



## Appeal Decision

Inquiry held on 4, 5, 6 and 10-12 November 2015

Site visits made on 12 and 13 November 2015

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 January 2016**

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**Appeal Ref: APP/G2435/W/15/3005052**

**Land South of Greenhill Road, Coalville, Leicestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of North West Leicestershire District Council.
  - The application Ref 14/00614/OUTM, dated 27 June 2014, was refused by notice dated 4 November 2014.
  - The development proposed is described as 'Development of up to 180 dwellings, including a retail unit, access and associated infrastructure (outline-all matters reserved apart from part access) at Land South of Greenhill Road, Coalville Leicestershire'.
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### Decision

1. The appeal is allowed and planning permission is granted for a development of up to 180 dwellings, including a retail unit, access and associated infrastructure (outline – all matters reserved apart from part access) at Land South of Greenhill Road, Coalville, Leicestershire in accordance with the terms of the application, Ref 14/00614/OUTM, dated 27 June 2014, subject to the conditions set out in the Schedule attached to this decision.

### Preliminary Matters

2. The Council's decision notice listed 5 Reasons for Refusal (RFR). However, RFR3 (highways and transportation) and RFR4 (Air Quality) were not pursued at the Inquiry.
3. At the Inquiry a S106 Unilateral Planning Obligation (UU) was submitted by the Appellant. This addresses all of the requested off-site infrastructure contributions. The UU is signed and dated 11 November 2015 and is a material consideration in this case. I return to the UU later in this decision.

### Main Issues

4. In the light of the above I consider the main issues are:-
    - (i) whether the Council is able to demonstrate a five year supply of deliverable housing sites sufficient to meet the full objectively assessed need (FOAN) for housing;
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- (ii) the effect of the proposed development on the character and appearance of the area;
- (iii) whether the proposal comprises sustainable development; and
- (iv) whether the proposal makes adequate provision for mitigating any adverse impact it would have upon local services and infrastructure.

## **Reasons**

5. The appeal site is situated to the east of Coalville. It measures some 7.22 hectares and it comprises 4 fields, currently in agricultural use. These are traversed by dry stone walls, in varying states of repair.

## ***The development plan***

6. The development plan comprises the North West Leicestershire Local Plan 2002 (NWLLP), the Leicestershire Minerals Development Framework: Core Strategy and Development Control Policies up to 2021 and the Leicestershire and Leicester Waste Development Framework: Core Strategy and Development Control Policies up to 2021. The main parties agree that policies in the Leicestershire Minerals Development Framework and the Leicestershire Waste Development Framework are not relevant to this appeal proposal. The main parties agree that the emerging North West Leicestershire Local Plan carries limited weight.<sup>1</sup>
7. The weight to be attached to the policies in the development plan should be determined according to their degree of consistency with the National Planning Policy Framework (NPPF).<sup>2</sup> The policies of the NWLLP were formulated in the early 1990's in the context of the Leicestershire Structure Plan (SP) adopted in 1994 based on demographic evidence from the 1980's. The NWLLP was adopted in August 2002, with subsequent Alterations adopted in 2004 and 2005. In September 2007, the SoS issued a 'Saving Direction' with regard to various policies contained within the NWLLP. The NWLLP sets out the Council's land-use planning policies for 1991-2006. It is therefore time expired and significantly out of date.
8. The main parties agree that relevant policies for the supply of housing - Policies S1, S2, S3, H4 and H4/1 in the NWLLP - are out of date. It is also agreed that Policy E22 (Areas of Particularly Attractive Countryside) (APAC) is not a policy for the supply of housing. It follows that the settlement boundaries are significantly out of date, as they sought only to meet housing needs in the SP (1994), which has been revoked and replaced by another SP (2005) and RS (2009), which has itself been revoked. The NWLLP only sought to guide development to 2006.
9. The appeal site is outside the Limits to Development as defined in the NWLLP (Policy S2) and within an APAC (Policy E22). In the Council's view the proposal does not comply with Policy S3 of the NWLLP which sets out circumstances in which development outside of Limits to

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<sup>1</sup> INQ3 paragraph 5.1.4

<sup>2</sup> NPPF paragraph 215

Development would be acceptable. It is argued that Policy S3 is partly consistent with the NPPF. However, Policy S3 is out of date and inconsistent with paragraph 47 of the NPPF. It is intrinsically linked with Policy S2, it does not seek to boost significantly the supply of housing in NWL,<sup>3</sup> it does not add choice and competition in the market for land and it does not assist the Council in providing a realistic prospect of achieving the planned supply. In my view a housing policy which constrains new housing development to settlement boundaries formulated in the 1990's and which expired in 2006 cannot be consistent with the NPPF which seeks to boost the supply of housing in order to meet current objectively assessed needs. Further, Policy S3 seeks to protect the whole of the countryside rather than valued landscapes within it. It is therefore inconsistent with paragraph 109 of the NPPF.

10. Accordingly, it is clear that the policies relevant to the supply of housing are out of date and can be given very little weight. There is no suggestion that footnote 9 of the NPPF applies. The default position of paragraph 14 of the NPPF is therefore engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Paragraph 14 of the NPPF can also be engaged where there is the absence of a 5 year supply by applying paragraph 49 of the NPPF. I turn first to the housing need/land supply issue.

***Issue (i) Full objectively assessed need (FOAN)***

11. It is common ground that the Housing Market Area for assessment is the Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) with apportionment to NWL District; and the 5-year land supply period is 1 April 2015 to 31 March 2020.
12. The Council's position is that the SHMA (June 2014) assessed housing need across the HMA as required by the NPPF and the Planning Practice Guidance (PPG). It adopted the approach recommended in the PPG – starting with the latest demographic projections and official data, and then considered whether there was a case to adjust the assessment of housing to take account of trends/forecasts for employment growth and evidence from market signals to support improved affordability.
13. The Council's starting point was the 2012 based household projections released by DCLG in February 2015 and which project forward to 2037. In the 2011-31 period, the new projections show a need for 3,532 dwellings per annum (dpa) in the HMA with 262 of these being in NWL. These figures are agreed between the parties. In terms of migration and population change the Council makes no upward adjustment to the 2012 based SNPP starting point. It is argued that the 2012 household projections are robust and based upon nationally consistent assumptions. They broadly confirm the level of need set out in the SHMA. Moreover, it is the Council's case that there are no specific local circumstances that justify alternative assumptions such as the use of long term migration trends (PPG 2a-017).

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<sup>3</sup> North West Leicestershire

14. Whilst the use of long term trends is unobjectionable in principle, the Council says it would result in an inconsistent approach to the assessment of need across the HMA. Further, the Council maintains that the report on the examination of the Charnwood Local Plan in September 2015<sup>4</sup> provides an up to date and robust assessment of housing needs across the HMA.
15. As the rate of household formation amongst younger cohorts declined over the period 2001-2011 the Council therefore increased headship rates across the HMA using a blended rate (mid-point between 2008 and 2011 HFRs) resulting in an uplift in NWL to 284dpa. This accords with best practice set out in PAS<sup>5</sup> and was the approach adopted in the SHMA. However, no specific adjustment was made for past delivery and market signals. Market signals evidence indicated suppression of household formation between 2001 to 2011 and therefore adjustment for market signals was combined with that for headship rates.
16. PPG2a-018 requires an assessment to be made of the balance between job growth and working age population across the HMA. Where the working age population is lower than projected job growth the location of new housing should avoid unsustainable commuting patterns. The Council took account of the Experian (2013) forecast of future jobs. This indicated a need to uplift the HMA to 3,850 dpa (9% on the starting point) to secure a balance between jobs and the working age population. In NWL housing need rises to 372dpa if job growth is distributed between districts in proportion to the size of each district's workforce compared to the HMA as a whole.<sup>6</sup> This balances out past trends which are unlikely to continue into the forecast period and planned investment that will not be included in historic trends.
17. A consistent approach was used in the SHMA to derive figures for individual local authorities on a "policy off" basis. This resulted in a need for 285-350 dpa in NWL. The Council adopted the higher end of this range i.e. 350 dpa on an interim basis as the requirement against which 5-year land supply can be assessed which is an uplift of 34% in NWL on the starting point. The assessment specifically excludes strategic employments such as the MIRA Enterprise Zone and the East Midlands Gateway (EMG). In the Council's view a slightly more modest uplift in NWL to 350dpa is justified but a higher level of growth reflecting EMG<sup>7</sup>, would represent a "policy on" approach which is unnecessary.
18. In terms of housing land supply the Council has calculated the position at 1 April 2015. Housing completions in the previous 5 years were 1,892. Given the housing requirement during the same period was 1,788, this leaves a surplus of 104. In the case of an undersupply in housing the 'Sedgefield' methodology would be used. This requires the Council to front load any shortfall over the next 5 years rather than later in the plan period. However, in the Council's view there is currently no undersupply in housing. Therefore, the housing requirement over the next 5 years is  $350 \times 5 = 1,750$  dwellings.

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<sup>4</sup> JG Appendix 2

<sup>5</sup> Planning Advisory Service Objectively Assessed Need and Housing Targets - Technical advice note July 2015 paragraph 6.40

<sup>6</sup> CD9.4 page 97 Table 23

<sup>7</sup> East Midlands Gateway

19. It is common ground that NWL has a persistent under-delivery of housing and is a 20% authority in the context of paragraph 47 of the NPPF so a 20% buffer is added to the total housing requirement over the next 5 years until March 2020 (1,750) equating to 2,100 dwellings or 420 dpa. The total estimated housing completions 1 April 2015 to 31 March 2020 is 3,693 dwellings and applying a 10% discount to allow for the possibility of non-implementation results in projected completions 1 April 2015 to 31 March 2020 of 3,324. The Council claims that the housing land supply for the next 5 years is calculated at **7.91 years**.<sup>8</sup>
20. I cannot agree with this assessment for several reasons. First, the PPG confirms that *'establishing future need for housing is not an exact science – no single approach will provide a definitive answer'*. It goes on to clarify that *'Household projections ... should provide the starting point ...; plan makers should make an assessment of the likely change in job numbers ...; [and] the housing need number suggested by household projections should be adjusted to reflect appropriate market signals.'*<sup>9</sup>
21. Secondly, it is confirmed in the decision of Dove J's in Kings Lynn,<sup>10</sup> that there is no set FOAN methodology. Rather it involves a series of judgments which permit a range of possible outcomes. Judgment is required in respect of: (a) the interpretation and application of the empirical material available; (b) taking account of economic projections; and (c) whether an adjustment for market signals is required. The appropriate figure is for the judgment of the Council in the first instance, to be assessed by the Inspector in the light of the evidence.<sup>11</sup>
22. Thirdly, I must consider the Council's resolved position. Although limited weight can be attached to policies in the emerging Local Plan, weight can be given to the evidence base which underpins it including: the 2014 SHMA,<sup>12</sup> the PACEC Report<sup>13</sup> and the judgments which the Council has exercised in the light of those documents. Although the 2014 SHMA produced a range for NWL of 285-350 dpa, this is the view of the Council's consultant but it is not the resolved position of the Council.
23. Moreover, it was evident at the Charnwood EiP in January 2015 that NWL was considering a higher level of housing provision than set out in the 2014 SHMA. The issue was further debated at meetings of the Local Plan Advisory Committee (LPAC) in June 2015<sup>14</sup> and July 2015.<sup>15</sup> From those meetings it is clear that the LPAC was considering the FOAN as the proposed "housing requirement", that the PACEC Report was a robust basis for decision making and that the SHMA should be adjusted in order to accord with the economic forecast of PACEC. Plainly, the SHMA needed to be adjusted so that the emerging Local Plan was internally consistent and the FOAN was to be used as the housing requirement for the purposes of paragraph 47 of the NPPF. Although this was a deviation

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<sup>8</sup> AM proof at paragraph 6.2 and NWL10 Position Statement as amended

<sup>9</sup> PPG 2a-014 -2a-019

<sup>10</sup> JG Appendix 6 paragraph 34

<sup>11</sup> JG Appendix 6 paragraph 37

<sup>12</sup> CD9.4

<sup>13</sup> CD9.3 PACEC (Public and Corporate Economic Consultants) Leicester and Leicestershire HMA Employment Land Study January 2013

<sup>14</sup> CD8.4 and CD8.8

<sup>15</sup> CD8.5 and CD8.9

from the MoU<sup>16</sup> and further DtC<sup>17</sup> discussions were required, it was not anticipated that there would be any significant issues as a result with the FOAN at 10,700 or 535 dpa.

24. Fourthly, the FOAN was the subject of emails from other LPA's in August 2015, pursuant to the MoU. The content of those emails made it clear that there had been a deviation from the MoU and that a new SHMA was required.<sup>18</sup> In full knowledge of these emails, on 15th September 2015, the Council endorsed a FOAN of 535dpa noting the consideration of the LPAC. It was quite clear to the Council that this was a departure from the SHMA and would raise DtC issues.<sup>19</sup>
25. Fifthly, significant weight must be given to the Council's position on several matters: that the SHMA is **not** the FOAN; that the SHMA does not adequately address the PACEC economic forecast; that PACEC is a robust economic forecast, which should inform the FOAN; that the FOAN must include an allowance for EMG on top of PACEC; and the resolved position that the FOAN must be higher than 350 dpa whereas only limited weight can be attached to the Council's conclusion that the FOAN should be 535 dpa because the methodology is not robust.
26. In summary, it is clear that the SHMA is out of date and should be recalculated to take account of the latest economic projections; the housing requirement must be more than 350 dpa; the figure of 535 dpa has not been robustly derived; the Council does not have a robust position on what its housing requirement should be and thus the Council cannot demonstrate (on that basis) that it has a 5-year housing supply.
27. Accordingly, on the basis of the Council's case alone, I conclude that the Council's FOAN is 535 dpa, in which case there is **4.45** years supply;<sup>20</sup> or alternatively the Council does not have a FOAN, in which case it does not have a housing requirement and cannot demonstrate that it has a 5 year housing supply which was the position in the Fairford decision.<sup>21</sup>
28. The Appellant has submitted its own analysis of the FOAN which in my view is reasonable and robust. In the absence of any clarity on the Council's position it must be preferred. It demonstrates that for the purposes of this Inquiry the FOAN should be a mid-point of 637 dpa, resulting in a supply of **3.44 years**. The Appellant's starting position for the FOAN is the 2012 DCLG projections. Thereafter, there are differences with the Council but it is the economic forecasts which are central.
29. Firstly, I accept that the PPG allows for an adjustment to the household projection-based estimate of housing need (PPG 2a-015). I consider an adjustment to this is justified because of (i) worsening affordability and (ii) the level of concealed households. There cannot be any reasonable disagreement that there has been worsening affordability.<sup>22</sup> It is also appropriate to make an adjustment for concealed households, solely in the age group 25-44. The Appellant has used a blended approach which

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<sup>16</sup> Memorandum of Understanding

<sup>17</sup> Duty to Co-operate

<sup>18</sup> NWL2 at CD 13.5.5

<sup>19</sup> CD8.6 at paragraph 4.19 and 4.20

<sup>20</sup> CD13.12

<sup>21</sup> CD10.3

<sup>22</sup> JG Appendix 1 at Figure 7.6 (page 52), Fig 7.8 (page 51) and Table 7.2 (page 53)

is entirely in accordance with the PPG, PAS<sup>23</sup> and the Inspector's approach at Cornwall.<sup>24</sup> The 2012 rates may still embed some recessionary effect and on the basis of the evidence an adjustment of + 31dpa is required raising the annual need from 262 to 293 dpa.

30. Secondly, the PPG allows adjustment to household projections based on demographic trends including migration levels (PPG 2a-017). There can be no dispute that there has been a rapid growth in net migration in NWL in the last 5 years. The Appellant has used a 10 year trend to take a more stable long term view which I consider is not unreasonable given the recession has led to atypical net migration patterns in NWL. An adjustment of +39 dpa is required raising the cumulative average annual need from 293 dpa to 332dpa.
31. Thirdly, the PPG allows economic forecasts to be taken into account in the FOAN (PPG2a-018). This is also clear from PAS<sup>25</sup> and from the Council's own evidence from the express statements of the Head of Planning to the July and September meetings. The Council must take into account PACEC otherwise the emerging Local Plan is irreconcilably inconsistent and unsound. PACEC is relied upon by the Council and the Appellant as an economic forecast. As such it does not take into account EMG. Rather, EMG is assessed as a component of supply.<sup>26</sup>
32. PACEC projects growth of 505 jobs per annum in NWL over the period 2012 -2031. Applying the PACEC forecast ensures consistency with the emerging Local Plan, which has relied upon the level of job growth projected by PACEC plus an allowance for jobs created at EMG. Accounting for the additional jobs that the Council says would be created at EMG would increase projected job growth of 505 per annum to 844 per annum over the period 2012-2031. EMG is past the EIP<sup>27</sup> stage of the Development Consent Order. EMG is planned to be operational by 2017. Accordingly, an adjustment is required to the FOAN to take account of PACEC (+ 202dpa) and PACEC + economic forecast (+407dpa) raising the cumulative average annual need to 534 -739 dpa.
33. Fourthly, at 535-739 dpa I consider that no adjustment is required for market signals. However, at 350 dpa, an adjustment would be required on the basis of the evidence provided by the Appellant.<sup>28</sup> The Council's approach would not make any material impact on affordability. The SHMA should be revised to take account of the economic forecasts. On this basis, it cannot be relied upon as the FOAN and (thereby) the housing requirement. On the first issue I conclude that the Council is unable to demonstrate a 5-year supply of deliverable housing sites.

***Issue (ii) effect on character and appearance of the area***

34. In the Council's view the appeal site is outside the defined Limits to Development and the proposed development is not of a category which the NWLLP states would be permitted in the countryside contrary to

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<sup>23</sup> JG Appendix 10 paragraphs 6.36 to 6.43

<sup>24</sup> JG Appendix 14 paragraph 3.8

<sup>25</sup> Figure 4.1and paragraph 4.5

<sup>26</sup> CD9.3 table 4.91 and paragraph 4.9.9

<sup>27</sup> Examination in Public

<sup>28</sup> JD Appendix 1 page 13 and JD 6.61 to 6.64

Policy S3. The site also falls within an APAC. It is argued that the proposed development would adversely affect and diminish the present open character of the site and surrounding area and would also have significant adverse effects on the character of the surrounding rural landscape. The Council, supported by GRAG and local residents, considers the site and the area around it to be a valued landscape which the proposed development would serve to neither protect nor enhance it, in conflict with Policy E22 of the NWLLP.

35. However, it is noteworthy that RFR2 is a 'policy' based RFR and not one based on a technical assessment of the Appellant's LAVIA.<sup>29</sup> This raises doubts in my mind whether the Council has correctly applied Policy E22. The application of the policy in this way makes housing in principle unacceptable in the APAC. On the basis of the analysis of the Committee Report this is not the correct application of Policy E22.
36. Further, from the evidence that is before me, it is clear that Policy E22 is out of date and inconsistent with the NPPF. The APAC was designated after an appraisal in 1976 which no party has been able to find and there is no analysis of how the landscape value has changed since 1976. The NWLLP was adopted in 2002. The APAC was referred to in Policies SP3 and SP4 of the adopted SP (1994). However, the APAC designation was deleted from the revised SP (2005) and the draft Core Strategy (withdrawn in 2013) removed the APAC designation. The APAC has also been withdrawn from the Regulation 18 draft of the emerging Local Plan.
37. The APAC was deleted from the SP because of a concern over there being too many local designations. The reason for the concern was that such local designations "unduly restrict acceptable development and economic activity without identifying the particular features of the local countryside which need to be respected".<sup>30</sup> PPG7 required LPAs to rigorously consider the function and justification of local designations and ensure they are soundly based on formal assessment of the qualities of the countryside. This guidance is reflected in the current guidance in GLVIA.<sup>31</sup> Contrary to extant national guidance, the NWLLP did not produce any landscape character appraisal analysis to support the APAC designation. Rather, the 1976 designation was simply rolled forward. Accordingly, the adoption of the APAC did not accord with PPG7.
38. National policy has fundamentally changed since the NWLLP was adopted. The NWLLP reasoned justification refers to the need to protect the countryside "for its own sake". This was guidance in PPG7 and PPS7 which has now been revoked and replaced by the NPPF. Although the NPPF recognises "the intrinsic character and beauty of the countryside at paragraph 17, it only protects "valued landscapes" at paragraph 109.
39. I note that built development is acceptable under Policy E22 where "it is appropriate to the established character" of the APAC. However, the NWLLP does not provide any information on what comprises the established baseline character of the APAC. Policy E22 is inconsistent with paragraph 113 of the NPPF because it fails to provide any criteria

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<sup>29</sup> Landscape and Visual Impact Assessment

<sup>30</sup> CD6.4 paragraph 2.88 and CD 6.5 at paragraph 4.16

<sup>31</sup> JB Appendix 3 at paragraph 5.25 - GLVIA (3)



against which the development can be assessed. Moreover, the APAC is a very large area and it is not homogenous because landscape value varies across it. The APAC does not differentiate between such different landscape values. It certainly does not differentiate between "valued" and "non-valued" landscapes. Accordingly, Policy E22 is inconsistent with paragraph 109 of the NPPF. Policy E22 is therefore out of date and inconsistent with the NPPF. I consider little weight can be attached to Policy E22 and the APAC designation in terms of a "valued landscape".

40. In terms of its application, Policy E22 must be applied lawfully to have any material weight.<sup>32</sup> Policy E20 is a policy on Green Wedges and Policy E21 addresses coalescence/separation of settlements but neither of these policies refers to the appeal site. GRAG is concerned that the development would merge the existing urban settlement boundary with the southern boundary of Abbots Oak House and therefore Abbots Oak hamlet. However, I disagree with that view. To the east of the site there is a significant block of woodland extending to the south west from the junction of Greenhill Road with Warren Hills Road which would maintain separation of settlements. The Council has no concern about coalescence and does not allege conflict with these policies.
41. Policy E22 permits built development where it is appropriate to the established character of the area. The Council accepts this requires a robust assessment of the baseline landscape character appraisals and a site specific LAVIA and not just the reduction of the open character of a greenfield site. If housing is consistent with the "established character" of the area, then it complies with the second part of the policy. The two parts of the policy must be applied in a manner which is mutually consistent and which allows an applicant to comply. Indeed, this was the approach of the Council in granting planning permission for DWH site.<sup>33</sup> The site was a greenfield site in the APAC. The Council granted planning permission and did not consider there was any conflict with Policy E22. Overall I consider little weight can be attributed to Policy E22.
42. Turning to the *visual impact* of the proposed development, the site lies to the east of the urban edge of Coalville and comprises 4 broadly rectangular fields of pasture. The western boundary is the existing urban area. The northern boundary is Greenhill Road, opposite the DWH site, and Greenhill Farm. The eastern boundary runs along a significant block of mixed woodland. The southern boundary is a belt of tall trees with holly understorey, up to 20m in height and 12m in depth.
43. At my site visit I saw that the appeal site is visually contained and has logical and defensible boundaries. The current visibility of the site is limited by vegetation along Greenhill Road; the landscape to the north of the road; the block of woodland to the east; and the tall trees to the south and the urban edge to the west. In my view, the development would only be visible from a relatively restricted area. The field-verified visual envelope is agreed to be relatively restricted.
44. From the west there would be views from about 5 properties, as few are orientated towards the site. The Development Framework Plan proposes

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<sup>32</sup> Per Lord Reid in Dundee at paragraphs 18 and 19

<sup>33</sup> David Wilson Homes

a green buffer along this edge that would ensure an appropriate distance for the new development. There is no objection from the Council in terms of design and/or residential amenity. From the east there are no views due to the adjacent screen of the woodland. The Council accepts there is physical and visual separation with the hamlet of Abbots Oak.

45. From the south there would be "limited and filtered views" in winter through the existing 12m depth of boundary vegetation. From the north there may be views from dwellings on the DWH site but there is nothing objectionable about housing fronting housing across a main road. In essence, visibility would be limited to two discrete sections of Greenhill Road on either side of mature boundary vegetation at Greenhill Farm. However, it is inevitable that housing development would be visible from the road from which the main access is taken. Local residents consider Greenhill Road to be a busy main road, as the access to Coalville from the south. Overall the visual impact is tightly constrained and is no more than the inevitable impact of any greenfield urban extension.
46. From Warren Hills viewpoints would be experienced as part of a recreational experience. A number of house roofs would be visible in winter but they would be seen in the context of the existing urban area beyond them. This would be an expansive 360 degree view of a settled landscape, from an elevated viewpoint some 600-800m away. I consider the view from Warren Hills would not be materially altered.
47. There would be no views from the wooded lower slopes of Bardon Hill but there would be some viewpoints from the top of the hill about 700m-900m away experienced by recreational walkers. This is an expansive 360 degree view of a settled landscape, from an elevated viewpoint. The impact would be marginal and a fractional component of the view. There are many different land uses which are visible, especially the crater of the adjacent quarry. The recreational experience of the view would not be materially altered. The visual impact of the development would be tightly constrained to the central portion in Mr Etchells' Figure 3. This is all but the immediate confines of the appeal site.
48. Turning to the *landscape impact* of the proposed development, I note that the main parties agree that the landscape effects would be felt over a 'limited geographical area' and that area is the site itself and the immediately surrounding area.<sup>34</sup> However, the significance of the landscape effect is a matter of dispute. The area of assessment is central to a consideration of significance. The Council examines the landscape impact on the "immediate area", an area defined by the extent of the landscape impact and tightly around the site. It is self-evident that the significance of impact would be high for the site alone and the same applies to the area immediately adjacent to it.
49. The Charnwood Forest Landscape and Settlement Character Assessment (2008) is the most up-to-date LCA<sup>35</sup>, at the most detailed scale. The site is located in the Bardon LCA. In my view the key characteristics of the Bardon LCA apply to the area of the site. The appeal site is plainly an urban fringe landscape adjacent to the urban area of Coalville; from the

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<sup>34</sup> JE proof at paragraph 6.3.4

<sup>35</sup> Landscape Character Area

top of Warren Hills, looking back towards the site, you are aware of an engineered landscape at Bardon Hill; bare ground, new planting and restored land, with exposed rock faces, are part of the recreational experience as you climb up Bardon Hill, together with intermittent machine noise; the site comprises mixed farmland and/or rough grassland; there are long distance views of urban fringes and industry from higher ground and the site borders Coalville, the largest settlement in the district. In the Bardon LCA, the strength of landscape character is considered to be "weak". The landscape condition is "low". Landscape quality is therefore considered to be "poor". Therefore the site lies in an LCA which has a high-capacity to accommodate built development to meet a need for housing in the plan period. This has been confirmed by the Appellant's site-specific analysis.

50. Both the Council and GRAG consider that the site displays the key characteristics of the Charley LCA. I disagree. The Charley LCA states that built form is minimal in this character area with only a scattering of farmsteads, large individual properties and small hamlets. Buildings are not generally visible on the skyline but appear nestled amongst trees. Glimpsed views of the pitched roof line of buildings are often all that is visible in the landscape.<sup>36</sup> This key characteristic cannot be attributed to the appeal site and its immediate surroundings. Plainly, the LCA boundary is correctly drawn north east of Warren Hills Road. The Council's analysis is inconsistent with an analysis of landscape character as experienced on-site and it overstates the landscape impact.
51. The NPPF protects only "valued landscapes". The Appellant has applied an objective methodology endorsed in GLVIA. It concludes that the appeal site does not form part of a valued landscape. The site is valued locally. GRAG considers it to be "attractive" for recreational amenity. However, scenic quality is just one criterion in the overall judgment and a valued landscape must have "demonstrable physical attributes".<sup>37</sup> It is not sufficient that it is valued locally because every greenfield site adjacent to an urban area will be valued by local residents.
52. The Council's analysis of the landscape accepts that there are no significant cultural associations, the appeal site does not contain any public rights of way and the site could not be called wild. On this basis the landscape cannot be described as valued. The Council, supported by GRAG, considers the landscape is valued because there is the APAC designation; there are a number of significantly intrusive elements in the wider landscape; the site forms part of an attractive gateway and there are views across the site to Bardon Hill.
53. However, I disagree with this analysis as it over-inflates the value of the local landscape. Firstly, it fails to examine adequately the weight to be attached to the APAC designation. Secondly, the site may be more valuable in landscape terms than the urban area which it abuts but this does not mean that it is a valued landscape. The appeal site is not rare. The area immediately to the east in the Charley LCA is extensive, accessible and of a demonstrably higher value. Thirdly, the LCA is clear that it is Abbots Oak which is the gateway to Coalville from the south.

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<sup>36</sup> JB Appendix 6 page 95 middle column

<sup>37</sup> Ouseley J in the Stroud case CD11.5 paragraph 14

This hamlet would not be affected. The attractive gateway and rural approach into the settlement at Abbots Oak identified in the objective assessment would be maintained.<sup>38</sup> Fourthly, there are views across the site from Greenhill Road. However, such views have not previously been identified as being of any importance (despite the gateway to Agar Nook being specifically considered). Whenever a site is developed on the edge of a settlement, views across it will be lost. This is inevitable. However, the view to Bardon Hill would not be lost. Overall I consider that the Council's evidence fails to demonstrate that the site is a valued landscape for the purposes of the NPPF.

54. Although the site is located outside the Limits to Development in Policy S3 for the reasons set out at paragraphs 9-10 above I attach very little weight to this conflict. I consider that the proposal accords with Policy E22 of the NWLLP which is out of date and inconsistent with the NPPF. Little weight can be attached to Policy E22 or the APAC designation. The site is not a valued landscape and there is compliance with paragraph 109 of the NPPF. I conclude that the proposal would not cause material harm to the character and appearance of the area.

***Issue (iii) whether the proposal comprises sustainable development***

55. The 3 dimensions of sustainable development consist of economic, social and environmental roles. The 3 roles of sustainable development are mutually dependent and require the application of a planning balance. However, it is a planning balance, which is heavily weighted in favour of the grant of planning permission. The application of the balance requires a robust identification of all of the benefits of the development and the weight to be attached before a consideration of any alleged harm.

*The economic role*

56. The NPPF explains that the economic role includes the availability of sufficient land of the right type, in the right places and at the right time to support growth; and building a strong, competitive economy is a cornerstone of Government policy. In this regard I note that the application was accompanied by a report by Regeneris Consulting which demonstrated the socio-economic benefits of the proposals.<sup>39</sup>
57. The economic benefits of the proposal are summarised as: £19.5m spend on construction works supporting 120 FTE jobs p.a. for 3 years; 250-300 employed people would live on the site, of whom 70-80 would be in higher managerial and professional positions which supports the Council's policy objective to bolster regeneration and diversify the local economy; £1.42m household spend in NWL and £1.28m in Coalville; 27 FTE retail and related jobs, comprising 48 posts (20 FT and 28 PT); 8 jobs supported by demand for public services; £1.65m revenue to NWL through New Homes Bonus; and increased Council Tax payments.
58. It is said that the £1.42m spend in NWL would reduce spending elsewhere in the HMA and therefore the net effect should be taken into

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<sup>38</sup> JB Appendix 6 page 98

<sup>39</sup> See CD 1.18

account. However, there is no evidence that a change in spending pattern in the HMA would lead to job losses elsewhere. Further, given the dispersed location of future occupants, it cannot reasonably be assumed that this would follow. In my view the indirect job creation in the retail and public sectors all fall to be considered as net benefits. I accept that the retail unit might only employ as few as 5 jobs and the New Homes Bonus may be worth about £1.3m. However, overall these economic benefits are important material considerations in support of the proposal. They should be afforded significant weight individually and cumulatively in terms of paragraphs 18 and 19 of the NPPF.

#### *The social role*

59. In terms of the social role this is a proposal for up to 180 dwellings, 20% of which would be affordable. The dwellings would make a contribution to housing land supply in the short term i.e. in the next 5 years. The contribution of 144 market homes which the appeal site could make to the Council's housing land supply can be afforded great weight given the national policy imperative to boost significantly the supply of homes in paragraph 47 of the NPPF and in the absence of a 5 year supply.
60. In terms of affordable housing there is a significant need for 209 dpa, which can only be delivered by market housing. Significant weight should be attached to the delivery of 36 affordable homes, without public subsidy, in full accordance with the Council's policy.<sup>40</sup>
61. There is no dispute that Council is dependent on greenfield SUE<sup>41</sup> sites in sustainable settlements in order to meet its minimum requirements. Coalville lies at the top of the settlement hierarchy and is a sustainable location to deliver housing in the plan period.<sup>42</sup> Further, the appeal site lies in an accessible location, adjacent to this sustainable settlement,<sup>43</sup> and the DWH site was permitted as a sustainable location. GRAG's contrary submissions are untenable. There is a reasonable level of employment, services and facilities within an acceptable walk, cycle or bus journey. The opportunities for sustainable transport modes have been taken up taking into account the nature and location of the site. Moreover, there is no need for major transport infrastructure.<sup>44</sup>
62. The site would deliver a retail unit, which would assist in meeting local needs for top-up shopping. Interest has been expressed in the unit, subject to consent being obtained. Whilst doubt is cast on this by GRAG, a highly experienced retail developer<sup>45</sup> has said there would be operator demand and interest in the site. The retail unit would therefore add to community facilities and to choice and competition in local retail.<sup>46</sup>

#### *The environmental role*

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<sup>40</sup> SoCG at paragraph 6.5.1 and NPPF paragraphs 50 and 55

<sup>41</sup> Sustainable Urban Extension

<sup>42</sup> SoCG at paragraph 6.2.1

<sup>43</sup> SoCG at paragraph 6.2.1

<sup>44</sup> NPPF paragraph 32 a

<sup>45</sup> Morbaine

<sup>46</sup> Paragraph 70 of the NPPF

63. In terms of the environmental role the reality is that this development would be accommodated with no more than the inevitable environmental impact of any greenfield development. Given the Council is significantly dependent on greenfield SUEs this is a significant locational positive.
64. There is no alleged harm to the environment in terms of heritage. It is clear from local residents' letters that the existing flooding risk posed by the site is a significant concern. If planning permission is granted, a bespoke drainage strategy would be implemented and thus significant weight can be attached to this environmental benefit. The main parties agree that there would be a net gain in biodiversity, subject to detailed design.<sup>47</sup> The Leicestershire and Rutland Wildlife Trust objected to the development of the site in terms of the wildlife corridor it offers and the benefits to species mobility. However, these matters were addressed comprehensively in the evidence of the Appellant.<sup>48</sup>
65. There would be a loss of 4.7 hectares of Best and Most Versatile land (BMV).<sup>49</sup> However, this land does not make any material economic contribution to agricultural production. No agricultural unit would be severed and/or become unviable as a result. The Council has not considered this and has failed to apply paragraph 112 of the NPPF adequately. It is accepted that the magnitude of loss is "low" where less than 20ha of BMV would be lost. On this basis, there is no conflict with the NPPF and the Council has not raised this as a RFR. This is not a matter which weighs materially in the planning balance.
66. Mr Murphy accepted that any harm concerning landscape and visual impacts must be so severe that it would significantly and demonstrably outweigh the significant weight which must be attached to the identified social, economic and environmental benefits of the development. In this case the landscape and visual impacts are acceptable and they cannot significantly and demonstrably outweigh the very significant benefits of this development. I conclude on the third issue that on balance the proposal comprises sustainable development.

#### ***Issue (iv) Contributions towards infrastructure***

67. The Appellant has produced a UU, which addresses all of the requested off-site infrastructure contributions and the Council accepts that it addresses RFR5.<sup>50</sup> The matters contained in the UU are set out in detail in a CIL Compliance Statement and were discussed at the Inquiry.<sup>51</sup>
68. The affordable housing obligations respond to identified needs and are supported by Policy 15 of the NWLLP and the Council's Affordable Housing SPD<sup>52</sup> (2011). The education contributions are also justified given the forecast deficits in pupil places. The contributions would be spent on improving the existing facilities at Warren Hills Primary School and Castle Rock High School. The health contribution would be spent on

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<sup>47</sup> SoCG at paragraph 6.11

<sup>48</sup> CD 13.9

<sup>49</sup> SoCG at paragraph 6.12

<sup>50</sup> INQ4

<sup>51</sup> CD13.8

<sup>52</sup> Supplementary Planning Document

extending Broom Leys Surgery to add another consulting room to manage the increased demand plus more storage and it is supported by the NHS. As the new development falls within the boundaries of the National Forest I am satisfied that it is necessary for an appropriate off site contribution to be made for landscaping and tree planting in accordance with Policy F1 and Policy F2 of the NWLLP.

69. The contribution to Leicestershire Police (LP) has been justified following a close and careful analysis of the current levels of policing demand and deployment in the beat area.<sup>53</sup> The financial contribution would be spent on start-up equipment, vehicles, additional radio call capacity, PND<sup>54</sup> additions, additional call handling, ANPR<sup>55</sup>, Mobile CCTV, additional premises and hub equipment.<sup>56</sup> No part of the LP contribution provides for funding towards any infrastructure project that would offend the restriction on pooling. In my view, the LP contribution is fully compliant with Regulations 122 and 123 of the CIL Regulations.
70. The UU provides for the management of all open spaces as well as National Forest planting within those areas on site which is supported by Policy L21 and L22 of the NWLLP, the Council's Open Space Sport and Recreation Study (2008) and the Play Area Design Guidance SPG.
71. In support of the sustainable transport, civic amenity and library contributions the County Council provides a clear and detailed analysis of capacity and requirements to justify the amounts sought. The evidence pinpoints the specific facilities to which the contributions would be directed.<sup>57</sup> The contributions to the County Council are supported by the recently revised Leicestershire Planning Obligations Policy (2014). The Appellant does not consider the contribution towards libraries to be CIL compliant. It is said that a book, daily newspaper or periodical does not comprise infrastructure for the purposes of the CIL Regulations 2010.<sup>58</sup>
72. Paragraph 204 of the NPPF and CIL Regulation 122(2) set out the 3 tests for seeking planning obligations: that they must be "*necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development*". The PPG also makes it clear that "*Planning obligations must be fully justified and evidenced*" and that they "*should not be sought where they are clearly not necessary to make the development acceptable in planning terms*".<sup>59</sup>
73. However, there is no requirement as part of these tests for the contributions to be spent on infrastructure. The question is whether the tests have been met, and it is common for obligations to secure contributions towards things other than infrastructure – including capital works, increasing stock, computer resources and new furniture. So long as the contributions meet the statutory tests, they can be acceptable.

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<sup>53</sup> Whitwick, Ellistown, the south and eastern suburbs of Coalville and countryside beyond

<sup>54</sup> Police National Database

<sup>55</sup> Automatic Number Plate Recognition

<sup>56</sup> Mr Lambert's Proof and Appendices LP1

<sup>57</sup> LCC1, LCC2 and CD13.8

<sup>58</sup> CD13.9

<sup>59</sup> Paragraph :004 Reference ID: 23b -004-20150326

74. CIL Regulation 123(2) prevents planning obligations from securing contributions towards infrastructure which is included on the Council's CIL list (or, if they do not have one, towards any infrastructure). However, this does not restrict the use of obligations to secure anything which does not fall within the definition of infrastructure.
75. CIL Regulation 123(3) prevents planning obligations being used towards infrastructure where there have already been 5 or more obligations relating to that infrastructure. However, it has no effect on obligations which do not relate to infrastructure.
76. There is no requirement for planning obligations to be put towards infrastructure, so the fact that books or periodicals might be disposable is not relevant. Instead, the key issue is whether the Regulation 122(2) tests are met. The County Council has clearly set out the need for the library contribution in this case and it is fully compliant with Regulations 122 and 123 of the CIL Regulations and paragraph 204 of the NPPF.
77. Indeed all of the obligations in the UU are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore they all meet the tests with CIL Regulations 122 and 123 and should be taken into account in the decision. I conclude on this issue that the proposal makes adequate provision for mitigating any adverse impact it would have upon local services and infrastructure.

### **Other Material Considerations**

78. I have taken into account all other matters raised including the Design and Access Statement and the numerous appeal decisions referred to at the Inquiry including those at Lower Packington Road, Ashby-de-la-Zouch and Feniton, Devon. I have considered this appeal on its own merits and in the light of all the evidence submitted to the Inquiry. This includes the objections from local residents who appeared at the Inquiry.
79. In terms of the housing stock it is said that NWL already makes a disproportionately high contribution to the national requirement. However, the housing policies in the development plan are out-of date and, as a result provide insufficient housing land to meet identified needs. Therefore, pending adoption of a 'new' plan further housing land will have to be provided on a site by site basis and outside the plan making process.
80. A history of surface water flooding in the locality is well documented but the technical evidence supporting the application and scrutinised by the Environment Agency indicates that there are no objections to the proposed development subject to planning conditions.
81. Access is a further concern notably the junction capacity assessments at Greenhill Road/Warren Hills Road and at Broom Leys Road/Greenhill Road. However, the Local Highway Authority (LHA), Leicestershire County Council is of the view that the residual cumulative impacts of the



development can be mitigated and are not considered severe in the context of paragraph 32 of the NPPF subject to conditions.

82. I note that a junction mitigation scheme has been designed for the DWH site opposite which involves widening the Greenhill Road approach to Warren Hills Road to provide additional stacking capacity for right turning vehicles. The mitigation scheme has also been modelled to address the additional impact of the appeal site's development traffic. Subject to this scheme being delivered, the impact of the development at the Greenhill Road/Warren Hills Road junction is not considered to be severe and is acceptable in transport terms.<sup>60</sup> The modelling work also shows that a scheme for the Broom Leys crossroads is not required.
83. Concern has been expressed about various residential amenity issues such as noise pollution and overlooking. I accept that the Noise Assessment identifies the areas of the site closest to Greenhill Road as being susceptible to existing noise (from road traffic) but it would be possible to mitigate this impact on occupiers of the proposed dwellings through the use of planning conditions. Insofar as the noise impacts on neighbouring occupiers arising from the proposed development are concerned, the Noise Assessment identifies these as including construction noise and potential impacts associated with the operation of the proposed retail unit. I consider that both of these matters can be controlled by conditions. I note that no objections are raised in this regard by the Council's Environmental Protection team.
84. Other residential amenity matters such as privacy can be appropriately considered at the reserved matters stage. Although there is concern about a loss of green space amenity the illustrative master plan shows a significant proportion of the site given over to landscaping, retained and proposed tree/hedgerow planting and other open space. None of these concerns are sufficient to warrant refusal of permission.

## **Conclusion**

85. Returning to the main issues identified at the beginning of this decision I conclude that: the Council is unable to demonstrate a five year supply of deliverable housing sites sufficient to meet the full objectively assessed need (FOAN) for housing; that the effect of the proposed development on the character and appearance of the area would be acceptable; the proposed development can be considered sustainable and there is no impact on any local services or infrastructure which cannot be addressed by a lawful contribution via the UU. The proposal is generally consistent with the development plan when read as a whole. In terms of paragraph 14 of the NPPF relevant policies are out-of-date and any adverse impacts of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. I shall therefore allow the appeal.

## **Planning Conditions**

86. I have considered the conditions suggested by the Council in the light of the advice in paragraphs 203 and 206 of the NPPF, the model conditions

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<sup>60</sup> Condition 23 refers

retained at Appendix A of the cancelled Circular 11/95 and the Government's PPG on the use of planning conditions.

87. As this is an outline application, Condition 1 is necessary to secure reserved matters. Conditions 2-4 are necessary to determine the scope of the application and for the avoidance of doubt. The development is not to exceed 180 dwellings. It is to be carried out in accordance with the Development Framework Plan, the Design and Access Statement and the submitted access drawing. Condition 5 is necessary to comply with statutory timescales. Conditions 6 and 7 are necessary to ensure a properly planned and co-ordinated development having regard to the size of the site, the number of houses to be built and the related facilities to be provided.
88. Conditions 8 and 9 are necessary to ensure satisfactory disposal of surface and foul drainage and to minimise the risk of surface water flooding arising from the development. Further investigation of the site is necessary in relation to ground contamination and any remedial works that are required should be undertaken in accordance with Conditions 10 and 11. Conditions 12-15 are required to safeguard the biodiversity interest within the site; the protection of the nearby Holly Rock Fields Site of Special Scientific Interest and the existing off-site ash tree shown to the north western corner of the site on the amended Arboricultural Constraints plan (Drg No 101).
89. Condition 16 relating to noise is required in the interests of residential amenity. Conditions 17-21 are required to ensure that the retail unit is developed and operated in an appropriate manner with safeguards for the occupiers of nearby dwellings. Conditions 22-25 are required in the interests of highway and pedestrian safety. The travel plan, with the measures for monitoring and regular review, reflects the national policy aim of achieving the fullest possible use of public transport, walking and cycling. Condition 26 which relates to a construction method statement is necessary given the size of the site, the proximity of nearby dwellings and the duration of construction works. Conditions 27 and 28 are necessary to safeguard any archaeological finds that might be revealed.

### **Conclusion**

90. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached schedule.

*Harold Stephens*

INSPECTOR

## **SCHEDULE OF PLANNING CONDITIONS (1-28)**

### **APPROVAL OF DETAILS**

- 1) Save for the details of vehicular access into the application site from Greenhill Road, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.
- 2) The development hereby approved shall be for no more than 180 dwellings.
- 3) The development shall be carried out in general accordance with the details shown on the Development Framework Plan, drawing number GLA 03 Rev 011 and the Design and Access Statement – June 2014.
- 4) Access to and within the development shall be carried out in full accordance with the details shown on the Access Plan C13526 009 Rev A before the occupation of the first dwelling on the site.

### **TIMING OF IMPLEMENTATION**

- 5) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

### **PHASING**

- 6) Should the first reserved matters application be for two or more phases of development, the application shall include a masterplan for the whole of the site, setting out details of access (both to and within the site), site layout, areas of open space/children's play, landscaping, density parameters and scale, as well as details of any proposed phasing of development. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).

### **DESIGN CODE**

- 7) No reserved matters application(s) shall be made until such time as a Design Code for the entirety of the site has been submitted to and

agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement. All subsequently submitted reserved matters applications shall accord with the agreed Design Code.

### **SUSTAINABLE DRAINAGE**

- 8) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The sustainable drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The details of the scheme shall include:
- (a) a timetable for its implementation;
  - (b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime; and
  - (c) measures to protect any features of archaeological interest in accordance with condition 27.

### **FOUL DRAINAGE**

- 9) No dwelling shall be occupied until such time as a scheme of foul drainage connecting the relevant dwelling to the public sewer has been implemented in full.

### **GROUND CONTAMINATION**

- 10) No part of the development shall be commenced on site unless and until:
- (a) a site investigation has been designed for the site using the information obtained from the desktop investigation (Phase 1 Desk Study) DS-18158A-13-167 Rev A – April 2014. This shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on site;
  - (b) the site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the Local Planning Authority; and
  - (c) a method statement and remediation strategy, based on the information obtained from (b) above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation strategy.

## **VERIFICATION PLAN**

- 11) No dwelling shall be occupied until such time as a verification investigation has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development, and the report showing the findings of the verification investigation has been submitted to and agreed in writing by the Local Planning Authority. The verification report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
  - Contain Movement permits of all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
  - Contain test certificates of imported material to show that it is suitable for its proposed use;
  - Demonstrate the effectiveness of the approved Remedial Scheme; and
  - Include a statement signed by the developer or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

## **ECOLOGY**

- 12) No development shall take place until such time as details of all mitigation measures as recommended within Section 6 of the submitted Preliminary Ecological Assessment have been submitted to and agreed in writing by the Local Planning Authority. The details of mitigation measures shall include:
- (a) timetables for their implementation;
  - (b) details of ongoing maintenance and management; and
  - (c) a programme for the undertaking of updated surveys in relation to commencement of development on site (or relevant phase)
- The programme for surveys shall include the specification of maximum periods between undertaking of surveys and commencement development on site (or relevant phase).
- 13) No development shall take place until such time as a biodiversity management plan for all created and retained habitats (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be implemented and maintained in accordance with the agreed management plan.
- 14) No development shall take place until such time as a construction management plan designed to ensure the prevention of damage to the

Holly Rock Fields Site of Special Scientific Interest during construction works (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. No construction works shall be carried out on the site at any time other than in accordance with the agreed management plan and timetable.

### **TREES**

- 15) No site works of any description in respect of the formation of the vehicular access and footway to Greenhill Road shall take place on the site unless the existing off-site ash tree shown to the north western corner of the site on the amended Arboricultural Constraints plan (drawing no. 101, deposited with the Local Planning Authority on 7 October 2014) is securely fenced off in accordance with measures for its protection first submitted to and agreed in writing by the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand.

### **NOISE**

- 16) No development shall take place until such time as a scheme of mitigation of noise to proposed dwellings as indicated generally in the submitted Noise Assessment Report has been submitted to and agreed in writing by the Local Planning Authority. No individual dwelling hereby permitted shall be occupied at any time unless all agreed mitigation measures relevant to that dwelling have been implemented in full.

### **RETAIL UNIT**

- 17) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), the total gross floor space of uses falling within Class A1 of that Order shall not exceed 400 square metres.
- 18) Notwithstanding the submitted details, the retail unit hereby permitted shall not be brought into use until such time as a minimum of 50 dwellings within the application site are occupied.
- 19) No work shall commence on site in respect of the retail unit until such time as a scheme of mitigation of noise to existing and proposed dwellings as indicated generally in the submitted Noise Assessment Report has been submitted to and agreed in writing by the Local Planning Authority. The retail unit shall not be occupied at any time unless all agreed mitigation measures relevant to that dwelling have been implemented in full (and including in respect of any agreed limitations on externally located plant and machinery).

- 20) No work shall commence on site in respect of the retail unit until such time as a deliveries and management plan has been submitted to and agreed in writing by the Local Planning Authority.
- 21) The use of the retail unit hereby approved shall not be open to the public outside of the hours of 0700 and 2300 daily.

## **HIGHWAYS AND TRANSPORTATION**

- 22) Save for any works required in respect of providing the access itself, no development shall commence on the site until the works have been carried out in accordance with details shown on the Access Plan C13526 009 Rev A (and including the measures recommended in the Stage 1 Road Safety Audit dated 3rd July 2015 and the extension of street lighting 175m east from the existing 30mph gateway on Greenhill Road (adjacent to Agar Nook Lane)).
- 23) No development shall take place until such time as a scheme of off-site highway works, together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include:
  - (a) additional speed management measures on Greenhill Road between and including the junctions with Romans Crescent and Warren Hills Road (and including appropriate signing and lining measures to support the introduction of the additional 30 and 40mph sections of Greenhill Road, as well as warning signs on each of the side roads exiting onto Greenhill Road in the vicinity of the proposed junction table and zebra crossing);
  - (b) unless already implemented by David Wilson Homes, improvements to the Greenhill Road/Warren Hills Road junction (as shown generally on BWB drawing no. NTT/2180/002 rev P1)
  - (c) improvements to the Copt Oak Crossroads (as shown generally on Hydrock Drawing C13526 SK001 Revision P4

No development shall take place at any time, nor shall any proposed dwelling be occupied unless the relevant works have been implemented in full in accordance with the agreed scheme and timetable.

- 24) The first reserved matters application submitted in respect of layout shall include details to demonstrate the suitability of the development to enable bus services to route into and through the site.
- 25) No dwelling shall be occupied until a Full Travel Plan, broadly in accordance with the Hydrock Framework Travel Plan dated September 2014, has been submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall include a programme for implementation, monitoring, regular review and improvement and shall subsequently be implemented, maintained and developed as approved.

## **CONSTRUCTION METHOD STATEMENT**

- 26) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority; and the approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- (a) the hours of work;
  - (b) the parking of vehicles of site operatives and visitors;
  - (c) loading and unloading of plant and materials;
  - (d) storage of plant and materials used in constructing the development;
  - (e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (f) wheel washing facilities;
  - (g) measures to control the emission of dust and dirt during construction;
  - (h) a scheme for recycling/disposing of waste resulting from construction works;
  - (i) means of protection of trees and hedgerows during site preparation and construction; and
  - (j) access arrangements for emergency vehicles during the construction phase.

## **ARCHAEOLOGY**

- 27) No development shall take place within the application site until a written scheme of archaeological investigation, including the methodology of further investigation works and a programme for the works to be undertaken (the 'archaeological scheme'), has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed archaeological scheme.
- 28) No development shall take place within the application site until an archaeological management plan, including measures for the ongoing protection of any archaeological features identified under the archaeological scheme and a programme for their implementation, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed archaeological management plan.



## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY**

Timothy Leader (of Counsel)      Instructed by Anthea Lowe, Principal  
Solicitor North West Leicestershire District  
Council

#### **He called**

Justin Gardner BSc MSc      Principal Justin Gardner Consulting

Jon Etchells MA BPhil CMLI      Director Jon Etchells Consulting Limited

Andrew Murphy  
BA (Hons) MSc MRTPI      Director Stansgate Planning

### **FOR THE APPELLANT**

Giles Cannock (of Counsel)      Instructed by Gladman Developments Ltd

#### **He called**

Steve Lucas BSc MSc      Director Development Economics

James Donagh  
BA (Hons) MCD MIED      Director Barton Wilmore

Andrew Baker BSc (Hons)  
FCIEEM      Director Baker Consultants Ltd

Jonathan Berry  
BA (Hons) DipLA CMLI      Partner of Tyler Grange LLP  
AIEMA M.Arbor.A

Laurie Lane  
BSc (Hons) MRTPI      Planning Manager Gladman Developments

### **FOR GREENHILL RESIDENTS ACTION GROUP: (Rule 6 party)**

Jane Tebbatt CGeol FGS      Advocate and Local Resident

#### **She called:**

Stuart Moffat DipTP MRTPI      Local Resident

### **INTERESTED PERSONS**

Neil Pilcher      Leicestershire and Rutland Wildlife Trust

Malcolm Allsop      Local Resident

Jonathan Ball      Local Resident

Simon Peck      Local Resident

Graham Read Local Resident

Yvonne Willars Local Resident

Anthony Cross for Leicestershire County Council and Thea Osmund-Smith for Leicestershire Police introduced themselves as Rule 6 parties at the opening of the Inquiry but did not call witnesses and both authorities submitted their evidence in writing.

### **DOCUMENTS SUBMITTED AT THE INQUIRY**

<b>Document Ref. No.</b>	<b>Title of Document</b>
INQ1	Notification letter
INQ2	Letters of representations
INQ3	Statement of Common Ground
INQ4	Unilateral Undertaking
NWL 1	Opening Statement on behalf of the Local Planning Authority
NWL 2	List of Additional Core Documents
NWL 3	Local Planning Authority e-mail correspondence with Leicestershire County Council and the National Forest Company
NWL 4	Instructing letter from the District Council's Solicitor to Counsel
NWL 5	Appeal decision - Land off Willesley Lane, Ashby de la Zouch, Leicestershire (APP/G2435/W/15/3027396)
NWL 6	Leicester and Leicestershire LLEP Strategic Economic Plan 2014 to 2020
NWL 7	Appeal decision - Land South of Mallory Road, Bishops Tachbrook, Warwickshire (APP/T/14/2216200)
NWL 8	Appeal decision - Land South of Markfield Road, Ratby, Leicestershire (APP/K2420/W/15/3003301)
NWL 9	Planning Application 15/00227/OUTM Submitted Framework Plan
NWL 10	Closing Statement on behalf of the Local Planning Authority
NWL 11	List of Appearances on Behalf of the Local Planning Authority
NWL 12	Local Planning Authority's Witness Time Estimates
CD 13.1 -	LHA Revised Consultation Response
CD 13.2 -	Email confirmation ref Wider Highway Network Contribution
CD 13.3	STW and EA emails ref condition not required
CD 13.4	Highways Plan NTT2180002 rev P1
CD 13.5	DWH Decision Notice 14-00050-FULM
CD 13.6	Email from Neil Pilcher of Wildlife Trust
CD 13.7	AJB Ecology Technical Note
CD 13.8	CIL Compliance Statement
CD 13.9	Appellant CIL Statement for Civic Amenity and Libraries
CD 13.10	Archaeologist Consultation Response for the Second Application
CD 13.11	Supplementary SOCG ref Planning
CD 13.12	Housing Land Supply SOCG

CD 13.13	GRAG Survey Letter
CD 13.14	Drainage Strategy Drawing 301-004 Rev B
CD 13.15	Appellant's Opening Statement
CD 13.16	Closing Submission
GRAG01	Opening comments
GRAG02	Proof of Evidence – Mr Moffat
GRAG03	View from Hough Hill
GRAG04	Charnwood Forest Challenge Walk
GRAG05	House selling price information
GRAG06	Packington Nook Appeal Notice APP/G2435/A/14/2217036
GRAG07	Feniton Devon Appeal Notice APP/U1105/A/13/2191905
GRAG08	Plan of walking tracks
GRAG09	Email from Mr Moffat to Morbaine
GRAG10	Obsolete - Hough Hill Location plan – was not required, circulated or used
GRAG11	Leicestershire CC Highway Authority Revised Observations
GRAG12	Closing Submissions

**DOCUMENTS SUBMITTED BY LEICESTERSHIRE COUNTY COUNCIL**

LCC1 Proof of evidence of Andrew Tyrer with Appendices

LCC2 Supplementary Proof of evidence of Andrew Tyrer

**DOCUMENTS SUBMITTED BY LEICESTERSHIRE POLICE**

LP1 Mr Lambert's Proof of evidence and Appendices

LP2 Closing Submissions

**DOCUMENTS SUBMITTED BY LEICESTERSHIRE AND RUTLAND WILDLIFE TRUST**

LRWT1 Mr Pilcher's Proof of evidence and Appendices

**INTERESTED PERSONS' DOCUMENTS**

IP1 Statement by Malcolm Allsop

IP2 Statement by Jonathan Ball

IP3 Statement by Simon Peck

IP4 Statement by Graham Read

IP5 Statement by Yvonne Willars