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## Appeal Decision

Inquiry held 19-21 November 2014 and 5-6 January 2015

Site visit made on 6 January 2015

**by Geoffrey Hill BSc DipTP MRTPI**

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

**Decision date: 10 February 2015**

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**Appeal Ref: APP/L2440/A/14/2216085**

**Land at Cottage Farm, Glen Road, Oadby, Leicestershire LE2 4RL**

- 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 Bloor Homes Ltd., against the decision of Oadby & Wigston Borough Council.
  - The application Ref 13/00478/OUT, dated 22 November 2013, was refused by notice dated 27 February 2014.
  - The development proposed is development of land for up to 150 dwellings (Use Class C3) and associated infrastructure, including pedestrian and vehicular access, open space and structural landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for development of land for up to 150 dwellings (Use Class C3) and associated infrastructure, including pedestrian and vehicular access, open space and structural landscaping on Land at Cottage Farm, Glen Road, Oadby, Leicestershire LE2 4RL in accordance with the terms of the application, Ref 13/00478/OUT, dated 22 November 2013, subject to the conditions set out in the Appendix to this decision.

### Preliminary Matters

2. The application is for outline planning permission with all matters reserved for subsequent consideration, except for access. The application was supported by a Development Framework Plan which, apart from the location of the main access point, I regard as being for illustrative purposes only.
3. At the inquiry a planning obligation made under Section 106 of the Town and Country Planning Act 1990 was submitted. This obligation includes – amongst other matters – an undertaking for the developer either to provide contributions towards, or make provision for; public open space, affordable housing, education and library services, sustainable travel options, and support for the police service. On this basis the Council agreed that this met reasons for refusal Nos. 2, 3, 4 and 5, and these were not maintained as objections to the proposed development at the inquiry.

### Main Issues

4. There are two main issues in this appeal.

- i). Whether there is a 5 year housing land supply in the local authority area and how this may impinge upon the applicability of current development plan polices with particular regard to the distribution of new housing development.
- ii). The effect of the proposed development on the character and appearance of the area and the wider landscape setting.

## **Reasons**

### ***Housing Land Supply***

#### Current development plan policy

5. As noted at paragraph 210 of the National Planning Policy Framework (NPPF), applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The principal development plan document relevant to the determination of this appeal is the Oadby and Wigston Borough Council Core Strategy (OWBCCS), which was adopted in September 2010.
6. Policy CS1 of the OWBCCS established the need to locate new housing development in Oadby and, if not in the town centre, then on land within the Leicester Principal Urban Area (PUA). The PUA boundary is identified at Figure 2.2 of the Oadby & Wigston Town Centres Action Area Plan (TCAAAP). This drawing is at a scale where the precise boundary of the PUA is hard to discern, but it was agreed at the inquiry that in the vicinity of the appeal site it is defined by the extent of the 'countryside' area noted on the Oadby & Wigston Local Plan Proposals Map.
7. Policy CS7 confirms that land outside the PUA boundary is to be regarded as 'countryside', where the openness and intrinsic qualities of the area are to be protected. Policy CS7 would allow for development in the countryside which might cause adverse impacts on the countryside, but only where there is a justifiable need. Paragraph 6.6 of the reasoned justification for this policy explains that justifiable need would have to be consistent with the now cancelled Planning Policy Statement 7 *Sustainable Development in Rural Areas*: that is, for the most part development needed in association with farming, forestry and other similar rural businesses or recreational uses compatible with the countryside. It is reasonable to interpret this as seeking to resist significant new housing development, such as is proposed in the appeal scheme.
8. The appeal site is outside the PUA boundary (ie in 'countryside') and hence there is a *prima facie* conflict with the Core Strategy. In which case it is necessary to consider whether there are material considerations which indicate a decision might be made other than in accordance with the development plan.

#### Material considerations

9. Paragraph 212 of NPPF says that its polices are material considerations which should be taken into account, and paragraph 213 goes on to advise that local plans may need to be revised to bring them into line with the Framework. Whereas the OWBCCS has been adopted relatively recently, it was adopted prior to the publication of NPPF and hence, following the advice at paragraph

215 of NPPF, it is necessary to consider whether the policies of OWBCCS are consistent with the Framework.

10. As an initial point, and as discussed above, Policy CS7 represents a 'blanket' resistance to the release of land for housing: the wording of the policy does not realistically include a 'balancing' clause to allow for possible benefits of additional housing, in terms of an enlargement of the PUA, to be taken into account. Without this balancing consideration, the policy is not consistent with NPPF.
11. The housing figures which are applied by OWBCCS Policy CS1 derive from the now revoked East Midlands Regional Plan (EMRP). That was based upon 2004 population projections, which must now be regarded as considerably out of date – a point noted at paragraph 3-030-20140306 of Planning Practice Guidance (PPG). We now have 2012 Sub National Population Projections (SNPP) projections.
12. Also, implementation of the EMRP housing strategy focussed upon the concept of the PUA for Leicester. The PUA extends beyond the boundary of Leicester City, and includes land in (amongst other areas) Oadby & Wigston Borough, which is on the periphery of Leicester City, as being within the PUA. It was not argued at the inquiry that the PUA is not a relevant concept, but how it operates after the revocation of EMRP is perhaps unclear. I note that the Leicester and Leicestershire Member Advisory Group has recently been set up to consider strategic planning matters across the county, including the role of the PUA. However, that is a group without decision making powers: there is no formal planning mechanism to co-ordinate implementation, monitoring and review of the PUA housing requirement across all the local planning authorities which have a stake in the PUA.
13. The Hunston Court of Appeal judgment<sup>1</sup> addresses the NPPF's expectation that, in coming to a decision as to whether a plan's policies meet current circumstances, it is necessary to consider the full, objective assessment of need (FOAN). Evidence was put forward to show that the assumptions underlying the OWBCCS are not compliant with NPPF in terms of them being based on reliable, up-to-date and tested information.
14. As discussed in the Gallagher judgment<sup>2</sup>, a variation from the FOAN (ie the "requirement") should only emerge after an up to date local plan has been examined and where compliance with the duty to cooperate has shown that local housing need can and should be met on sites outside the local planning authority area. With there having been no post-NPPF review of the OWBCCS this must further undermine the degree to which the Core Strategy can be relied upon as the basis for decision making.
15. For the appellant, a number of scenarios were put forward in evidence based upon the 2012 SNPP figures for Oadby & Wigston, and set against different assumptions for factors such as migration, change in the economically active population, household growth and the likelihood of there being historically

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<sup>1</sup> City and District Council of St Albans and The Queen (on the application of) Hunston Properties Limited: Secretary of State for Communities and Local Government and anr [2013] EWCA Civ 1610

<sup>2</sup> Gallagher Estates Limited, Lioncourt Homes Limited and Solihull Metropolitan Borough Council: [2014] EWHC 1283 (Admin)

suppressed households. The scenarios looked at Oadby & Wigston on its own, not necessarily as a constituent part of the PUA.

16. A planning appeal inquiry under Section 78 of the Town and Country Planning Act 1990 is not the forum to scrutinise the scenarios which challenge the statistical foundations of the Core Strategy. Such scrutiny can only be done at a local plan examination where all relevant stakeholders would be represented, such that the range of views can be tested on matters including statistical sources, assumptions and methodologies<sup>3</sup>. It is not, therefore, appropriate for me to come to a definitive view as to what the likely housing need might currently be in Oadby & Wigston. However, several areas of concern were raised which could be taken as indicating that the housing provision allowed for by Policy CS1 is insufficient.
17. It was argued that the need now is to come to a view on the FOAN for the local planning authority area – not the PUA – until such time as policies drawn up in accordance with the NPPF’s requirement of the duty to cooperate have been tested. That is, working on the historical assumptions of the interrelationships across the PUA – and particularly between Leicester City and Oadby & Wigston – it was argued that this would be a “policy on” position.
18. Paragraph 158 of NPPF requires each local planning authority to ensure that the local plan is based on up-to-date evidence of the characteristics and prospects of “the area”. But paragraphs 49 and 159 look for the assessment of housing needs of a housing market area (HMA) where that crosses administrative boundaries. In the circumstances looked at in this appeal, the HMA covers the PUA and its rural hinterland. That is, to now consider Oadby & Wigston as a separate or independent planning unit would not reflect the circumstances of the HMA and how the interactions within the HMA bear upon the proportion or quantum of need within or close to the PUA, having regard to the operation of the local housing market over recent years.
19. Successful operation of the HMA in the Leicester area depends upon close cooperation between the neighbouring planning authorities. There seems to be no formally constituted working arrangement between the authorities for strategic planning purposes in terms of some sort of standing joint committee, but a Strategic Housing Market Assessment (SHMA) has been produced recently (May 2014) on behalf of the Leicester City and the Leicestershire authorities. The SHMA has been prepared by professional consultants with an acknowledged degree of expertise and it has been accepted by Oadby & Wigston Borough Council as indicative of the current assessment of need.
20. The SHMA puts forward its conclusions as representing the “policy off” assessment. However, the SHMA has not been tested through a formal examination, and there are some points where questions are raised as to how accurate it is. In particular, the SHMA is based upon 2011 population projections whereas the methodology set out in PPG expects the latest population projections to be used as the basis for assessing need. As noted above, the 2012 SNPP figures are now available.

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<sup>3</sup> Paragraph 3-033-2014-0306 Planning Practice Guidance

21. The Leicester and Leicestershire Member Advisory Group has produced a Memorandum of Understanding (seemingly primarily to support the Charnwood Borough Local Plan), aligning the authorities with the conclusions of the SHMA, but this does not have the force of a formally constituted liaison or cooperation as outlined at paragraph 157 of NPPF, in that policies (and associated numerical limits etc), which may be covered by the Memorandum of Understanding have not yet been subject to post-NPPF scrutiny through a local plan examination<sup>4</sup>. Of particular significance is how the SHMA has taken employment-led growth and affordable housing provision into account, and how that is reconciled across the HMA on a district-by-district basis.
22. There are indeed significant questions relating to the provision for affordable housing. Paragraph 9.25 of the SHMA particularly notes that there are "acute levels of need" for affordable housing in Oadby & Wigston. Table 39 in the SHMA identifies a backlog of 412 households in "unsuitable housing" which is translated into a 'Gross Need' figure for affordable housing of 251 in Table 40. To which can be added the 188 newly forming households in affordable housing need shown in Table 41. Table 42 gives an annual requirement of 51 affordable dwellings up to 2036 to accommodate the need arising from existing households. This comes to 188+51 = 239 per annum for existing and newly forming households, to which has to be added at least a proportion of the backlog figure (251) to give an objective assessment of annual need for affordable housing.
23. However, taking account of the back-log of affordable housing provision, to support "full affordable housing delivery"<sup>5</sup> Table 84 gives an annual need for just affordable housing of 163 for 2011-2031 and Table 85 gives a figure of 160 per annum 2011-2036; both figures being more than double the figure which would be needed simply to fulfil the demographic-led (ie SNPP) projection<sup>6</sup>. Nevertheless, Table 84 concludes with an OAN range for all housing for Oadby & Wigston of 80-100 per annum for 2011-2031 and Table 85 gives an annual range of 75-95 for 2011-2036. Both ranges are below the notional identified need for affordable housing of not less than 239 per annum noted above, let alone any need for open market housing.
24. The discrepancies between the apparent identified need and the OAN conclusions were explained at the inquiry to be attributable to cross-boundary provision and economic growth being accommodated by commuting for work purposes within the HMA. However, the mechanism for implementing and monitoring the success of this - particularly for affordable housing - is not clear; for example, no evidence was provided to show there is a mutual acceptance between neighbouring authorities of households on housing waiting lists.
25. Private rented housing is seen to be meeting a proportion of the affordable housing need in that it provides accommodation for households in receipt of housing benefit payments<sup>7</sup>. Whereas there may have been historical reliance

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<sup>4</sup> See letter from Minister of State for Housing, Brandon Lewis, to Chief Executive of The Planning Inspectorate, dated 19 December 2014.

<sup>5</sup> Fourth bullet point, paragraph 9.20 SHMA.

<sup>6</sup> Table 47 of the SHMA notes a figure of 160 affordable dwellings per year for Oadby & Wigston over a 25 year period: 213% of the demographic housing need.

<sup>7</sup> Paragraph 9.21 SHMA

on the private rented sector to meet some of the demand for affordable housing, there have to be questions over whether this truly meets the needs of such households in terms of security of tenure and quality of accommodation. Paragraph 50 of NPPF looks for either housing to be provided or a financial contribution of broadly equivalent value to have been put in place – ie it is the development industry and public sector together which should be providing affordable housing, not the private rented sector drawing on subsidies *via* social benefit payments.

26. I acknowledge that 100% of the affordable housing needs could not be met even within the SHMA's housing growth numbers discussed at his inquiry. However, as noted a paragraph 6.64 of the SHMA, what the acceptable proportion to be accommodated by the private rented sector would be is a "policy on" decision.
27. There is, therefore, a degree of uncertainty over what is the actual FOAN, including the provision for affordable housing. That could lead to a significant lacuna in meeting housing need; the consequences of which would include some form of shared housing, overcrowding and perhaps eventually homelessness. All of which would be contrary to the expectations of NPPF which looks for a significant boost in the supply of high quality housing<sup>8</sup>. I do, therefore, have sympathy with the view put forward at the inquiry by the appellant that the FOAN for Oadby & Wigston could be considerably more than the 90 per annum which is the basis for OWBCCS Policy CS1, and the maximum of 100 given in Table 84 of the SHMA.
28. The Council argued that even if the Core Strategy is not seen to be compliant with the NPPF on account of it being based upon the revoked EMRP, the SHMA figures are broadly similar to the OWBCCS, and therefore there is no practical difference with regard to the amount of development growth to be planned for. However, whilst I do not necessarily endorse any of the four scenarios put forward by the appellant as being definitive, from the evidence given at this inquiry, until the SHMA has been tested through a local plan examination the degree of uncertainty is so great that it would be unreasonable to accept that the figures given in the SHMA are in accordance with the expectations of NPPF and the methodology in PPG<sup>9</sup>.
29. As stated above, I acknowledge that the SHMA states that it presents a "policy off" appraisal – but that is "policy off" for the HMA as a whole, not for the constituent local authorities with a stake within the HMA. I recognise that the historical performance of the housing market in the HMA cannot be ignored and the SHMA is accepted by the local planning authorities within the HMA as being a reasonable basis for the distribution of housing provision. This is supported by the Memorandum of Understanding, which has to be an indication of a degree of cooperation between the authorities with a stake in the HMA. However, that also implies that the housing need figure for Oadby & Wigston could be a constrained, "policy on", figure in terms of at least the distribution of growth across the HMA and between the various authorities.

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<sup>8</sup> Paragraph 47, NPPF

<sup>9</sup> See *Solihull Metropolitan Borough Council v Gallagher Homes and Lioncourt Homes*: [2014] EWCA Civ 1610

30. Without any mechanism to formalise a reliance on cross-boundary provision, the conclusions set out in the SHMA, not least relating to affordable housing provision, have to be seen as an unsupported or untested "policy on" position – which would not correspond with the Hunston judgment. The initial distribution of development within the PUA was arrived at through the EMRP examination, which was held well before the NPPF was published and its expectations of how local plans should be prepared and scrutinised. That is, the overall figure for the HMA may be "policy off", but the distribution of the identified need between the various authorities would be – at least in part – a "policy on" position. That apportionment has not been tested at a NPPF compliant local plan examination.
31. Taking all of the above into account, I come to the view that these represent material considerations which could, subject to my findings on other matters, justify coming to a decision on the appeal scheme which would not accord with the development plan.

#### What is the housing need?

32. I turn now to a consideration of what is the housing need, what permissions or policy commitments there are to contribute to meeting that need, if there is any historical shortfall in supply and what level of 'buffer' needs to be included to take account of any under delivery in the earlier years of the plan period.
33. Although I do not regard any of the scenarios put forward at the inquiry as being definitive of the housing need for Oadby & Wigston, as discussed above, the figure is likely to be in excess of the 90 dwellings per annum set out in Policy CS1. Whether the FOAN is as high as the 161 per annum postulated in one of the scenarios has to be open to question but, if using the Chelmer Model and based on only the household (demographic) projection figure – not allowing for economic growth adjustments – the figure could be in the order of 147 per annum.
34. In any event, whatever the calculated figure might be, it is not consistent with the NPPF to regard that as a ceiling. The driving principle behind the NPPF policy is, as noted above, to significantly boost the supply of housing and, unless a particular scheme would not be compliant with other aspects of NPPF, it would not be necessary or even desirable to resist any theoretical 'oversupply' in the number of houses to be permitted. Having said that, for the purposes of this appeal I will adopt 147 per annum as the indicative figure for calculating whether the Council is able to demonstrate a 5-year supply of housing land.
35. The 147 dwellings per year does not make any specific allowance for the number of affordable homes needed either as part of, or even in addition to, this figure. However, taking note of the need to address the "acute levels of need" for affordable housing in Oadby & Wigston (see paragraph 22 above), the 147/year should give the opportunity to make inroads into that requirement. The appeal scheme would include 45 affordable dwellings.
36. To this 147/year has to be added any shortfall from earlier years in the plan period. Looking at what has been provided so far against the expectations of Policy CS1, the 2014 Residential Land Availability Report notes 627 completions over the period 2006-2013 (8 years): a rate of 78 dwellings per

annum, compared to the OWBCCS need for 90 per annum. This represents a cumulative shortfall of 93 dwellings.

37. I acknowledge that this period (2006-2013) largely coincides with the recent economic recession and that – perhaps – if the economy had been stronger the rate of completions may have been higher. Indeed, for three years the 90/year figure was exceeded - by as much as 70% (64 dwellings) in 2006-2007. With a shortfall of 93 over an 8 year period, this represents an average of some 11 or 12 dwellings per year. I acknowledge that these are relatively small numbers, but they do show a shortfall from the required target over a protracted period (8% overall) and this has to be seen as a persistent shortfall. In accordance with paragraph 47 of NPPF, it is necessary to apply a 20% buffer to the annual need figure to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
38. I have considered the arguments put forward at the inquiry as to whether the 20% buffer figure has to be added to the first 5 years, or spread out over the remainder of the plan period (ie whether to use the 'Sedgefield' or the 'Liverpool' approach). I note that in Hinkley & Bosworth the Inspector at the Sketchley House inquiry<sup>10</sup> adopted the Liverpool approach, based on the fact that the core strategy for that authority envisaged a staged programme of housing delivery, with increased numbers expected towards the end of the plan period. That assessment was endorsed by the Secretary of State in his decision on that appeal. However, the Oadby & Wigston Core Strategy is based on a straight line trajectory of supply set at 90 per annum. I do not see this as justifying spreading the shortfall over an extended period; clearly there has been a failure to meet even this relatively modest level of supply and that has to be seen as 93 households who have not had the opportunity to set up home in the Borough. I consider that it is appropriate to apply the 'Sedgefield' approach, and to require the backlog to be added to the first 5 years of the plan period.
39. Drawing these figures together, the evidence at this inquiry points to a need to find sites to accommodate:

5 years @ 147 / annum	735	
+ 20% buffer	147	
+ Backlog	93	
Total 5 year need	<u>975</u>	<i>(195 dwellings / year)</i>

#### Housing land supply

40. Paragraph 47 of NPPF looks for an assessment of specific deliverable sites to see if there can be confidence that there is a 5-year housing land supply. The paragraph gives an indication of what can be included in the assessment: this would include sites with planning permission, sites allocated in the local plan and with a reasonable expectation of being brought into development within the plan period.

<sup>10</sup> Appeal Ref. APP/K2420/A/13/2208318: Core Documents CD04a and CD04b

41. It was argued that a 10% lapse rate could be applied to the number of sites currently committed. That may be so, but section 3 of PPG<sup>11</sup> does not give specific guidance on this point. For the purposes of this appeal, I am prepared to work on the assumption that all 331 commitments<sup>12</sup> may be built out during the next 5 years – which I do acknowledge may prove to be optimistic. To this can be added sites which, although not having planning permission, could be regarded as having a reasonable prospect of being developed over the next five years.
42. Oadby & Wigston Borough Council has produced a Strategic Housing Land Availability Assessment (SHLAA) which sets out its view on what sites are deliverable within the 5 year period. At the inquiry it was noted that the SHLAA had been prepared by the Council without the level of cooperation or liaison with other stakeholders as expected in the advice given at paragraph 3-008-20140306 of PPG.
43. I do not propose to comment in detail on all of the sites which were discussed but it is relevant to note that at least one site (albeit only identified for a single dwelling) is far too small. However, the inclusion of that site does flag up the need to look critically at all of the other sites and their deliverability.
44. The appellants commissioned a review of the SHLAA sites<sup>13</sup>. Doubt was cast upon whether all of the sites noted in the SHLAA are likely to come forward for development during the plan period, either in terms of the numbers of dwellings estimated, or if at all. Also, paragraph 3-101-20140306 advises that sites capable of delivering fewer than five dwellings should not be included in the SHLAA. The SHLAA includes a number of small sites (less than 5 dwellings), and includes others where the landowner has no interest in making the site available.
45. The more notable sites commented upon at the inquiry are the Arriva bus depot site, the Shoefayre site, the Oadby Pool site and the Town Centre Action Area Plan (TCAAP) sites.
46. The Arriva bus depot site is noted for 43 units in the SHLAA. I acknowledge that the bus company have indicated their interest in moving to another site and that the present bus depot could be redeveloped for housing. However, no replacement bus depot site had been identified at the time of the inquiry. Time therefore has to be allowed for a site to be found, planning permission granted and construction work to be completed before the present site can even be vacated. Thereafter the site would have to be cleared and – in view of the likelihood of contamination of the land as a consequence of its present use – time allowed for remediation and restoration of the site. That is, there has to be a significant level of uncertainty over whether this site will be redeveloped for housing within the 5 year period.
47. I accept that the Shoefayre site may become available for development much sooner than the bus depot site, but there has to be some doubt over how many houses could be built here, taking into account the proximity of the

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<sup>11</sup> Planning Practice Guidance: Housing and Economic Land Availability Assessment

<sup>12</sup> Table 4: Oadby & Wigston Residential Land Availability Report 2014 (CD 13)

<sup>13</sup> Oadby and Wigston Available Housing Sites Assessment – October 2014: Pendimo Land & Property Consultants

(still operative) neighbouring bus depot and the necessary separation distances to safeguard new residents from noise, fumes and possibly contaminated land. The SHLAA notes the site could accommodate 42 units. It was argued that, because of the constraints, in practice the site may only be able to deliver 21 units. Alternative schemes were tabled at the inquiry (Document OW 09) showing 43 and 57 units on the site with apparently no adjustments or compromises to accommodate the alleged problems. Neither of these can be regarded as firm commitments, and I accept that detailed examination of the schemes may lead to a different number of units being developed, but I do see these schemes as offering some corroboration of the estimate given in the SHLAA.

48. Oadby Pool is noted as a site for 100% affordable housing. Questions were raised at the inquiry over the financial viability of this scheme in view of the likelihood that considerable expense would be incurred in preparing the site for development, taking account of the deep foundations of the current pool structure. I am sure that has to be a matter taken into consideration, but the Council would be able to exercise discretion as to what price it might sell the site for, thereby making sure it could be viably developed for affordable housing. I also note that the replacement pool is not yet built, but it may be unreasonable not to expect this to become available and the site released for development within the next five years.
49. The Pendimo review of the SHLAA identifies potential problems on other sites, largely relating to the willingness of the owners to release the site for housing and on-site problems of remediation adding to costs or time delay for release. Not all of these were discussed in detail at the inquiry, but the comments noted do further undermine the level of confidence that can be placed in the SHLAA.
50. The TCAAP includes two sites identified for residential development: Brooksby Square (37 units) and Long Lane, Wigston (7 units). Development of the Brooksby Square site will require reconfiguration of the adjacent car park, but I accept this would not be an insuperable problem with the Council owning the land and being a willing participant in wishing to get the site developed. No developer has expressed an interest yet, so this has to cast some doubt on its deliverability, but in anticipation of the economy recovering over the next 5 years, I do not see that it is unreasonable to expect this site to be completed within the SHLAA timescale.
51. Long Lane Wigston is a relatively small site which has access problems, with at least two other properties taking their access over this land. The problems are seemingly a matter for negotiation with landowners, rather than strong physical or infrastructure constraints. That is, it is possible that the problems can be overcome by negotiation within the next 5 years.
52. Drawing together the above points, from the evidence given at this inquiry I come to the view that the SHLAA over-estimates the number of housing units that are likely to come forward within the next five years. Taking into account that some commercial sites may now remain in office use, some sites have already been developed, discounting the sites smaller than 5 units, and discounting the more contentious sites – in terms of timing of availability – there could be something in the order of 130 units completed during the 5

year period, plus the TCAAP sites. This gives a total of about 174 units over the 5-year SHMA period.

53. Also coming forward during the 5 year period would be houses on the Directions for Growth site. It was said at the inquiry that these would be coming forward at about 65-75 dwellings per year, although it was disputed whether this would commence in mid 2016 or early 2017. Taking the view indicated in the e-mail correspondence from the developer, I accept that the mid 2016 date should not be disregarded. On the estimates put forward by the Council, the Directions for Growth site could provide 200 houses during the 5 year period.
54. The conclusion of this – admittedly cursory and approximated - examination of housing land supply shows:

Committed sites	331
+ SHLAA sites	130
+ TCAAP sites	44
+ Directions for Growth	200
Total	<u>705</u>

55. 705 represents 3.6 years' housing land supply set against the estimated 5-year need (975). Based on the above figures, there is a shortfall of 270 dwellings to bring it up to a full 5-year supply. Having said that, I acknowledge that the analysis of both the need and supply figures have not been subject to the detailed examination that might be applied at a local plan examination and they should not be taken as being precise. However, until such time as the "policy on" distribution implied in the SHMA has been tested and endorsed through a local plan examination I consider they represent reasonable indications of the need / supply situation in Oadby & Wigston. That is, there is a shortfall in the order of some 270 dwellings to be made up over the period 2014-2019.
56. The conclusion on the first main issue is that there is a need to identify additional housing sites and particularly for affordable housing. On the basis that there is the need to release more land for housing, because the OWBCCS policies are not NPPF compliant, in the context of Policies CS1 and CS7 the boundary of the PUA cannot be regarded as a fixed constraint on the extent of development. That is, land adjacent to the boundary of the PUA could be released for development without undermining the broad strategy of concentrating development on the PUA.
57. No sites which could be used to accommodate this shortfall within Oadby & Wigston and within the present PUA boundary were identified at the inquiry. That is, any site to accommodate further residential development is likely to be in 'countryside' as categorised by Policy CS7. This being so, it is now appropriate to move on to consider the second main issue.

***Effect on the character and appearance of the area***

58. Although it is necessary to release land for housing land which is presently 'countryside' under Policy CS7 as discussed at paragraph 7 above, the view

that this policy is not NPPF compliant does not give *carte blanche* for any land on the periphery of the PUA to be regarded as suitable to meet this need. Also, Policy CS15 seeks to safeguard the distinctive and historic landscape character of the Borough having regard to – amongst other matters – prevailing quality, character, views and local distinctiveness. The objectives of this policy are compliant with the core planning principles set out at paragraph 17 of NPPF.

59. The reasons for refusal identify the Council's concern as the effect of the proposed development on the site's landscape character. It is unhelpful to appraise the likely change in the context of the restricted scope of the Council's reason for refusal. The site is presently undeveloped farmland and, inevitably, residential development here will result in a loss of open countryside. To give a fair assessment of the impact of the proposed scheme within the terms of Policy CS15 it is necessary to consider how the site relates to the wider landscape and the impact of residential development would have on that wider view.
60. The site is within the Wigston East sub-area of the Oadby & Wigston Landscape Character Type. Whereas the site is undeveloped, it does not have the characteristics of a high quality landscape. The Landscape Value was characterised as 'Medium' by the Council's witness. The essential characteristic of the site within that landscape character area, which was emphasised by the Council at the inquiry, is that it is seen to be part of the Green Gateway into Oadby, and that it represents a gradual transition from town to country. This can be appreciated both in views from the A6 and from public rights of way in the vicinity of the site.
61. The main frontage of the site is along the A6. I note that the A6 at this point is not within the same landscape character area as the site itself, but I do not see that as a reason not to consider any potential harm that might be caused to the character and appearance of this frontage. Here the site boundary comprises a mature hedge, with a number of established trees spaced out along the frontage. The frontage is highly visible from the main road, whether passing on foot, cycle or in a car. The main road is one of the principal entry points into the Leicester PUA. South of the roundabout at Great Glen the surroundings are distinctly rural, and north of the roundabout with Florence Wragg Way it is clearly part of a closely developed urban area. The stretch in between the roundabouts is not so intensively developed: whereas there are houses and other buildings on both sides of the road, there are few – if any – places where there is built development directly opposite on each side of the road. Built development faces across the road either to the golf course east of the appeal site, the hedge of the appeal site frontage, or the grassed surroundings of the reservoir close to Florence Wragg Way.
62. The appeal scheme would introduce built development directly facing other built development across the road. This would be a change which would, to some degree, erode the character of this approach to Oadby, making it appear more intensively developed. However, the degree of change would not be overwhelming: the appeal scheme shows that much of the roadside hedge and most of the trees could be retained, and there is scope for additional planting to at least partially screen the development along this frontage. The perceived start of the urbanised area is at the golf course and Gorse Lane on the opposite side of the A6, and this would not change. I

acknowledge that the appeal scheme would result in this approach into Oadby and the PUA appearing a little more urbanised, but not to the point where its transitional character as a Green Gateway would be entirely lost.

63. Pedestrians and cyclists passing the site do have a better opportunity to take in views through gaps in the roadside hedge across the site and to the countryside to the west beyond. These views would be interrupted or even wholly obscured by the appeal scheme, but these are not significant or especially important views over high value landscape. Similar views can be had to the south. That is, the views are obviously part of the enjoyment of the surroundings for those passing along this part of the A6, but they are not so significant that the loss or interruption of these views would wholly spoil the enjoyment of a recreational walk or cycle ride.
64. Various footpaths or bridleways (some noted on the Definitive Map, and some seemingly informal or permissive) pass over land close to the site and at least one informal path crosses the appeal site. Insofar as rights of way are concerned, the appeal site would not require the closure any of the existing rights of way, nor necessarily any serious diversion from the route of the present path across the appeal site. That is, access over the paths and onto adjoining routes would not be lost. Indeed, the proposed scheme includes the creation (or formalisation) of a pedestrian link to Coombe Park.
65. However, the views from at least some of the paths would change. The path over the appeal site would be incorporated in some way into the development and probably become more urbanised, albeit trees and shrubs could be planted along part or all of the route. From Mere Lane (Bridleway Z11) the development would appear closer than the present edge of the urban area – but only by some 150–200 metres, and there would be on-site planting, and the hedge along Mere Lane would at least partially screen the new development. The golf course would remain as a significant physical and visual separation between Mere Lane and the new development, which would minimise the apparent encroachment of the built up area into the largely rural ambiance of the lane.
66. The greatest change to views would come along part of the footpath which passes east-west to the south of the appeal site (path C38). Here there are clear views up the length of the site from two points. I am sure the loss of these open views would be regretted by many who use the path, but this would be for only a relatively small length of the whole path between Mere Lane and Coombe Park. The built up part of the site would be some 300 metres away from the path and hence the rural character (or, perhaps more accurately, the rural/urban transitional fringe character) would not be totally lost. More extensive - and arguably more interesting and attractive - views over the countryside to the west, south-west and south would not be affected.
67. In the wider area, because of the undulations in the landform and established hedges and trees, the development on the appeal site would be barely perceptible from the public rights of way and other public vantage points. This is shown on the plan identifying the Zone of Theoretical Visibility. This plan shows that the site is not readily seen from places beyond the site boundary, and from relatively few places more than 400 metres from the centre of the site.

68. Drawing these points together, development of the site would result in a partial loss of the characteristics of the area but, as accepted by the Council's landscape witness, housing here will not be totally uncharacteristic as it is immediately adjacent to a residential area. The development would be seen from a small number of vantage points beyond the site itself, but the degree of visual intrusion into existing views would be limited, and it would be disproportionate to consider that such change would seriously and unacceptably undermine the amenity value of the countryside hereabouts and the enjoyment of the recreational use of the nearby footpaths and bridleway. Nevertheless, in terms of Policy CS15, there would be some harmful impact which would detract from the quality, character and features of the local landscape.

### **Other Matters**

69. I note the strongly expressed opposition to the scheme by local residents and the argument that in an era of 'Localism' the views of local residents should be listened to. I do not disregard that view, but that has to be set against the statutory provisions which regulate the determination of this appeal. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be decided in accordance with the development plan unless material considerations indicate otherwise. That is, locally expressed views cannot "trump" statutory requirements, including the need to consider whether there are material planning considerations which point to approval of the appeal scheme. As discussed above, I consider there are material considerations which support making a decision other than in accordance with the development plan policies.
70. Other, more detailed points regarding the relationship between the neighbouring houses and elements of the proposed scheme were raised; in particular concern about the proximity of the proposed sports pitch to existing houses and gardens. This is an appeal relating to an application for outline planning permission with all matters except access reserved for subsequent consideration. Although the application is supported by a Development Framework Plan, precise details about siting, screening and other such concerns of neighbourliness are matters which would be considered more closely at detailed application stage. I do not consider that a sports pitch sited to the rear of existing houses need be so unreasonably disturbing or unneighbourly as to justify dismissing the appeal on this point.
71. Concerns were expressed over the impact of the scheme on the enjoyment of walking over the local footpaths. I have considered this matter in earlier passages of this decision. Although the scheme would introduce some change, I do not consider this would be so great as to materially spoil the enjoyment of the countryside hereabouts for walkers.
72. Local residents were fearful that a permission for the scheme would set a precedent for further planning applications being made on other land in this vicinity, and possibly resulting in further planning permissions. It is a well established principle that every planning application has to be considered on its own merits. Confirmed interest by landowners or developers of other sites nearby was not specifically referred to at the inquiry, and no history of planning applications or decisions relating to nearby sites was cited which might indicate strong pressure to release land in the vicinity. I am satisfied

that there are no other sites in the immediate vicinity which exhibit such similarity with the appeal site that permission for the current proposal would mean that granting permission for another scheme would become inevitable.

73. Concerns over the capacity of local schools to accommodate an increased number of children can be met through contributions from the developer paid to the County Education Authority, as discussed below. It was claimed that the A6 junction would be dangerous and that this stretch of the road is a "racetrack". No specific evidence such as a record of recent road traffic accidents was brought to the inquiry to demonstrate if the road is indeed unsafe. The police and the local highway authority were consulted on the proposed scheme and neither has raised or supported objections of this kind.

## **Planning Conditions and Planning Obligation**

### ***Planning conditions***

74. At the inquiry a suite of suggested planning conditions was put forward, which could be attached to a planning permission in the event of the appeal being allowed.
75. Nothing was raised which would suggest it would be appropriate to attach anything other than the usual time limits for the submission of details and commencement of development. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. Similarly, to ensure a properly ordered development, it is necessary to require submission of a phasing plan.
76. As this is an outline application, and to ensure a high quality development, it is reasonable to ask for a Design Guide to set out the principles for the layout, appearance and details of the proposed development. The subsequent applications for detailed approval should follow the approved Guide, and should also demonstrate what measures are to be included to show that the scheme would represent sustainable development.
77. The site is currently in agricultural use and therefore the risk of the land being contaminated is probably low. However, in the interests of minimising the risk of releasing pollutants into the soil and groundwater, it is necessary to require that measures are put in place to identify and, if necessary, to remediate any contamination there may be. In a similar vein, the site may include archaeological remains, which should be identified and the opportunity given for them to be investigated and, if appropriate, arrangements made for their display.
78. Hedgerows, trees and ponds on the site are likely to be the habitat for wildlife and works affecting the habitat should be controlled so as to minimise harm. The development should be carried out in accordance with a Biodiversity Management Plan in order to maximise the potential for creation of new habitats, not least being for the relocation of newts.
79. In order to minimise flood risk and to manage the drainage of the site, it is necessary to require submission of details of such works, including the creation of a Sustainable Urban Drainage System, for approval before the commencement of development.

80. In the interests of highway safety, the free flow of traffic and the minimisation of disturbance or nuisance to other road users it is necessary to require that works on the site are carried out in accordance with a plan to control – amongst other matters - access, parking and wheel cleaning. For similar reasons, the access to the residential development should be completed before the first house is occupied.
81. In the interests of promoting sustainable development, it is reasonable to require the submission of a Travel Plan which seeks to promote – amongst other matters – the maximisation of the use of alternatives to private cars. One of the features on the Development Framework plan is a footpath link to Coombe Park. The details of this should be approved before construction commences also for reasons of promoting sustainable development.

### ***Planning Obligation***

82. A completed planning obligation, in the form of an agreement made under Section 106 of the Town and Country, was submitted at the inquiry (Document OW15). I have considered the submitted planning obligation against the tests set out at paragraph 204 of NPPF.
83. In general terms, the agreement establishes a commitment to provide 30% affordable dwellings, support for sustainable transport, the provision of open space for public use, and financial contributions for education, the county council library service and police infrastructure. The terms of the offered agreement were discussed, and whether the contributions put forward were directly related to the development being proposed. Nothing was said at the inquiry to indicate that what is being offered is unreasonable, disproportionate, or likely to be covered by other sources of financial support or revenue.
84. I am satisfied that, in the light of the matters discussed at the inquiry, and taking into account the written submissions relating particularly to the police contribution (document LP1), all the offered contributions and undertakings are necessary to make the development acceptable in planning terms, are directly related to the development and reasonably related in scale and kind to the development.

### **Conclusion**

85. The appeal site is outside the defined limits of development for the PUA, as set in the Core Strategy. However, the Core Strategy pre-dates the publication of the NPPF and its policies are not compliant with the expectations of the NPPF, in particular with regard to the adequacy of housing land supply to meet identified local needs. Whereas there have been efforts to draw up a housing strategy which addresses the whole of the PUA the SHMA has not been tested through a local plan examination and there is uncertainty over the operation of any joint or mutually agreed policy to meet needs across local authority boundaries. That is, the quantum of the full, objectively assessed need as looked for by NPPF is not settled, and neither is it certain that the level of cooperation - and its implementation - implied by the Memorandum of Understanding and the SHMA satisfy the duty to cooperate set out at paragraph 157 of NPPF.

86. At the inquiry it was said that development on the appeal site could start by 2016, and could be built out in its entirety within 5 years. This implies 30 dwellings per year would become available. This would mean that perhaps 100-120 of the total could go towards meeting the shortfall in the 5-year housing need identified at paragraph 55 above (270). If so, this would be a significant contribution. From the evidence provided to the inquiry, permission for the appeal would not disrupt the delivery of sites on the Directions for Growth site. Indeed, with the Directions for Growth site in the hands of one developer (albeit marketing under two trading identities) the proposed scheme would also help to meet the objective of increasing choice in the housing market, as discussed at section 6 of NPPF.
87. The proposed scheme can be seen to represent sustainable development. There would be economic benefits to the local economy, at least in the short term, whilst the development was being carried out in terms of investment, employment and spending. There would be distinct social benefits in that the supply of housing would be enhanced, thereby helping to meet the entirely reasonable expectation that local residents, including newly forming households and those in need of affordable housing, should be able to find a home in their local area. The scheme would include a significant number of affordable homes, helping to address that particular need. The scheme would also include recreational facilities which would be available for the wider community. New housing on a green field site would, inevitably, result in some environmental harm, but this would be off-set by structured new landscape planting and SUDS drainage arrangements, both having the potential to add to local habitat and biodiversity. Overall, and on balance, the proposed scheme is seen to represent sustainable development.
88. Accordingly, the appeal should be allowed, subject to the conditions discussed above and as set out in the Appendix to this decision.

*Geoffrey Hill*

INSPECTOR

## APPEARANCES

### For Oadby & Wigston Borough Council:

Mr Timothy Leader, of Counsel

Instructed by Mrs A Court, Director of Services, Oadby & Wigston Borough Council

**He called:**

Mr Justin Gardner

Justin Gardner Consulting

Mr Adrian Thorpe BA(Hons) MRTPI

Planning Policy and Regeneration Manager

Mr David McKenna

Senior Studio Associate Landscape Architect, IBI

Mr Gary Halman BSc FRICS MRTPI

Partner, How Planning LLP

Mr Chris Forrett MRTPI

Planning Control Manager

### For Bloor Homes Ltd:

Mr Reuben Taylor QC

Instructed by Mr M J Whitehead, Bloor Homes Ltd.,

**He called:**

Mr Andrew Williams BA(Hons) DipLA DipUD CMLI Director: Define

Mr Guy Longley BSc(Hons) DipTP DipUD MRTPI Pegasus Group

Mr Mark Rose BA(Hons) MA DipUD MRTPI Director: Define

### Rule 6(6) Parties - attended on opening day but did not present evidence orally

#### Leicestershire Police

Ms Thea Osmund-Smith, of Counsel

Instructed by Mr M Lambert

**Witness not called:**

Mr Michael Lambert BA DipTP MRTPI

Growth and Design Officer

#### Leicestershire County Council

Ms Nisha Varia

Solicitor, Leicestershire County Council

**Witness not called:**

Mr Andrew Tyrer BA MRTPI

Developer Contributions Officer

### **Interested Persons:**

Mrs M Sansome	Local resident
Mr L Hill	Local resident
Mr E Charlesworth	Local resident
Mrs H Whitesman	Local resident

## **DOCUMENTS**

### **Core Documents**

- CD 01 Officer Report to Committee 27 February 2014
- CD 02 Decision Notice - 27 February 2014
- CD 03 OWBC Core Strategy - Adopted 28 September 2010
- CD 04 Conformity Assessment — April 2013
- CD 05 Town Centre Area Action Plan — 3 September 2013
- CD 06 Leicester & Leicestershire SHMA — June 2014
- CD 07 Leicester & Leicestershire Housing Market Area Memorandum of Understanding — September 2014
- CD 08 OWBC Investor Prospectus — September 2014
- CD 09 Oadby and Wigston Landscape Character Assessment (March 2005)
- CD 10 Laying the Foundations: A Housing Strategy for England November 2011
- CD 11 2014 Housing Implementation Strategy
- CD 12 2013 Housing Implementation Strategy
- CD 13 2014 Residential Land Availability Report
- CD 14 2013 Residential Land Availability Report
- CD 15 2014 Strategic Housing Land Availability Assessment & Site Details
- CD 16 2013 Strategic Housing Land Availability Assessment & Site Details
- CD 17 Residential Sites with Planning Permission 2014
- CD 18 Details of Committed Developments as of 31st March 2013

### **Proofs of Evidence**

#### **Witnesses for Oadby & Wigston Borough Council**

Mr Gary Halman

- OW/PoE/01 Proof of evidence (including a summary)
- OW/PoE/02 Appendices to proof of evidence
- OW/PoE/03 Rebuttal proof of evidence including appendices

Mr Justin Gardner

- OW/PoE/04 Proof of evidence (including overall conclusions)
- OW/PoE/05 Appendices to proof of evidence
- OW/PoE/06 Rebuttal proof of evidence
- OW/PoE/07 Appendices to rebuttal proof of evidence

Mr David McKenna

- OW/PoE/08 Proof of evidence (including a summary)
- OW/PoE/09 Appendices to proof of evidence

***Witnesses for Bloor Homes***

Mr Mark Rose

- BH/PoE /01 Proof of evidence
- BH/PoE/02 Volume of appendices to proof of evidence
- BH/PoE/03 Summary proof of evidence

Mr Guy Longley

- BH/PoE/04 Proof of evidence including Summary and Conclusions and Appendices
- BH/PoE/05 Summary proof of evidence

Mr Andrew Williams

- BH/PoE/06 Proof of evidence including Summary and Conclusions and Appendices A-C.
- BH/PoE/07 Appendix D to proof of evidence
- BH/PoE/08 Summary proof of evidence

**Proofs submitted but not presented as oral evidence (regarded as written submissions)**

Mr Michael Lambert DipTP MRTPI

- LP/PoE /01 Proof of evidence (no summary)
- LP/PoE /02 Bundle of appendices to proof of evidence

Mr Andrew Tyrer

- LCC/PoE /01 Proof of evidence (no summary)
- LCC/PoE /02 Volume of appendices to proof of evidence

## **Documents submitted during the course of the inquiry**

### ***For Oadby & Wigston Borough Council***

- OW 01 Appeal Decision APP/G2435/A/142217036: Lower Packington Road, Ashby-de-la-Zouch
- OW 02 Extract from Planning Advisory Service Technical Advice Note on Objectively Assessed Need and Housing Targets
- OW 03 Affordable Housing Briefing Note, put in by Mr Halman
- OW 04a Secretary of State's Decision on Appeal APP/K2420/A/13/2208318: Sketchley House, Watling Street, Burbage
- OW 04b Inspector's Report on Appeal APP/K2420/A/13/2208318: Sketchley House, Watling Street, Burbage
- OW 05 Extract from Inspector's Report on Examination into Bath & North East Somerset Council's Core Strategy (June 2014)
- OW 06 Extract from Leicestershire Definitive Map of Public Rights of Way
- OW 07 Oadby & Wigston Local Plan Adopted Policies Map September 2013 (composite)
- OW 08 Oadby & Wigston Local Plan 1999 Proposals Map
- OW 09 Schematic diagrams for development of Kirkdale Road, Wigston site
- OW 10 Bundle of up-date documents submitted during adjournment
  - OWBC letter to The Planning Inspectorate 22 December 2014
  - OWBC Development Opportunities with the Borough report
  - Extract from OWBC minutes 9 December 2014
  - E-mail of 18 December 2014 re. Directions for Growth site
- OW 11 Extract from Inspector's Report on Examination into Oadby & Wigston Core Strategy (August 2010)
- OW 12 Bloor Homes judgment - [2014] EWHC 754 (Admin)
- OW 13 Inspector's Report on Hinkley & Bosworth Core Strategy (27 November 2009)
- OW 14 Housing Trajectory for Hinkley & Bosworth Core Strategy
- OW 15 Copy of completed Planning Agreement made under Section 106 of Town & Country Planning Act 1990 - dated 30 December 2014
- OW 16 Extract from Local Government Act 1972 - Section 123
- OW 17 Extract from Circular 06/03 - Local Government Act 1972 General

Disposal Consent (England) 2003; Disposal of Land for Less than the Best Consideration that can be Reasonably be Obtained.

OW 18 Zurich Assurance judgment – [2014] EWHC 758 (Admin)

**For Bloor Homes**

- BH 01 Synopsis of Housing Land Supply 1 August 2014 – commentary on SHLAA sites + observations on Parva Engineering site
- BH 02 Mr Williams’ LVIA Comparison Schedule
- BH 03 Landscape impact analysis drawings (16 A3 sheets)
- BH 04 Eastleigh Borough Local Plan 2011-2029 Examination. Document ID/4: Inspector’s Preliminary Conclusions on Housing Needs and Supply and Economic Growth (post Hearing Note 2)
- BH 05 Inspector’s Report on Examination into Oadby & Wigston Core Strategy (August 2010)

**For Leicestershire Police**

- LP 01 Brief Closing Submissions from Ms Thea Osmund-Smith (written submission)

**PLANS**

	<i>Drawing No.</i>	<i>Subject/ Description</i>
Plan A.1	DE107_001	Red Line Plan
Plan A.2	DE107_002	Development Framework Plan
Plan A.3	A053270 011 Revision B	Proposed Site Access Junction

## **APPENDIX**

### **SCHEDULE OF PLANNING CONDITIONS**

*(23 conditions in total)*

#### **Commencement of development and approval of details**

1. 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.
2. The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last reserved matter(s) to be approved.
3. The development shall be carried out in accordance with the principles and guidance as set out in the Design and Access Statement dated November 2013, the Development Framework Plan reference DE107\_002 Rev C and the access plan reference AO83270 011 Rev B.

#### **Phasing**

4. Prior to, or concurrent with the submission of the first application for reserved matters, a phasing plan shall be submitted to Local Planning Authority for approval in writing, and the subsequent development implemented in accordance with the approved plan unless otherwise agreed in writing with the local planning authority.

#### **Design**

5. Prior to, or concurrent with the submission of the first application for reserved matters, a Design Guide shall be submitted to the Local Planning Authority for approval in writing. The Design Guide shall cover the whole site and be prepared in accordance with the Design and Access Statement dated November 2013. The content and scope of the Design Guide shall address the following:
  - i) architectural and sustainable design principles including materials palette;
  - ii) street types including cross sections, parking arrangements, street trees, hard and soft landscaping and street furniture;
  - iii) footpath and cycleway design;
  - iv) boundary treatments;
  - v) open space areas;
  - vi) lighting of outdoor spaces;
  - vii) wildlife habitats and ecological areas;
  - viii) SUDS features to include wetland habitats of biodiversity value;
  - ix) tree and hedgerow retention and new tree planting;

- x) storage and access routes for bins;
- xi) opportunities to maximise resource efficiency and climate change adaptation in the design of the development through external means such as landscaping, orientation, massing and external building features.

The development shall be carried out in accordance with the approved guidance.

### **Reserved Matters**

6. Detailed plans and particulars of the siting, layout, design and scale, external appearance and landscaping development (referred to in Condition 2 as reserved matters) shall be submitted to Local Planning Authority for approval in writing prior to the commencement of development. The following level of detail will be expected with any reserved matters application:
  - i) detailed drawings to a scale of not less than 1:500 including road and plot layouts;
  - ii) detailed drawings to a scale of not less than 1:100 showing the siting, design, and external appearance of the buildings, including particulars of the materials to be used for external walls and roofs;
  - iii) details of the siting and design of any vehicular access to a highway or estate road;
  - iv) detailed drawings to a scale of not less than 1:500 of a landscaping scheme showing the following details:
    - a) the positions, heights and species of existing trees;
    - b) proposals for protection, felling and retention of existing trees;
    - c) proposals for tree planting, including the number, species, heights of planting and positions of all trees, shrubs and hedgerows;
    - d) proposals for the provision of incidental grass areas or other open spaces, including particulars of the treatment of hard surfaces, and any other features intended to enhance the attractiveness of the environment;
    - e) proposals for the provision of screen walls or fences, including details of heights, positions, designs and types of construction.

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

### **Sustainability Statement**

7. Each reserved matters application shall be supported by a Sustainability Statement which shall demonstrate how the development will:
  - i) make effective use of resources and materials;
  - ii) promote sustainable transport;
  - iii) minimise water use;

- iv) utilise on-site renewable energy sources where practicable;
- v) reduce predicted CO<sub>2</sub> emissions;
- vi) be designed so as to minimise, mitigate and adapt to the likely effects of climate change; and
- vii) be designed to reflect the current nationally prescribed sustainable building standards for energy efficiency.

### **Land Contamination**

8. Prior to commencement of the development hereby permitted a contaminated land assessment and associated remedial strategy shall be submitted the Local Planning Authority (LPA) for approval in writing. The measures approved in that scheme shall be fully implemented. The completed scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically in writing.
  - i) A desk study. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the LPA prior to any site investigations commencing on site.
  - ii) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, which shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
  - iii) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the LPA as required prior to any remediation commencing on site. The remediation works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
9. If during the course of development, contamination not previously anticipated or previously identified is found to be present on the site, then no further development (unless otherwise first agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to the Local Planning Authority for approval in writing. The contamination shall then be dealt with in accordance with the approved details.
10. Upon completion of the remediation works a verification report shall be submitted to and approved by the Local Planning Authority. The verification report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site.

## **Ecology**

11. Existing vegetation and hedgerows with the potential to accommodate breeding birds shall only be managed or removed outside the bird breeding season (March to August), unless otherwise first agreed in writing with the Local Planning Authority.
12. Prior to the felling of or works to any trees as identified in the RSK Ecological Appraisal as having potential to accommodate bats, a bat inspection survey including appropriate mitigation measures shall be undertaken and submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved measures.
13. Prior to, or concurrent with the submission of the first application for reserved matters, a Biodiversity Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Plan shall address the ongoing management and maintenance of all created and retained wildlife habitats, hedgerows and landscape buffer zones, wetlands, and wildflower grasslands. The development shall be carried out in accordance with the approved Plan.
14. Prior to, or concurrent with the submission of the first application for reserved matters, a revised Great Crested Newt and Reptile Survey with an associated Mitigation Strategy shall be submitted to the Local Planning Authority for approval in writing, in accordance with a scope to be agreed in writing beforehand with the Local Planning Authority and the County Ecologist. Subsequent reserved matters application(s) shall be accompanied by a Great Crested Newt and Reptile survey that shall have been prepared within 12 months of the submission date. The development shall be carried out in accordance with the approved Mitigation Strategy.

## **Archaeology**

15. Prior to commencement of the development hereby permitted a programme of archaeological work (Strip, Plan and Record excavation) including a Written Scheme of Investigation shall be submitted to and the Local Planning Authority for approval in writing. The scheme shall include an assessment of significance and research questions; and:
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) provision to be made for analysis of the site investigation and recording;
  - iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) provision to be made for archive deposition of the analysis and records of the site investigation;
  - vi) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

16. Prior to first occupation of the development hereby permitted the site investigation and post investigation assessment must be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 15 and provision made for analysis, publication and dissemination of results and archive deposition been secured.

### **Drainage**

17. The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment and Drainage Strategy dated November 2013, reference Rev C, compiled by Halcrow.
18. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to the Local Planning Authority for approval in writing. The scheme shall include the utilisation of holding sustainable drainage techniques, with the incorporation of two treatment trains, to help improve water quality and limit of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage and water storage features. The scheme shall be fully implemented and subsequently maintained, in accordance with the arrangements embodied within the approved scheme, or within any other such scheme as may subsequently be agreed in writing by the Local Planning Authority.
19. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard standings susceptible to oil contamination shall be passed through an oil separator designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

### **Highways**

20. The highways works as shown on plan reference AO83270 011 Rev B shall be implemented in full prior to the first occupation of any of the dwellings.

### **Construction Traffic**

21. Prior to commencement of the development hereby permitted a scheme for construction site and traffic management (including the location of the construction access and associated visibility splays, wheel and road cleaning, deliveries, vehicle parking and hours of operation) shall be submitted to the Local Planning Authority for approval in writing. The approved scheme shall be fully implemented until the completion of development.

### **Pedestrian link to Coombe Park**

22. Prior to commencement of the development hereby permitted a scheme for the provision and management of a footpath to Coombe Park shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be fully implemented in accordance with the approved details within a timescale to be agreed in the phasing plan (condition 4), and retained in perpetuity thereafter.

## **Travel Plan**

- 23 Before first occupation of any dwelling hereby approved details of a Residential Travel Plan shall be submitted to the Local Planning Authority for approval in writing. The Plan shall address the full travel implications of the approved scheme and set out the facilities and measures, together with the associated measurable outputs and targets designed to:-
- a) reduce single occupancy vehicle use, vehicular travel at peak traffic times and vehicle emissions for journeys made for all purposes to and from the development site;
  - b) increase the choice and use of alternative transport modes for any journeys likely to be made to and from the development site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel;
  - c) manage the demand by all users of the developed site for vehicle parking within, and in the vicinity of, the developed site.

The Plan shall also specify:-

- d) the on-site implementation of the Plan and management responsibilities, including the identification of a 'travel plan coordinator';
- e) the arrangements for undertaking regular travel behaviour and impact monitoring surveys and for reviews of the Plan covering a period extending to at least one year after the last approved dwelling is occupied or a minimum of 5 years from first occupation, whichever is the longer;
- f) the timescales for delivery of the specified outcomes and targets to be achieved through the implementation of the Residential Travel Plan;
- g) the additional facilities and measures to be implemented if monitoring shows that the outcomes and targets specified in the Residential Travel Plan are unlikely to be met, together with clear criteria for invoking those measures.

The Plan shall be implemented in accordance with the approved details, and it shall include provision of at least annual reports on its progress and effectiveness, to include information from the travel behaviour and impact monitoring surveys, to be submitted to the Local Planning Authority.

### ***End of Schedule of Planning Conditions***