but not limited to, the following:

- The identification of particularly intrusive construction practices, i.e. piling and the subsequent control measures that will be implemented;
- The type of plant to be used;
- The arrangements for movement and storage of construction materials and waste;
- An overview of the phasing of operations and the expected timescales for each aspect of construction;
- The layout of the site (including the location of any material stores, generators, pumps, silos, site office, staff car parks, etc.);
- Details of an appropriate site layout and system of work to prevent or reduce, as far as reasonably practicable, the need for vehicles to reverse and emit a warning noise; and
- The arrangements to be implemented for effective communication with the local community regarding forthcoming, potentially intrusive, works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 16) Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
- (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Local Planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
 - (k) details of wheel washing facilities and obligations;
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes;
 - (m) Details of the amount and location of construction worker parking;
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

The approved CMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 17) Unless otherwise agreed by the Local Planning Authority, development on any phase of the development other than that required to be carried out as part of an approved scheme of remediation shall not take place until sections 1 to 3 of this condition have been complied with in respect of that phase of the development. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until section 4 of this condition has been complied with in relation to that contamination.

Section 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced.

The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - adjoining land
 - groundwaters and surface waters
 - ecological systems
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Section 2. Submission of Remediation Scheme

A detailed remediation scheme 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 shall be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Section 3. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any phase of the development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in the replaced PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Section 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of section 1 of this condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of section 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with section 3.

- 18) No development shall take place on any phase of the development until a Landscape and Ecology Implementation and Management Plan (LEMP) relating to the development site and the land shown edged blue on the approved Location Plan, ref 0719-101 Rev A, dated 22.12.2020, has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall accord with the details approved pursuant to condition 11 (Landscaping Details for Ecological Mitigation and Enhancement) of this approval.

The content of the LEMP shall include the following:

- (a) Description and evaluation of features to be managed for the lifetime of the development, including 'dark corridors'.
- (b) Ecological trends and constraints on site that might influence management.
- (c) Aims and objectives of management.
- (d) Appropriate management options for achieving aims and objectives.
- (e) Prescriptions for management actions.
- (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward)
- (g) Details of the body or organization responsible for implementation of the plan.
- (h) Ongoing compliance monitoring protocols and review mechanisms to ensure LEMP and lighting requirements are met.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (in the event that the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The development will be implemented in accordance with the approved LEMP and maintained as such in perpetuity.

- 19) Prior to the commencement of the relevant phase of the development, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority (in consultation with Devon County Council as Waste Authority). The relevant phase of the development shall thereafter be carried out in accordance with the approved Waste Audit Statement.
- 20) The site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with approved Site Access plan ref 20056-SK01 Rev B dated 04.11.2020 where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.
- 21) No dwellings on the site shall be occupied until two new bus stops with bus boarders and relocated signage, and with footway widening in the Exeter direction, if required, have been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and shall be subject to the relevant technical approval process of the Highway Authority.
- 22) The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority. The development shall be completed in accordance with the approved details.
- 23) Electric Vehicle Charge points (or passive provision for high speed charging if agreed in writing by the Local Planning Authority) shall be installed at each dwelling prior to occupation of that dwelling in accordance with a scheme which shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of charging speed (7kW minimum is recommended but 22kW charging requiring 3-phase supply is encouraged), compatibility with different Electric Vehicles, mounting position and physical appearance.

The development shall be completed in accordance with the approved details.

- 24) Notwithstanding the provisions of Part 14, Classes H (installation or alteration etc of wind turbine on domestic premises) & I (installation or alteration etc of stand-alone wind turbine on domestic premises) of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no wind turbines shall be installed at the dwellings hereby approved without the grant of planning permission.
- 25) Notwithstanding the provisions of Classes A and E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the following works to dwellings in Phase 2 of the development as shown on the submitted Phasing Plan 0719-1002 Rev A (the northern half of the development) shall not be carried out without the grant of further specific planning permission from the Local Planning Authority.
 - Enlargement, improvement or other alteration of a dwellinghouse (Part 1 Class A)
 - (Construction of) buildings etc incidental to the enjoyment of a dwellinghouse (part 1 Class E)