
Appeal Decision

Inquiry held on 1 to 4 and 10 November 2022

Site visit made on 4 November 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2023

Appeal Ref: APP/X3540/W/22/3301868

Land west of Norwich Road, Halesworth, Suffolk

- 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 Cardinal Healthcare Properties Ltd against the decision of East Suffolk District Council.
 - The application Ref DC/21/3016/FUL, dated 21 June 2021, was refused by notice dated 1 June 2022.
 - An Assisted Living Development (Class C2) comprising; 80 Assisted Living Units, communal/health facilities, access, roadways, parking, open space and landscaping.
-

Decision

1. The appeal is allowed, and planning permission is granted for an Assisted Living Development (Class C2) comprising; 80 Assisted Living Units, communal/health facilities, access, roadways, parking, open space and landscaping at Land west of Norwich Road, Halesworth, Suffolk, in accordance with the terms of the application Ref DC/21/3016/FUL, dated 21 June 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The third reason for refusal is in relation to the effect of the proposal on local infrastructure in the absence of a completed s106 Planning Obligation. The relevant items of local infrastructure are:
 - a. delivery and management of open space and communal areas;
 - b. a care package and occupation restrictions;
 - c. contributions towards libraries, waste and passenger transport; and,
 - d. a contribution towards the Norfolk and Waveney Clinical Commissioning Group (the CCG).
3. The final s106 Planning Obligation, dated 17 November 2022 (the s106) partially responds to these concerns. It secures:
 - a commuted sum payment of £639,952 in lieu of affordable housing, subject to an early stage review;
 - the appointment of a Care Management Company to manage and maintain the development;

- the provision of landscaping including a permissive path and maintenance;
 - various factors to control the tenancy, eg care package and communal facilities, so that it would be an assisted living scheme within use class C2;
 - a contribution of £25,697.60 towards the Suffolk Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); and,
 - a monitoring fee of £1,124.
4. Items a. and b. are therefore secured. Suffolk County Council (SCC) has since confirmed that it does not require contributions towards public transport, waste or libraries¹. The National Health Service, through the Norfolk and Waveney Integrated Care System, has also confirmed that it does not require a contribution towards the CCG². Contributions towards items c. and d. are not therefore necessary.
5. The Council's CIL Compliance Statement sets out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (the CIL Regs) and the tests at paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken them into account. These items are not therefore a main issue for the appeal. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.
6. The second reason for refusal has two limbs: 1. whether or not the proposal can viably provide affordable housing, and 2. because the Council has a five year supply of housing land and the scheme is therefore not necessary to meet the overall supply of housing in the District, and because it does not have 'wider sustainability benefits' as set out in Policy WLP8.2, the proposal fails to make adequate provision for affordable housing irrespective of the conclusions on viability. In the lead-up to the Inquiry, the Council has instructed BNP Paribas to review the appellant's viability information. Following this, the Council and the appellant have agreed to a commuted sum payment in lieu of affordable housing. This is secured by the s106. The first limb of the Council's objection has therefore fallen away. The second limb, though, remains in dispute.
7. The fourth reason for refusal is regarding the effect of the proposal on the Benacre to Easton Bavents Special Protection Area (SPA), Minsmere to Walberswick SPA, Minsmere to Walberswick Special Area of Conservation (SAC), and Minsmere to Walberswick Ramsar sites. The s106 secures a payment towards the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). It is agreed between the main parties that this overcomes this objection and that, subject to the payment, the proposal would not have a likely significant adverse effect on the integrity of the sites. This is not therefore a disputed issue, although I am now the Competent Person with regard to assessing the effect of the proposal on the integrity of the sites, which I deal with as appropriate in my Decision.
8. A number of submissions were received during and after the Inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to,

¹ See letters dated 6 August 2022 and 21 September 2022 respectively (CD P01 and P02)

² See letter dated 29 September 2022 (CD ES4)

and necessary for, my Decision. I particularly note that after the Inquiry closed, a report by an Independent Examiner into the Halesworth Neighbourhood Plan 2021 to 2036 was issued and subsequently a successful referendum was held. A revised version of the plan was released, The Halesworth Neighbourhood Plan 2021 to 2036 Referendum Version February 2023 (the NP). In addition, a relevant appeal decision at Land of Yarmouth Road, Melton³ was issued after the Inquiry closed. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the additional documents.

Main Issues

9. The first reason for refusal and the second limb of the second reason for refusal remain in dispute. Therefore, the main issues are:
- whether or not the appeal site is an appropriate location for an assisted living development, having regard to local and national planning policy and guidance, in particular Policy WLP1.2 of the LP; and,
 - whether or not the proposal makes adequate provision for affordable housing, with particular regard to Policy WLP8.2 of the LP.

Reasons

Location

10. Apart from the access points, the appeal site lies outside the defined settlement boundary of Halesworth, as defined on the Proposals Map. It is therefore considered as the 'countryside' as defined by Policy WLP1.2 of the Waveney Local Plan, adopted 20 March 2019 (the LP). The policy explicitly restricts residential, employment and town centre development in the 'countryside' unless specific policies in the LP indicate otherwise. A footnote to the policy confirms that 'residential development' is that falling within use classes C3 and C4.
11. The proposal is for an Assisted Living Development falling within use class C2. This is a product closer to traditional, use class C3, residential development than other forms of elderly persons accommodation, such as a care home. However, this does not overcome the fundamental distinction between use classes C2 and C3 that is explicitly set out in the policy. I do not agree that the ordinary meaning of 'residential development' includes assisted living within use class C2. The requirement for care packages and communal facilities clearly moves the product away from traditional residential accommodation.
12. Policy WLP1.2 provides a very clearly written closed list of the types of development that should not be permitted in the 'countryside'. This is made clearer still because a caveat states that dwellings restricted by condition to be used as holiday lets are not counted as 'residential development', which is not directly relevant to the appeal proposal but does show that where the Council intended an exception to this list it has been explicitly written into the policy. It also shows that the Council, or the Local Plan Inspector, were aware that they had the option to include extra care housing as a particular sub-set of use class

³ Ref APP/X3540/W/21/3280740

C2 within the protections of the policy had they wished to do so. But they did not.

13. The supporting text to Policy WLP1.2 confirms that its purpose is to control and limit development to certain locations, and to provide clear signals to developers about where development can and cannot take place. It achieves this through its explicit, closed list of exceptions to countryside protection. Whether or not the distinction between extra care and 'normal' residential in the context of settlement boundary protection is arbitrary is not relevant – this is the distinction the policy clearly makes. It would obscure the clear signals if the interpretation of the policy were to change to include use classes not explicitly listed in the policy.
14. The LP's affordable housing policy includes some use class C2 development types within a wider housing definition. However, this is for the purpose of calculating affordable housing requirements and does not relate to the definition of 'residential development' elsewhere in the LP. Paragraph 8.7 of the LP, although relied upon by the Council for its case, specifically refers to use class C2 as 'specialist housing', in other words, not 'normal' residential development. Two strategic allocations refer to use class C2 as 'residential development' but this is in the context of the site specific guidance and is not intended, and could not reasonably be read as, influencing the LP's wider approach to the definition of 'residential development'.
15. Policy WLP1.2 is not intended to direct where development not captured by the restrictions should be provided. Such development can be considered on a case by case basis assessed against the rest of the Development Plan. An important aspect of this is Policy WLP1.1 of the LP, which sets the strategy for the distribution of residential development across the District. It should be read in tandem with Policy WLP1.2 and the interpretation of Policy WLP1.2 should not result in the significant skewering of the spatial distribution set out in Policy WLP1.1.
16. Policy WLP1.1 allocates 8% of residential development to the Halesworth and Holton area, comprising 762 dwellings. The proposal is for 80 extra care homes which, as agreed by the Council under cross-examination, would only move the dial from approximately 8% to approximately 9%, even allowing for the allocated site in Halesworth coming forward with extra care provision. I acknowledge the cumulative effect of allowing windfall development could have on the spatial strategy of the Development Plan is important. However, Policy WLP1.2 is fairly restrictive. It effectively prohibits all residential, employment and town centre windfall development in the countryside. I do not, therefore, view the principle of the proposal as undermining the overall spatial strategy.
17. The extra care sub-set of use class C2, which the appeal proposal falls within, is included within the Objectively Assessed Need (OAN) for housing, upon which the housing requirements for the LP are based. Other use class C2 accommodation, such as care homes, is not included within the OAN. There is therefore a discrepancy between the overall LP spatial strategy and approach to meeting its OAN and the exclusion of extra care housing, but not use class C3 housing, from the exception criteria set out in Policy WLP1.2. However, the Ipswich and Waveney Housing Market Assessment 2017 (SHMA 2017) only identifies a need for 164 extra care housing units within its overall OAN of

8,223 dwellings over the LP period. Therefore, any discrepancy has a very limited effect on the overall spatial strategy.

18. The overall spatial strategy for the District is a complex amalgamation of competing factors and considerations and the particular sub-set of use class C2 relevant to the appeal proposal forms a small part of these considerations. I do not view it as reasonable to effectively re-write an adopted, clearly written policy on the basis of a discrepancy with the approach to the OAN or references to the same type of development in different contexts within the LP. Policy must be applied sensibly and on the plain reading of its wording. To turn it around, it would not be reasonable to expect an applicant to read Policy WLP1.2 and interpret from its wording that use class C2 is not exempted from the countryside protections, even when reading the policy in its proper context and in the context of the LP as a whole.
19. The need for extra care accommodation and whether or not this is currently being met either in the District or in Halesworth was discussed at the Inquiry. However, this is not a relevant consideration. There is no policy basis for requiring that need be demonstrated. In addition, even on the Council's case, there is an acknowledged need for extra care housing of 129 homes. Whether or not the appeal site is sequentially preferable for assisted living/extra care development was discussed at the Inquiry. However, it is not necessary to demonstrate that the proposal is the best location for assisted living/extra care, rather that it is an acceptable location.
20. In this regard, as I have identified above, there is no conflict with the LP at a scale that would undermine its overall spatial distribution strategy. It is also common ground, and I agree, that there are no environmental or technical constraints that would prevent development of the appeal site for the proposal. The Council do not object on design or any other grounds, save for affordable housing which does not relate to locational considerations. It is common ground that the appeal site is in an accessible location with good access to services and facilities.
21. Therefore, for the reasons I have set out above, the proposal for a use class C2 development outside of a defined settlement boundary does not conflict with Policy WLP1.2 of the LP or the overall spatial strategy. The appeal site is, therefore, an appropriate location for an assisted living development.

Affordable housing

22. The s106 secures a commuted sum payment *in lieu* of affordable housing. It is common ground⁴ that this is the only viable approach because of the service charges associated with the proposed communal facilities and management. However, this payment equates to the provision of 10.65 dwellings, which is 13% of the proposed homes. Policy WLP8.2 of the LP states that 30% affordable housing should be provided. It is common ground that the proposal can only viably provide the payment secured in the s106. However, the policy states that in such circumstances ie where affordable housing provision falls below the policy standards, this will only be acceptable where the scheme has 'wider sustainability benefits'⁵.

⁴ Agreed by the Council under cross-examination

⁵ There is a further rider that a proposal is necessary to the overall supply of housing in the District but this is not an argument advanced by either main party and can therefore be disregarded for the purposes of this Decision

23. 'Wider sustainability benefits' is not defined in the policy. The LP defines 'sustainability' partly by cross-referring to the United National General Assembly definition and partly to the Framework. This is a planning appeal, and I view it as reasonable to turn to the Framework to help define this term. Paragraph 8 relates to 'sustainable development' and sets out that this includes economic, social and environmental objectives.
24. They must also be 'wider' sustainability benefits. In this regard, paragraph 8.16 of the LP, in the reasoned justification for Policy WLP8.2, states that the 'wider sustainability benefits' include long-term derelict sites or proposals for enabling development. Neither of these apply to the appeal site. However, this is not an exhaustive list, as is common ground between the main parties and clear from the wording of the paragraph. They do, though, strongly indicate that the 'wider' element of the sustainability benefits should apply to something that goes beyond normal benefits accruing from a proposal.
25. The proposal would result in a number of sustainability benefits, including the provision of public open space, a new cycle route and job creation, amongst others. The appeal site is also in an accessible location, directly adjacent to the existing built extent of Halesworth on three sides and well served by public transport. These are all important benefits of the proposal but they do not go beyond normal benefits applying to a proposal of this type. However, the proposal also secures:
- a biodiversity net gain of 39% for hedgerows and 16% for habitats overall, significantly in excess of the Framework⁶ requirement for 'a' net gain;
 - health and wellbeing benefits to the future occupants in comparison to living in existing, unsuitable accommodation, with the knock-on positive effects on the National Health Service through reduced demand for services⁷; and,
 - the freeing-up existing family-sized housing in the area. The 2011 Census shows that approximately half of the properties owned by persons aged over 65 have at least two spare bedrooms, some of which would likely be made available to the market when their residents move to the proposed extra care accommodation. This would thereby help to attract younger families to the town, which is one of the challenges for Halesworth as set out at paragraph 3.1 of the NP.
26. These benefits go beyond the proposal and the site itself, providing benefits for the wider community, public services and environment. They are therefore 'wider sustainability benefits'. These benefits should be weighed against the shortfall in affordable housing because the policy explicitly relates the benefits to the shortfall in affordable housing. The benefits relate to three important factors that fall squarely within the three objectives set out at paragraph 8 of the Framework, with biodiversity being an environmental objective, health and wellbeing a social objective, and freeing-up family-sized housing an economic and social objective. They are therefore weighty, relevant and outweigh the relatively modest shortfall in affordable housing of 17%. The proposal therefore makes adequate provision for affordable housing, in accordance with Policy WLP8.2 of the LP.

⁶ Paragraph 174

⁷ See also PPG Paragraph: 002 Reference ID: 63- 002-20190626

Other Matters

Appropriate Assessment

27. The appeal site falls within the Zone of Impact (ZoI) of the Benacre to Easton Barents SPA, Minsmere-Walberswick SPA and Ramsar, Minsmere to Walberswick Heaths and Marshes SAC, and Dew's Ponds SAC sites, all of which fall within the Suffolk Coast RAMS. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) indicates the requirement for an Appropriate Assessment (AA). As the Competent Authority, I have therefore undertaken an AA. A Shadow Habitats Regulations Assessment has been submitted, to which I have had regard as relevant in my AA.
28. The Suffolk Coast RAMS identifies that residential development, alone and in combination, will likely harm the conservation objectives of the sites as a result of disturbance to habitat from recreation from future occupants, and water pollution and nitrogen deposition from the occupation of the proposed development. Although the proposal is for assisted living/extra care dwellings, the product is aimed at residents capable of independent living and therefore they are likely to engage in recreation in the wider area, including the protected sites. I therefore consider that the effects of the proposed development, both on its own and in combination with other development projects, is such that it is likely to have significant effects on the integrity of the protected sites.
29. In relation to the protected sites within the Suffolk Coast RAMS, strategic solutions are proposed by Natural England (NE), focussed on making the sites more resilient to recreational pressures. A proportionate financial contribution has therefore been secured through the s106 towards these strategic measures. NE has confirmed that the contribution is acceptable. I am satisfied that the mitigation payment is required to avoid an adverse effect on the integrity of the sites by ensuring the in-combination effects of increased recreational pressure are appropriately mitigated. I am also satisfied that the planning obligation meets the tests set out in Regulation 122(2) of the CIL Regs and paragraph 56 of the Framework.
30. Overall, I conclude that, subject to the contribution secured in the s106, the proposal would likely have no adverse effect on the integrity of the protected sites.

Heritage

31. Adjacent to the south east corner of the appeal site is the grade II listed property, Wissett Place. This is a building constructed in the 18th century. The proposal would result in development of the currently open site to the rear of the property. However, the building primarily derives its significance from its inherent architectural detailing and quality. Its setting is already compromised by its location nearby to existing residential and commercial properties on the corner of Norwich Road and Old Station Road. As existing and proposed the boundary to the appeal site provides trees, which visually separate the property from the site and the proposal. I therefore conclude that there would be no harm to the architectural or historic significance of the listed building.

Interested parties

32. A number of letters of objection have been submitted. In addition, a local resident and a Ward Councillor spoke in opposition to the proposal at the inquiry. The objections raised various concerns in addition to those addressed above, in particular: Halesworth has relatively few services and facilities; there are two extant planning permissions for elderly persons accommodation in the area; the comments by the Secured by Design officer requested that the scheme be gated; light pollution; the desire in the Neighbourhood Plan to rebalance the age profile of the area and to encourage more younger people; effect on local infrastructure eg health services; harm to flora and fauna on the appeal site; harm to the character and appearance of the area including landscape harm; valuable greenfield buffer to the industrial area; cost of occupancy too high; lack of flexibility of using operators carers; and, an unallocated site.
33. I have taken all of these factors into consideration. Most are not in dispute between the main parties. Most were addressed in the Officer's Report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view.

Conditions

34. A condition schedule was agreed between the main parties which was then discussed at the Inquiry. I have considered this schedule and the discussion, and amended the conditions as appropriate and in the light of government guidance on the use of conditions in planning permissions.
35. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty. The Phasing Plan condition is necessary to frame the discharging of many of the other conditions by linking the submissions to the relevant phase of construction.
36. The visibility splay, construction junction, Construction Management Plan (CMP), estate roads and footpaths, new access and parking conditions are necessary to ensure an acceptable effect on highway safety and/or free-flow of traffic. The permitted development restriction condition is necessary to ensure access is maintained to the development including the proposed permissive path and public open space.
37. The materials, estate roads and footpaths, tree protection, hard and soft landscaping, carriageways and footways, parking, Landscape and Ecological Management Plan, fire hydrants, implementation of landscaping and permitted development restriction conditions are necessary to secure a high quality design and to protect the character and appearance of the area.
38. The Biodiversity Net Gain, CMP, Lighting Design Strategy, reptile mitigation, Construction Environment Management Plan: Biodiversity, tree protection, hard and soft landscaping, Landscape and Ecological Management Plan, Ecological Impact Assessment enhancement measures and implementation of landscaping conditions are necessary to protect and enhance biodiversity and ecology.
39. The CMP and Noise Assessment conditions are necessary to protect the living conditions of nearby occupiers. The Noise Assessment, carriageways and

footways and parking conditions are necessary to protect the living conditions of future occupiers of the proposal.

40. The Tier 2 Site Investigation, Remediation Method Statement, Remediation Method Statement completion, Validation Report and unexpected contamination conditions are necessary to ensure that land contamination is appropriately investigated and, where necessary, remediated. The Written Scheme of Investigation and Site Investigation and Post Investigation Assessment conditions are necessary to ensure an acceptable effect on archaeological heritage on the appeal site. The Surface Water Drainage Verification Report condition is necessary to ensure acceptable effects on surface water drainage from the proposal.
41. The electric vehicle charging points condition is necessary to ensure that suitable provision is made for more sustainable cars. The Building Regulations Approved Document S may not apply to the proposal because it is for use class C2 and cannot therefore be relied upon.
42. The Phasing Plan, visibility splays, construction access junction, materials and Biodiversity Gain Plan conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.
43. The Council requested a further condition regarding land contamination remediation. However, this is not necessary because the condition requiring an RMS ensures that any necessary remediation would be controlled.

Conclusion

44. The LP is relatively young, having been adopted in 2019. It provides a strategy for meeting and indeed exceeding the OAN for the area, which includes extra care housing, as is proposed as part of the appeal proposal. However, the proposal, despite being unallocated and within the countryside, does not conflict with the key spatial policy with regard to such development (Policy WLP1.2), or the overall spatial strategy as set out through Policy WLP1.1. The proposal also makes adequate provision for affordable housing through a mixture of a payment *in lieu* and the provision of a number of wider sustainability benefits.
45. I have therefore identified no conflict with either Policy WLP1.2 or Policy WLP8.2 and the proposal complies with the Development Plan when read as a whole. No material considerations have been identified that would indicate I should determine the appeal otherwise. The appeal is, therefore, allowed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robert Williams, of Counsel. He called:

Mark Aldridge	Housing Research and Analysis Lead, HDH Planning & Development Ltd
Andrea McMillan MRTPI	Planning Manager, East Suffolk Council (ESC)
Philip Perkin MRTPI	Principal Planner, ESC
Jacqui Bullen	Planning Lead Lawyer, ESC

FOR THE APPELLANT:

Morag Ellis KC. She called:

Kevin Coleman MRTPI	Director, Phase 2 Planning and Development Ltd
Tom Newcombe	Partner, Birketts
Jessamy Venables	Director, Carterwood
MRICS	

INTERESTED PERSONS:

John Parson	Local resident
Councillor Keith Greenberg	Ward Councillor, Halesworth Town Council
Alan Barnes	Local resident
Dr Saul Humphrey	Project Manager, Castle Meadow Care

ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

- 1 Opening Statement on behalf of the Appellant, by Morag Ellis KC, dated 27 October 2022
- 2 Opening on behalf of East Suffolk Council, by Robert Williams, dated 1 November 2022
- 3 Legal Submissions on behalf of East Suffolk Council: The proper interpretation of Policy WLP1.2-Settlement Boundaries, by Robert Williams, dated 1 November 2022
- 4 Permissive path information:
 - 4.1 - email from Ben Woolnough, dated 31 October 2022;
 - 4.2 - suggested condition in email from Ben Woolnough, dated 3 November 2022; and,
 - 4.3 - Highways for adoption / Permissive Paths drawing Ref HAL – BAC – ZZ – ZZ – DR – A – 0108 Rev C.
- 5 Supplementary Note to Proof of Evidence, by Andrea McMillan, dated 2 November 2022
- 6 Suggested Biodiversity Net Gain condition, in email by Kevin Coleman, dated 4 November 2022
- 7 Halesworth and Holton Inset Map – Waveney Local Plan, Adopted March 2019
- 8 Closing Submissions on behalf of East Suffolk Council, by Robert Williams, dated 10 November 2022
- 9 Closing Submissions on behalf of the Appellant, by Morag Ellis KC, dated 10 November 2022
- 10 Appeal Decision, dated 22 November 2022, for Land off Yarmouth Road, Melton, Woodbridge IP12 1QH Ref APP/X3540/W/21/3280740
- 11
 - 11.1 - Statement of Housing Land Supply as at 31 March 2022, published November 2022; and,
 - 11.2 - Statement of Housing Land Supply as at 31 March 2022 Appendices, published November 2022.
- 12 A report to East Suffolk Council of the Halesworth Neighbourhood Development Plan, by Andrew Ashcroft, dated 17 November 2022
- 13 Natural England Observations, dated 25 November 2022
- 14 Email from Kevin Coleman, dated 1 December 2022, on the Yarmouth Road Decision
- 15 Note on Yarmouth Road Decision, dated 5 December 2022, by East Suffolk Council
- 16 Halesworth Neighbourhood Plan Decision Statement, dated 16 December 2022, by East Suffolk Council
- 17 Halesworth Neighbourhood Plan 2021 to 2036 Referendum Version, dated February 2023

ANNEX C: SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: HAL-BAC-ZZ-ZZ-DR-A-0100; 0101-B; 0102; 0103-C; 0104-B; 0105-B; 0106-B; 0107-C; 0108-B; 0109-B; HAL-BAC-2B01-00-DR-A-0200; ZZ-DR-A-0201-B; HAL-BAC-2B02-00-DR-A-0202; ZZ-DR-A-0203-B; HAL-BAC-2B03-00-DR-A-0204; ZZ-DR-A-0205-B; HAL-BAC-3B01-00-DR-A-0206; ZZ-DR-A-0207-B; HAL-BAC-3B02-ZZ-DR-A-0208-B; HAL-BAC-TE1-ZZ-DR-A-0209; HAL-BAC-AL1-00-DR-A-0210-B; ZZ-DR-A-0211-B; HAL-BAC-AL2-00-DR-A-0212-B; ZZ-DR-A-0213-B; HAL-BAC-AL3-00-DR-A-0214-B; ZZ-DR-A-0215-B; HAL-BAC-AL4-00-DR-A-0216-B; ZZ-DR-A-0217-B; HAL-BAC-AL5-00-DR-A-0218-C; ZZ-DR-A-0219-B; HAL-BAC-AL6-00-DR-A-0220; ZZ-DR-A-0221; HAL-BAC-AP01-ZZ-DR-A-0222; 0223; 0224; HAL-BAC-AP02-ZZ-DR-A-0225; 0226; 0227; 27334ea -01 to 04; and, 66201711-SWE-ZZ-XX-DR-TP-0002-P05.

Pre-commencement

- 3) Prior to the commencement of development, a Phasing Plan showing the intended sequencing of development shall be submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to commencement of the development (apart from works for the purpose of constructing the relevant junction(s) but including delivery of materials for any further works), the new estate road junction(s) as shown on drawing Ref 66201711 MLM ZZ XX DR TP 0002 Rev 05 shall have been constructed. The junction(s) shall thereafter be maintained as required for construction of the development.
- 5) Prior to the commencement of development, a Biodiversity Gain Plan (BGP) shall be submitted to and approved in writing by the Local Planning Authority. The BGP shall set out the intended proposals for achieving the biodiversity net gains set out at paragraph 5.4.2 of the Interim Biodiversity Net Gain Report by Huckle Ecology dated May 2022, alongside a proposed Implementation Plan, including a Habitat Management and Monitoring Strategy. The BGP shall be implemented and thereafter maintained in accordance with the approved details and timetable.

Pre-commencement of a specific phase or part of the development

- 6) Before the access is first used, visibility splays shall have been provided as shown on Drawing Ref 66201711 MLM ZZ XX DR TP 0002 Rev 05. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the visibility splays. The visibility splays shall thereafter be retained in the specified form.
- 7) Prior to the commencement of the relevant phase of the development, a Construction Management Plan (CMP) relating to that phase shall be

submitted to and approved in writing by the Local Planning Authority. The CMP shall include, but is not limited to:

- a) parking and turning for vehicles of site personnel, operatives and visitors;
- b) loading and unloading of plant and materials;
- c) piling techniques (if applicable);
- d) storage of plant and materials;
- e) provision and use of wheel washing facilities or other measures to clean vehicles of mud and debris before accessing the public highway;
- f) programme of off-site and all associated works (such as utilities) including details of any traffic management necessary to undertake these works;
- g) site working and delivery times;
- h) a communications plan to inform local residents of the program of works;
- i) provision of boundary hoarding;
- j) details of proposed means of dust suppression through a Dust Management Plan;
- k) details of any lighting to be used;
- l) details of deliveries times to the site during construction phase;
- m) details of electric vehicle charging points and a travel plan for construction workers;
- n) a Construction Surface Water Management Plan detailing how surface water and storm water will be managed on the site during construction; and,
- o) monitoring and review mechanisms.

Construction of the development shall not be carried out other than in accordance with the approved CMP.

- 8) Prior to the commencement of the relevant phase of the development, details of the estate roads and footpaths relating to that phase (including levels, gradients, surfacing, lighting, traffic calming and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The roads and footpaths shall thereafter be constructed in accordance with the approved details.
- 9) Prior to the commencement of the relevant phase of the development (including any construction or removal of underground tanks and relic structures), a Tier 2 Site Investigation (T2 SI) for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The T2 SI shall be based upon the findings and recommendations in the submitted MLM Tier 1 report. The T2 SI must include, but is not limited to:
 - a) the locations and nature of sampling points (including logs with descriptions of the materials encountered) and justification for the sampling strategy;
 - b) explanation and justification for the analytical strategy;
 - c) a revised conceptual site model; and,
 - d) a revised assessment of the risks posed from contamination at the site to relevant receptors, including: human health, ground waters, surface waters, ecological systems and property (both existing and proposed).

All site investigations must be undertaken by a competent person and conform to current guidance and best practice, including BS8485:2015+A1:2019, BS 5930:2015+A1:2020; BS10175:2011+A2:2017 and Land Contamination Risk Management.

- 10) Prior to the commencement of the relevant phase of the development (including any construction or removal of underground tanks and relic structures), a detailed Remediation Method Statement (RMS) relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. The RMS must include, but is not limited to:
- a) details of all works to be undertaken including proposed methodologies, drawings and plans, materials, specifications and site management procedures;
 - b) an explanation, including justification, for the selection of the proposed remediation methodology(ies);
 - c) proposed remediation objectives and remediation criteria; and,
 - d) proposals for validating the remediation and, where appropriate, for future maintenance and monitoring.

The RMS must be prepared by a competent person and conform to current guidance and best practice, including BS8485:2015+A1:2019 and Land Contamination Risk Management.

- 11) Prior to the commencement of the relevant phase of the development (including any ground works or site clearance), a method statement for reptile mitigation in relation to that phase shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include, but is not limited to:
- a) purpose and objectives for the proposed works;
 - b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - c) extent and location of proposed works shown on appropriate scale maps and plans;
 - d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e) persons responsible for implementing the works;
 - f) initial aftercare and long-term maintenance (where relevant); and,
 - g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 12) Prior to the commencement of the relevant phase of the development (including any vegetation removal), a Construction Environmental Management Plan (CEMP: Biodiversity) for that phase, based on the measures set out at Section 7.7 of the EcIA shall be submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include, but is not limited to:
- a) risk assessment of potentially damaging construction activities;
 - b) identification of any "biodiversity protection zones" required;
 - 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) the location and timing of sensitive works to avoid harm to biodiversity features;
- e) the times during construction when specialist ecologists need to be present on site to oversee works;
- f) responsible persons and lines of communication;
- g) the role and responsibilities on site of an Ecological Clerk of Works or similarly competent person; and,
- h) use of protective fences, exclusion barriers and warning signs.

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

- 13) Prior to the commencement of the relevant phase of the development, a programme of archaeological work in relation to that phase shall have been implemented, in accordance with a Written Scheme of Investigation (WSI) which shall have previously been submitted to and approved in writing by the Local Planning Authority. The WSI shall include an assessment of significance and research questions, and include but not be limited to:
 - a) the programme and methodology of site investigation and recording;
 - b) the programme for post investigation assessment;
 - c) provision to be made for analysis of the site investigation and recording;
 - d) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e) provision to be made for archive deposition of the analysis and records of the site investigation; and,
 - f) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- 14) Prior to the commencement of the relevant phase of the development (including any materials, plant or machinery being brought onto the site), fencing to protect the existing trees as shown on drawing Ref LSDP 1649.01 Rev B that lie within or border that phase, shall have been erected. The protective fencing shall comply with BS.5837 and be retained throughout the period of construction of the relevant phase.
- 15) Prior to the construction of any building above ground floor slab level on the relevant phase of the development, details of all external facing and roofing materials for those buildings shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.
- 16) Prior to any works above ground floor slab level within the relevant phase of the development, a lighting design strategy for biodiversity for that phase shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include, but is not limited to:
 - a) identifying those areas/features and species on site that are particularly sensitive for biodiversity likely to be impacted by lighting and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and,
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be

lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

- 17) Prior to the installation of any external fixed plant or machinery, a Noise Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Noise Assessment shall include all proposed plant and machinery and be based on BS4142:2014. A rating level (LAeq) of at least 5dB below the typical background (LA90) should be achieved. Where the rating level cannot be achieved, the noise mitigation measures considered should be explained and the achievable noise level should be identified and justified. The development shall thereafter be constructed in accordance with the noise mitigation measures.
- 18) Within 3 months of commencement of the relevant phase of the development, precise details of a scheme of hard and soft landscape works for that phase (which shall include, but not be limited to: tree and shrub planting; grass; earthworks; driveway construction; parking areas; patios; hard surfaces; and other operations as appropriate) at a scale not less than 1:200, shall have been submitted to and approved in writing by the Local Planning Authority.

Pre-occupation

- 19) Prior to first occupation of the development, the new access shall have been laid out and completed in all respects in accordance with drawing Ref 66201711 MLM ZZ XX DR TP 0002 Rev 05. Thereafter it shall be retained in its approved form.
- 20) Prior to first occupation of the development, the Site Investigation and Post Investigation Assessment shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the WSI approved under Condition 13 and the provision made for analysis, publication and dissemination of results and archive deposition.
- 21) Prior to first occupation of the development, details of the location and design of 31 electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The approved charging points shall be implemented in accordance with the approved details and retained thereafter.
- 22) Prior to first occupation of each dwelling, the carriageways and footways serving that dwelling shall have been constructed to at least Binder course level or better in accordance with the approved details.
- 23) Prior to first occupation of the relevant phase of the development, the area(s) shown on the approved drawings for the purposes of loading, unloading, manoeuvring and parking of vehicles relating to that phase shall have been provided. Thereafter the area(s) shall be retained, maintained and used for no other purposes.
- 24) Prior to first occupation of the relevant phase of the development, the RMS approved under Condition 10 must be completed in its entirety for the relevant phase. The Local Planning Authority must be given two

weeks written notification prior to the commencement of the remedial works.

- 25) Prior to first occupation of the relevant phase of the development, a validation report for the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The validation report must include, but is not limited to:
- a) results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met;
 - b) evidence that the RMS approved under Condition 10 has been carried out competently, effectively and in its entirety; and,
 - c) evidence that remediation has been effective and that, as a minimum, the site will not qualify as contaminated land as defined by Part 2A of the Environmental Protection Act 1990.

The validation report must be prepared by a competent person and conform to current guidance and best practice, including BS8485:2015+A1:2019, CIRIA C735 and Land Contamination Risk Management.

- 26) Prior to first occupation of the relevant phase of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include, but is not limited to:
- a) description and evaluation of features to be managed;
 - 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 over a five-year period);
 - g) details of the body or organisation responsible for implementation of the plan; and,
 - h) ongoing monitoring and remedial measures.

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 (where 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 approved LEMP shall be implemented in accordance with the approved details.

- 27) Prior to first occupation of the relevant phase of the development, details of fire hydrants to be installed relating to that phase, on a suitable route for laying hose i.e. avoiding obstructions, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to first occupation of the relevant phase of the development and retained in its approved form thereafter.

Post-occupation

- 28) Within 28 days of practical completion of the last dwelling or unit, a Surface Water Drainage Verification Report shall be submitted to the Local Planning Authority, detailing and verifying that the surface water drainage system has been inspected and has been built and functions in accordance with the approved designs and drawings. The Report shall include details of all SUDS components and piped networks for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.

For observation

- 29) In the event that contamination which has not already been identified is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority. An Investigation and Risk Assessment (IRA) must be completed in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. The IRA shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement or re-commencement of development (including any construction, removal of underground tanks and relic structures) in the relevant part of the site. The IRA must be undertaken by competent persons and conform with prevailing guidance, including BS8485:2015+A1:2019, BS 10175:2011+A2:2017 and Land Contamination Risk Management.
- 30) Development must be undertaken in accordance with the ecological enhancement measures identified within Section 7.8 of the Ecological Impact Assessment SWECO June 2021 (EcIA).
- 31) The approved landscaping scheme(s) shall be implemented in accordance with an agreed timetable to reflect the timing of the construction of the elements of the development that the landscaping is meant to serve and shall thereafter be retained and maintained for a period of at least 5 years. Any plant material removed, dying or becoming seriously damaged or diseased within 5 years of planting shall be replaced within the first available planting season.
- 32) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification), no walls, fences or gates of any kind shall be erected on the southern boundary of the application site where it meets Old Station Road or the part of the western boundary of application site from the rear boundary to No 68 Old Station Road extending northwards on the boundary with the public open space (to the west) or anywhere in the area of the permissive path in that vicinity where it would affect public access to the public open space.

===== END OF SCHEDULE =====