



## Appeal Decision

Inquiry held on 6-8 May 2015

Site visit made on 7 May 2015

**by David Spencer BA (Hons) DipTP MRTPI**

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

**Decision date: 18 June 2015**

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**Appeal Ref: APP/Y2810/A/14/2225722**

**Salisbury Landscapes Ltd, Boughton Road, Moulton, Northampton  
NN3 7SQ**

- 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 Salisbury Garden Services (Northampton) Ltd against the decision of Daventry District Council.
  - The application Ref DA/2013/0690, dated 23 August 2013, was refused by notice dated 21 March 2014.
  - The development proposed is residential development of up to 70 dwellings including affordable housing, access and associated works, open space, amenity space, attenuation ponds and infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 70 dwellings including affordable housing, access and associated works, open space, amenity space, attenuation ponds and infrastructure in accordance with the terms of the application, Ref DA/2013/0690, dated 23 August 2013, and subject to the conditions set out in the schedule at the end of this decision.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved except for access. Nevertheless it was accompanied by supporting information including, amongst other things, a planning statement, a transport assessment, a travel plan, a flood risk assessment, a preliminary ecological appraisal, a tree survey and a landscape and visual impact assessment.
3. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted during the Inquiry. The UU would provide for public open space, and the delivery of affordable housing as well as financial contributions towards community infrastructure, fire and rescue, health, education, libraries and local transport infrastructure. As such the proposed contributions would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.
4. The submitted UU contains provisions and a plan for the location of the proposed open space which the appellant submits would provide a degree of certainty. The Council considers that such specificity would be more appropriately dealt with at the reserved matters stage. However, the description of the development includes "open space" and consequently a

hybrid proposal on this basis would be a reasonable proposition. In coming to this view, I am cognisant that representations were made, including from the Council's landscape officer, on the originally submitted indicative layout drawing<sup>1</sup>, which shows the open space along both the western and northern boundaries of the site. However, this layout was suggestive and did not preclude other options for the balance of open space and up to 70 dwellings on the appeal site.

5. On the revised open space plan, the broad quantum of open space has not changed, nor its general orientation towards the western edge of the appeal site. Similarly, the overall emphasis of residential development on the eastern half of the site would remain as would the proposed position of the main site access. Therefore, in my view, this amended plan would not materially alter the appeal proposal and as such I am satisfied that no one would be prejudiced by my taking it into account.

### **Main Issues**

6. To assist the main parties at the Inquiry I circulated in advance a brief note setting out what I considered to be three main issues. Two of those main issues are set out below and were agreed at the start of the Inquiry. The third issue, to my mind, related to the application of paragraph 14 of the NPPF, in determining, whether the appeal proposal constituted sustainable development to which the presumption in favour would apply. I received lengthy oral and written submissions on this matter which are considered in the overall conclusion and planning balance section of this decision.
7. The main issues in this appeal are, therefore:
  - The District's housing land supply position and its policy implications; and
  - Whether the proposed development would undermine the 'green wedge' designation to the west of Moulton.

### **Reasons**

#### *Policy Context*

8. The development plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was adopted in December 2014 (the WNJCS). This document has been found sound against the requirements of the National Planning Policy Framework (NPPF) and provides a spatial strategy for delivering growth, including objectively assessed housing need (OAHN), which includes District housing requirement figures to 2029. The WNJCS provides a strategic plan for Daventry District following the revocation of the East Midlands Regional Spatial Strategy (RSS) in April 2013.
9. The finalisation and adoption of the WNJCS post-dates the Council's decision on the appeal proposal. The Council has submitted that it considers WNJCS Policies S1 and R1 would be breached by the appeal proposal. The appellant has addressed these policies and provided additional extracts<sup>2</sup> of the adopted WNJCS considered to be relevant to the appeal proposal. As such I have taken into account the adopted WNJCS in reaching my decision.

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<sup>1</sup> Drawing No. C-1307 (08) 03 Rev P1

<sup>2</sup> Appendix 5 to Matthew Taylor Proof of Evidence & Doc 4

10. The development plan also consists of a number of saved policies from the Daventry District Local Plan 1991 to 2006 which was adopted in 1997 (the DDLP). Whilst the plan period has time expired these policies remain extant and the degree of weight to be attached to them will reflect the circumstances of the appeal. Daventry District Council is currently working on an emerging Settlements and Countryside Local Plan (SaCLP), albeit work remains at a formative stage given the recent adoption of the WNJCS.
11. At a more local level Moulton Parish Council is presently preparing a Moulton Neighbourhood Development Plan (MNDP). A draft of the MNDP has been prepared and consulted on, including a proposed residential allocation on Boughton Road to the south of the appeal site. The Parish Council intend to submit the document to the District Council imminently although I have few details on the likely timetable for the examination and adoption. The emerging MNDP is a material consideration, however, given its early stage of preparation and having had regard to paragraph 216 of the NPPF and the PPG<sup>3</sup>, I share the view of the District Council that only little weight should be given to it.

### *Housing Land Supply*

12. The NPPF is predicated on the principle that sustainable development is about positive growth. In terms of positive housing growth, paragraph 47 of the NPPF requires a significant boost in the supply of housing by ensuring that the full, objectively assessed housing need (OAHN) is embedded within the development plan. It also requires Council's to identify and annually update a five year supply of deliverable housing land incorporating an additional 5% buffer, to ensure choice and competition, and where there is a record of persistent under-delivery a 20% buffer should be applied. Paragraph 49 of the NPPF requires housing applications to be considered in the context of the presumption in favour of sustainable development. Accordingly, where a five-year supply of deliverable housing sites cannot be demonstrated, relevant policies for the supply of housing should not be considered up-to-date.
13. The housing land supply position in Daventry and its policy implications have been the subject of a number of recent appeal decisions<sup>4</sup>, which are before me. These decisions date between 23 October 2012 and 24 December 2014 and largely track a period when the WNJCS was in various stages of preparation. In all of these decisions it was determined that the Council could not demonstrate a 5 year supply of deliverable housing land, partly on the basis of a 20% buffer for persistent under-delivery, including in some cases against an annualised OAHN figure of 388 dwellings per annum, based on emerging WNJCS figures.
14. The Council published an updated Housing Land Availability assessment on 2 April 2015 (HLA 2015). This document applies a 5% buffer on the basis that performance since 2011 has tallied with the plan period figures for 2011-15 in the housing trajectory of the WNJCS. Consequently, in applying a 5% buffer, in conjunction with estimates on supply, the Council submits that it has a 5.94 year supply of deliverable housing land.

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<sup>3</sup> Paragraph 007 (Reference ID: 41-007-20140306)

<sup>4</sup> APP/Y2810/A/12/2173992; APP/Y2810/A/12/2178421; APP/Y2810/A/13/2197175; APP/Y2810/A/13/2202009; APP/Y2810/A/14/2214145; APP/Y2810/A/14/2216520; APP/Y2810/A/14/2222311

15. I appreciate that this update to the housing land supply position has occurred relatively late in the consideration of the appeal proposal and consequently there is a marked difference in the Council's position on housing land supply when the appeal was submitted and compared to the most recent appeal at West Haddon<sup>5</sup>. Nonetheless the appellant has been able to scrutinise and make submissions on the Council's change in approach to its housing requirement. Furthermore, having considered the NPPF at paragraph 47 and the PPG<sup>6</sup>, I share the view of the Council that updating the housing land availability position should ordinarily be an annual exercise. The WNJCS was adopted in December 2014 and consequently I consider that the Council was reasonable in waiting the relatively short period to the end of the monitoring year before recalibrating its housing land supply position.

### *The Starting Requirement*

16. There is little dispute that the WNJCS reflects the established OAHN and as such represents a departure from the higher "policy driven" housing targets for the District contained in the revoked RSS. Nor is there a substantive difference between the parties that the starting point for the five year requirement going forward should be based on the WNJCS housing trajectory<sup>7</sup>. The Council has deducted 30 units from this requirement on the basis of an 'oversupply' against the trajectory figures for 2011-14, resulting in a starting requirement of 2628 for the period 2015-2020.

17. This initial requirement is also reflected in the appellant's evidence, however, having had regard to paragraph 17.19 and the monitoring provisions at Appendix 6 of the WNJCS, together with the PPG<sup>8</sup> content on over-supply, I am not persuaded that the delivery over and above the housing figures for the years 2011-14 is either of a scale or duration to support an adjustment to the appreciable future need identified in the WNJCS trajectory. It would be premature, both in the context of the NPPF's requirement to significantly boost supply and the notable step-change in delivery as required by the WNJCS trajectory to meet the OAHN, to make a negative allowance for a very modest over-supply. As such I consider the more robust starting requirement to be 2658 in accordance with the WNCS trajectory.

### *A 5% or 20% buffer*

18. The principal matter of disagreement in establishing the 'total requirement', as per paragraph 47 of the NPPF, is whether to add a 5% buffer to increase choice and competition or a 20% buffer to address persistent under delivery. The PPG<sup>9</sup> is clear that identifying a record of persistent under delivery is a matter of judgment for the decision maker and advises that there is "...no universally applicable test or definition of the term."

19. The WNJCS trajectory covers the period 2011-2029. As the WNJCS Inspector's Report at paragraphs 35 and 38 concludes, this trajectory reflects the revised 2013 OAHN and is appropriate for setting the net new housing requirement for the extended plan period 2011-2029. Furthermore, the WNJCS states at paragraph 17.18 that delivery will be monitored against the trajectory. In my

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<sup>5</sup> APP/Y2810/A/14/2222311

<sup>6</sup> PPG Reference ID:3-033-20140306

<sup>7</sup> Appendix 3, West Northamptonshire Joint Core Strategy, Adopted 2014.

<sup>8</sup> PPG Reference ID:3-036-20140306

<sup>9</sup> PPG Reference ID:3-035-20140306

- view, these figures are the appropriate measure against which delivery in the plan period should be recorded.
20. The appellant identifies that the WNJCS Inspector at paragraph 5.41 of his report acknowledges a shortfall in meeting need in Daventry District for the period 2011-13 against the annualised figure based on OAHN for the plan period. I am cognisant that where a shortfall is identified, decision makers can look to either the Sedgefield or Liverpool methodologies to re-dress that shortfall. The adopted WNJCS trajectory does not apply an annualised residual approach from the point of plan adoption onwards nor does it significantly backload delivery.
  21. Instead the WNJCS trajectory has profiled OAHN, including the recognised shortfall, to be primarily met in the middle phases of the plan period which I consider to be 2015-2025. This involves a step change to deliver 531 dwellings per annum (dpa) in Daventry District between 2015 and 2020, compared to the annualised rate over the plan period of 388 dpa. Importantly, the WNJCS Inspector in assessing any shortfall, considered the trajectory profile as a "deliverable" approach that would also secure a spatial strategy focused on sustainable urban extensions (SUEs).
  22. The appellant submits that the more robust delivery measure should be the annualised OAHN figure of 388 dpa based on the remaining requirement for the period 2011-2029 and remaining delivery planned in Tables 1 & 3 of the WNJCS respectively. However, to apply an annualised approach at this early stage of the WNJCS plan period would prematurely nullify the carefully considered approach to meeting housing need which has only recently been found sound and adopted in a development plan document whose preparation and examination post-dates both the NPPF and substantial parts of the PPG.
  23. In coming to this view, I have carefully considered the WNJCS inspector's report at paragraph 42 which at the last two sentences states. "The modified new housing total, extended plan period, and revised housing trajectory represent a reasonable and realistic, deliverable and justified, basis for meeting local needs over the plan period. This incorporates provision for the needs of the existing local population, including in respect of affordable housing." I also note in respect of planned delivery that the WNJCS at paragraph 5.30 explains that the trajectory takes current market factors into account and seeks to show a rapid increase in housing completions based on existing commitments and the proposed SUEs.
  24. The HLA2015 presents a record of delivery against only 4 years of the plan period in the WNJCS. On examining the trajectory, I note that for the years 2011-13 it is based on actual completions and for 2013/14 a realised completion figure. These figures have been recently accepted by the WNJCS inspector as reasonable and justified in the context of the evidence on OAHN and deliverability. The HLA2015 also demonstrates that in 2014/15 the transition to the increased delivery required by the WNJCS to meet OAHN has been comfortably achieved. I appreciate this is only one year of data and falls significantly below the recommended 5 year period for assessing delivery.
  25. It would also fall below the two year period referred to, but not accepted, in the Bourton-on-the-Water appeal<sup>10</sup>. However, in the circumstances of this

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<sup>10</sup> Doc 13

appeal, in contrast to Bourton-on-the-Water, there is a reliable measure for assessing delivery against OAHN from 2011 onwards. Furthermore, I am not persuaded that a longer period back to policy driven RSS figures, which would inevitably include a time of recessionary influences on the housing market, forms a reasonable basis for scrutinising the record of delivery in the District. I also have no evidence that the WNJCS adoption was subject to challenge. I therefore attach significant weight to the figures in the trajectory.

26. Therefore, and having regard to the PPG<sup>11</sup> it follows that adherence to the WNJCS housing trajectory does not trigger a requirement in excess of 5% to bring forward an additional supply of housing from the middle or latter phases of the plan period. Clearly, if monitoring in the forthcoming years shows a marked negative divergence from the step-change in delivery over the middle phase of the WNJCS, then a revised assessment of whether delivery triggers a re-profiling of the OAHN would be justified. However, in the circumstances of this appeal I am persuaded that the figures for the first four years of the plan period provide a robust basis for an assessment of a local delivery record and I find no support in the available text of the WNJCS that invites decision makers to put the trajectory to one side and adopt an annualised approach.
27. I have also been invited to consider whether the measure for delivery should be the annualised figure stemming from the total housing requirement for 2001-2029 at Tables 1 & 3 of the WNJCS which would equate to 351 dwellings per annum. However, paragraph 5.26 of the WNJCS makes clear that the inclusion of the completion figures for 2001-11 were shown for comprehensiveness. In my view their inclusion in the WNJCS is for context rather than a robust measure against which to assess delivery performance. As explained above, figures pre-dating 2011 do not reflect the up-to-date evidence and strategy for delivering OAHN. Accordingly, were decision makers to apply the annualised figure promulgated by the appellant, the considered and profiled housing trajectory and spatial approach of the WNJCS would be rendered null and void in Daventry District before any meaningful period of post adoption implementation. As such I am not persuaded that an annualised figure stretching back to 2001 represents an appropriate measure against which to record an assessment of delivery.

#### *Total Requirement*

28. I therefore find that it is reasonable to assess previous performance against the 4 years of the WNJCS trajectory for the period 2011-2015. As such the Council has not persistently under delivered and in the context of the clear emphasis on a step change in delivery in the middle phase of the plan, it is not necessary to bring forward an additional supply of housing to meet OAHN. Consequently, a 5% buffer to improve housing choice and competition should be applied, resulting in a total requirement of 2,791 dwellings over the period 2015-2020. This would be equivalent to an annualised requirement of 558 dwellings over the next 5 years.

#### *Supply from Contested Sites*

29. The parties are agreed the supply of deliverable sites in the District includes sites with the benefit of planning permission and a contribution of 334 units from other sites in the villages. Consequently, scrutiny of the potential

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<sup>11</sup> PPG (Reference ID: 3-035-20140306)

contribution from other sites in Daventry and the anticipated contribution from windfall sites formed a significant part of the Inquiry. Footnote 11 to paragraph 47 of the NPPF sets out what should be considered as a deliverable housing site. I have also been referred to relevant parts of the PPG<sup>12</sup> and the reserved judgment of *Wainhomes*<sup>13</sup> as references to the further interpretation of footnote 11. With this in mind, I now assess the potential supply on the five other large sites in Daventry contested by the appellant.

30. Daventry 3 & 6 is a greenfield site on the edge of the town centre owned by the District Council which has clearly been in the pipeline for some time. The Council advised that a new planning application was being prepared for site. I have little evidence from the appellant as to why a relatively modest supply cannot be yielded from this unconstrained site and I therefore find the Council's estimate of 50 units should be factored into the District's deliverable supply.
31. The Council also owns sites 8 & 9 at Middlemore, which are greenfield sites adjacent to recently completed housing developments. These sites benefit from servicing in the form of largely completed spine roads, public transport infrastructure and strategic landscaping. The Council has reasonably reduced the capacity of the site to allow for noise mitigation measures in the form of those found elsewhere on Middlemore. The Council has also referred to evidence<sup>14</sup> in its HLA2015 outlining the steps it is taking as land owner to bring part of site 8 forward as a Homes to Rent scheme in the short term. I am therefore persuaded that sites 8 & 9 would reasonably deliver 100 dwellings over the five year period to 2020.
32. I have considered carefully the Northampton College site including the availability and timeframe of LEP funding to facilitate the relocation of campus facilities and the necessity of funding from the proposed residential development. However, there are delivery issues with the site, including an unresolved objection from Sport England, which the Council acknowledges brings the scheme within the ambit of the *Wainhomes* judgment. I have considered the Council's submission that it would not be unreasonable to apply a lower figure for the college site. However, because delivery is dependent on two planning consents on the same site, where there is already one unresolved objection from a statutory consultee, I am not persuaded that there is sufficient certainty on the outcome and thus a realistic prospect that the site would be delivered in five years. I therefore discount the college site in its entirety from the projected supply.
33. The Daventry North East Sustainable Urban Extension (SUE) is allocated within the WNJCS providing certainty against which to submit a planning application. Nonetheless it is a large site which requires a strategic, rather than piecemeal approach. However, since the publication of the Council's 2015 HLA and the consideration of the delivery of this site at an earlier appeal<sup>15</sup>, the land owner of the SUE has confirmed that its strategic development partner has withdrawn from the site<sup>16</sup>. The HLA2015 document to some degree reflects this situation and reduces the anticipated short term supply from the site.

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<sup>12</sup> PPG (Reference IDs: 3-030/031/032/033-20140306)

<sup>13</sup> *Wainhomes (South West) Holdings Ltd v. SSCLG* [2013] EWHC 597 (Admin)

<sup>14</sup> Doc 9

<sup>15</sup> APP/Y2810/A/14/2216520

<sup>16</sup> Doc 8

34. The Council submits that early delivery of 75 dwellings within the next 5 years could be secured by a detailed application on part of the SUE set within the context of an approved wider masterplan. I do not find this approach to be unreasonable or inconsistent with the broad timeframes set out in the HLA2015. Given the certainty that it is allocated in the adopted WNJCS I have little evidence that the market will not be attracted to this site. Nor am I advised that there are insurmountable initial infrastructure constraints that would render the Council's suggested hybrid approach undeliverable. As such I am persuaded that the SUE site is available and deliverable now and that a relatively modest supply of 75 units in the next five years would be reasonable.
35. The largest 'other site' in Daventry is the greenfield site at Micklewell Park to the north of the town. There is a resolution to grant planning permission subject to the completion of a S106 agreement. The Council has applied a degree of caution to the site promoter's estimates however I share the appellant's submission, with reference to the recent Alsager decision<sup>17</sup>, that the projected output on the site requires at least two housebuilders operating simultaneously. Therefore, in terms of the remaining balance it seems more realistic, in my view, that it should be discounted to reflect that there is only one developer associated with the site. On this basis I consider a total supply of 200 dwellings, over the next 5 years, a more reasonable prospect.
36. Having considered, in some depth, the potential contribution from other sites in Daventry over the period to 2020 I am satisfied that the likely supply is not as optimistic at the Council estimate, nor, however, is it as pessimistic as the appellant avers. From my reasoning, as set out above, the five year deliverable housing supply from other sites in Daventry is some 425 dwellings.

#### *Windfall Contributions*

37. Having regard to paragraph 48 of the NPPF, it would be reasonable, given the number of settlements, the extent of the rural area and the evidence of past windfall delivery in the district to make an allowance for windfall sites coming forward in years 3 to 5, thus avoiding any double counting. The appellant submits that a windfall allowance of 70 units per annum should be applied however I have little evidence to deduce how the figure of 70 units has been arrived at. There are fluctuations in the Council's figures for recent windfall delivery which leads me to doubt that there is a pronounced downward trend. Furthermore, it was submitted that the housing provisions in Policy R1 of WNJCS do not represent a ceiling and consequently additional small-scale housing development in the rural parts of Daventry would not be capped. The Council has also identified a number of legitimate sources<sup>18</sup> of windfall development going forward. As such I find that the Council's windfall allowance of 89 units per annum to be founded on credible evidence and as such represents a justifiable input into the housing land supply calculation.

#### *Scale of Deliverable Housing Land Supply*

38. Therefore, I have concluded that the total requirement, including a 5% buffer based on performance against the WNJCS trajectory, equates to some 2,791 dwellings. I have also found persuasive evidence to enable me to conclude that the deliverable supply in Daventry District is some 2,931 dwellings. I

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<sup>17</sup> APP/R0660/A/14/2203282, paragraphs 55 & 59

<sup>18</sup> Section E, pages 10-11 Richard Wood Proof of Evidence



therefore conclude on the basis of these findings that the Council is able to demonstrate 5.25 years of deliverable housing land supply.

### *Policy Implications*

39. Therefore, having had regard to the case law<sup>19</sup> before me and earlier appeal decisions in the District, whilst it may be the case that DDLP policies HS22 and HS24 are relevant policies for the supply of housing, they are not rendered out of date in the context of paragraph 49 of the NPPF by my findings on deliverable housing land supply.
40. However, irrespective of the 5 year supply circumstances, the DDLP policies were adopted in 1997 to deliver an earlier Structure Plan period to 2006. It is now 18 years since the policies were adopted and whilst there are aspects of Policy GN1, HS22 and HS24 which echo some of the core principles of the NPPF, such as recognising the character of the countryside, it nonetheless remains that these policies pre-date the general thrust of the NPPF to secure sustainable development based on positive growth.
41. The appellant also points to the Secretary of State's saving letter issued in 2007 which states that the DDLP policies should be replaced promptly and the risk that new policies and new evidence are likely to be material considerations that will be afforded considerable weight in decisions. It seems clear to me that DDLP Policies GN1, HS22 and HS24 are intended to deliver a planning strategy, and consequently manage housing land supply, on what was an appropriate strategy for the period to 2006. These policies have time expired and whilst they have to some extent been taken forward by WNJCS policy it nonetheless remains that important detail on the delivery of rural housing numbers, including allocations, areas of countryside to be protected and settlement definition has not been advanced to a stage where any weight can be attached to the emerging SaCLP document. In this context, and having regard to paragraph 215 of the NPPF, when taking their consistency with the NPPF as a whole, I must ascribe little weight to the dated DDLP Policies GN1, HS22 and HS24 when undertaking the overall planning balance.
42. Additionally, the Council in its Statement of Case has identified those policies from the WNJCS it would have referred to, primarily Policies S1 and R1. In addition my attention was also drawn to Policy S3 by the appellant. These policies have been found sound against the NPPF and continue a hierarchal spatial strategy but state at Policy S1 that the development needs of the rural areas will be provided for, albeit in a limited way. In respect of housing development that is translated at Policy S3 into a Daventry rural housing requirement of "about 2,360" dwellings. The policy is not expressed as a ceiling and the evidence before me confirms that the 2,360 figure has not yet been reached<sup>20</sup>.
43. In seeking to deliver these 2,360 dwellings Policy R1 states that development will be guided by a rural settlement hierarchy in the SaCLP. That process has not been developed such that there is not an up-to-date Local Plan document which sets out how the rural housing numbers will be delivered for the plan period from 2011 onwards. As such there is a notable degree of policy silence

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<sup>19</sup> William Davis etc v. SSCLG [2013] EWHC 3058 (Admin); Cotswold District Council v. SSCLG [2013] EWHC 3719 (Admin); and South Northamptonshire Council v. SSCLG & Barwood Land & Estates Ltd [2014] EWHC 573 (Admin)

<sup>20</sup> Paragraph 7.21, Steve Ellis Proof of Evidence

until the SaCLP is advanced although it is clear from Policy R1 that new housing development in the rural areas will be guided to sustainable locations in accordance with Policy S1.

44. I note that the Council contend that the latter part of Policy R1 would be applicable and as such there would be conflict associated with the appeal site being outside the village confines. However, there is little disagreement that the proposal represents a "small-scale" development for Moulton and in the absence of the SaCLP I cannot conclude that the appeal proposal would compromise the overall emerging strategy for the rural areas, particularly given the sustainability credentials of Moulton.
45. I therefore conclude that whilst the District can demonstrate a five year housing land supply, those policies relevant to the supply of housing from the DDLP are of such date that only limited weight should be attached to them. The relevant strategic housing supply policies from the WNJCS are more up-to-date by virtue of being consistent with the NPPF and accordingly I attach significant weight to them. However, as strategic policies, they are relatively broad-brush and I find that the absence of detail through the SaCLP provides a policy gap on how and where rural housing needs to 2029 will be met.
46. In this policy context the presumption in favour of sustainable development, as set out in the first sentence of paragraph 49 of the NPPF, applies and it is therefore necessary to apply the tests in paragraph 14. This means, that where the relevant policies in the development plan are dated, and therefore of little weight, or more up-to-date policies silent on the detailed scale and location of rural housing allocations, then I have to apply the stipulated planning balance.

#### *Green Wedge*

47. The DDLP identifies areas of green wedge to prevent coalescence between villages and the urban fringe of Northampton to which Policy EN10 applies. The policy does not preclude development but it seeks to safeguard open and green spaces by resisting development that would be discordant with the open/green character, would reduce physical separation between settlements, compromise countryside uses in the green wedge or impair public access. The supporting text at paragraph 3.31 of the DDLP identifies the values of the green wedge. Whilst this is not policy in itself, it nonetheless usefully amplifies that their greatest value is as undeveloped open space for a variety of countryside uses and providing separation between existing settlements.
48. I am satisfied that the relevant and up-to-date policy detail and delineation for green wedges remains in the DDLP. I consider Policy EN10 to be consistent with the NPPF with regards to the need to take account of the different role and character of different areas and to protect the intrinsic character and beauty of the countryside. The policy therefore carries significant weight for decision takers.
49. The appeal site is wholly within the green wedge as shown on the adopted policies map. It is situated on the northern side of Boughton Road, with recently completed residential development at Rose Tree Close adjacent to the east. The site is bordered on the north, west and south by rolling farmland which forms the predominant countryside character separating Moulton from Northampton to the south and the village of Boughton to the west.

50. The topography of the appeal site reflects the undulating oolitic limestone landscape. Accordingly the site occupies a series of folds and dips as the land slopes down from Boughton Road towards the valley of Pages Brook to the north. As such much of the site is appreciably lower than the highway on Boughton road. Importantly, when viewing the site from the limited vantage points to the north, these folds form a series of horizons as the land rises. The appeal site is broadly positioned between the lower and middle horizons. It sits lower than the adjacent housing at Rose Tree Close and appreciably lower than the horizon which forms the ridgeline of the valley.
51. The site benefits from strong boundary definition although there are some weaker points, notably in the south-west and south-east corners. However, these points only provide filtered snap glimpses into the site for the majority of users on Boughton Road such that there is a limited inter-visibility. Furthermore, I accept the appellant's submission that the south eastern gap could be readily strengthened by additional infill planting.
52. The appeal site is approximately 6 hectares in size and is used as a depot and tree growing site for the appellant's landscaping business. There are three sizeable utilitarian buildings on the site but they only occupy a relatively small proportion of the site area. However, various buildings can be seen from the two site entrances and parts of buildings seen from various viewpoints. In addition to the buildings, there are appreciable areas of visible hardstanding used for vehicle parking, external storage and composting of waste material. Two entrances to the site on Boughton Road also announce the presence of development, including signage, lighting, security gates and fencing. The frontage hedging, whilst not incongruous in a rural context, is nonetheless of a manicured appearance which adds to the recognisable presence of built development on the site. Consequently, the appeal site, from the key receptor points on Boughton Road, has a character and appearance which is in contrast to the adjacent open, undeveloped agricultural fields.
53. Whilst boundary vegetation and buildings toward the Boughton Road frontage significantly limits views into and across the site I nonetheless find that the predominant tree growing use and smaller fallow areas gives an open and green character to large parts of the appeal site. This can be appreciated in some wider views from the north and from the footpath to the south<sup>21</sup>. However, the views from these rights of way are limited due to the significant intervening distances and the fact that these viewpoints are unrepresentative gaps in otherwise enclosed rights of way. Additionally, the position of the appeal site in an undulating landscape below the ridgeline and the presence of strong boundary planting and retained trees within the site would mean that there would be negligible visibility of the proposed development from these viewpoints. Visually, the open and green character of the appeal site would remain largely unaffected from these perspectives.
54. The lowering land levels as the site falls away from Boughton Road, together with the appellant's submission to modestly cut parts of the development into the slope so that they would have a lower profile means the appeal proposal would be largely inconspicuous from Boughton Road and only briefly glimpsed from the south-east corner on Boughton Road until additional landscaping took

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<sup>21</sup> Viewpoints VP6, VP8 and VP10, p3, Appendix 2, David Coomes Proof of Evidence

- effect. Consequently, any visual harm to the open and green character of the appeal location from this viewpoint would be limited.
55. Whilst I acknowledge that large parts of the development would be effectively screened and that approximately a third of the site would remain undeveloped as public open space it nonetheless remains that a majority of the site would be developed. Openness equates to a freedom from development, which is a wider concept than visual intrusion. Whilst I accept for the reasons above that the appeal proposal would not be significantly visible, the scale of the proposed development would be perceptible. However, given the general absence of public access in and immediately around the site, the awareness of existing commercial structures and activity on the site and the potential to assimilate the proposal within its verdant and topographical context, I consider any harm against the perception of openness would be limited. As such, given the specific circumstances of the appeal site, I am not persuaded that the appeal proposal would be discordant with the predominantly open and green nature of the green wedge.
56. The appeal proposal would involve the removal of the westernmost depot building and the western edge of the appeal proposal would be effectively screened by a retained specimen tree collection and the proposed sizeable area of landscaped open space. As such there would not be a prominent new western settlement edge to Moulton as a result of the appeal proposal. Nor would the appeal proposal result in a tangible extension of the built form of Moulton at this location as reasoned above. I also accept that the proposed open space at the western edge of the site would form a protective measure that would prevent the green wedge suffering "death by a 1,000 cuts" at this location.
57. I have taken into account the Council's recent resolution to grant planning permission subject to a legal agreement for 56 dwellings<sup>22</sup> on land to the south-east of the appeal site and the proposed allocation in the MNDP on land directly to the south, both of which would involve the loss of current green wedge land. The approach to these sites infers that some development can take place in the green wedge without being fatal to the underlying principles. I consider that the same applies to the appeal site.
58. I recognise that the green wedge between the south west edge of Moulton and northern edge of Northampton is particularly narrow. However, the land to the south of the appeal site rises to form a pronounced ridge which largely conceals the urban fringe of Northampton. This topography was a key factor in the determination of a recently dismissed appeal<sup>23</sup>. The same cannot be said of the appeal site which is set much lower and more distant from this ridge compared to that appeal proposal such that there would be no coalescence with Northampton, which is also a key objective of Policy E2 for areas of separation in the emerging MNDP. I therefore find that the appeal proposal would not visually, or significantly on a perceptual basis, extend the physical settlement towards either Northampton or Boughton. There would be no visual coalescence and a significant gap of open countryside would be retained.
59. The appeal proposal would increase public access to the green wedge, both directly through the provision of a sizeable area of public space and indirectly

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<sup>22</sup> Ref DA/2014/0604

<sup>23</sup> APP/Y2810/A/14/2202009

by the potential of a final layout to incorporate vistas through the development to countryside beyond. The provision of open space at this location would address the deficit of open space in the west of the village identified in the Village Design Statement and I heard the appreciation from the Parish Council for this element of the scheme. However, the proposed open space is a benefit of the scheme to be weighed up in the overall balance. Policy EN10 does not require public access although I accept the appeal proposal does not offend criteria C and D of the policy in terms of compromising recreational use or impairing public access.

60. I therefore conclude that whilst the appeal proposal would result in some limited harm resulting from the perceived loss of openness at the appeal site, any harm would be minor and the proposal would not be incongruous with the open and green character of the site or significantly visible in short and long term views. Furthermore, due to the particular topography and verdant qualities of the site, the appeal proposal would not weaken the important objective of the green wedge to prevent coalescence. Overall I do not consider the integrity of the green wedge at this location would be undermined by the appeal proposal and as such the proposal would not compromise the objectives of DDLP Policy EN10.

#### *Other Material Considerations*

61. In applying the definition at Annex 2 of the NPPF, the appeal site is previously developed land (PDL) by virtue of the existing permanent structures, their associated fixed surface infrastructure and the curtilage of these buildings extending to the perimeter of the appeal site. Accordingly, the appeal proposal would accord with the objective at paragraph 17 of the NPPF which encourages the effective use of PDL, which is reaffirmed at paragraph 111 of the NPPF. Whilst the site is in a green wedge I have no persuasive evidence that it is an area of high environmental value in the context of considering PDL. The PDL status of the appeal site would mean the proposal accords with the West Northamptonshire target of 30% of additional dwellings on PDL in WNJCS Policy S1. Accordingly, the PDL status of the site is a positive environmental attribute to which weight should be accorded.
62. The appeal proposal would also offer a dual environmental / social benefit in terms of approximately a third of the site would be publically accessible open space. The proposed larger open space to the west would come under a greater sense of community ownership in part of the village where there is a paucity of meaningful public open space provision<sup>24</sup>. I therefore consider the proposed open space to be a positive environmental and social element to which weight should be attributed.
63. The appeal proposal would provide market housing to help meet the rural housing figures in WNJCS Policy R1. It would also provide 29% affordable housing at a time when affordable housing delivery has not kept pace with the need identified in the Strategic Housing Market Assessment. These are positive social benefits in favour of the proposal which attract significant weight.
64. The Council has submitted at the Inquiry that there is economic harm from the potential loss of employment at the site, although I note this was not cited in the officer's report or given as a reason for refusal. The appellant has clarified

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<sup>24</sup> Moulton Village Design Statement 2014 Map 3

that the site essentially functions as a depot employing only 1 member of staff who is permanently retained on the site with other employees working off site. The appellant has also confirmed that the business would not be lost as a result of the appeal proposal and would relocate to the nearby Moulton Park industrial area. Given the evidence before me I am satisfied that there would be no significant economic harm and that on balance, given the employment that would be created during construction and the likely contribution from new inhabitants to supporting local services and employers, there would be a net economic benefit from the appeal proposal, to which moderate weight should be given.

65. Importantly, the appeal proposal would be within walking distance of a good range of day-to-day facilities in Moulton. Concern has been raised about the quality of the footway connection into the village centre but I noted that whilst there are some short stretches where the width narrows, the overall quality was good, including street lighting. As such I am satisfied that residents from the appeal proposal would be able to safely and conveniently walk and cycle to village services. The appeal site is also close to bus stops which connect the appeal location with an hourly service to higher order facilities in Northampton. In the context of the access to services the appeal site would be in a sustainable location and I attach considerable weight to this factor.
66. The appeal proposal would also contribute to the New Homes Bonus allocation, which I have taken into account in reaching my decision.

#### *Other Matters*

67. The Parish Council submits that Moulton has and continues to experience significant development, in large part, due to its proximity to Northampton. In response to these circumstances and to promote "joined-up" growth the Parish Council is preparing the MNDP. The Plan has not been formally submitted to the District Council but consultation has been undertaken and proposals prepared including the proposed allocation of land for additional housing and the identification of the appeal site within an "area of separation". The Parish Council submit that the proposal does not comply with the MNDP as well as the DDLP policies cited by the Council in its reason for refusal.
68. Whilst the preparation of Neighbourhood Plans is to be encouraged, nonetheless, government guidance<sup>25</sup> advises that it will seldom be justified to refuse development on the grounds of prematurity where a Neighbourhood Plan, such as the MNDP, has not yet been through its publicity period with the District Council. I have little evidence that the appeal proposal would prejudice the outcome of the MNDP process in regard to the housing allocation. In any event the MNDP's delineation and approach to "areas of separation" broadly accords with the green wedge at DDLP Policy EN10 which I have addressed above.
69. Both Boughton and Moulton Parish Councils have raised issues of highway safety and the ability of the highway infrastructure to cope with the additional traffic generated by the appeal proposal. However, I have little evidence that the local highway network in the vicinity of the appeal site is at capacity or has a poor safety record. The appellant has prepared a Travel Plan for the site which is endorsed by the Local Highway Authority (LHA) as a suitable package

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<sup>25</sup> Planning Practice Guidance Reference ID: 21b-014-20140306

to encourage modal shift at the appeal site. Additionally, subject to financial contributions to junction improvements in Moulton, the LHA raises no objection to the appeal proposal on highway grounds. I therefore, conclude, on this basis, that the appeal proposal would not result in an unacceptable effect on the local highway network.

### *Local Infrastructure*

70. Notwithstanding the Council's third reason for refusal, the submitted UU<sup>26</sup> covers a range of financial provisions, none of which are in dispute between the main parties. Following discussion at the Inquiry and from the evidence before me<sup>27</sup> I am satisfied that the provisions as they relate towards community facilities in Moulton, highway improvements, travel plans, education, fire and libraries meet the tests in CIL Regulation 122. They are necessary to make the proposed development acceptable in planning terms; they are directly related to the proposed development; and they are fairly and reasonably related in scale and kind to the development. In summary, the contributions are linked to specific schemes which would benefit the future residents of the proposed development.
71. The Inquiry also examined whether any of the proposed contributions came under the scope of the transitional period under CIL Regulation 123(3) for S106 planning obligations designed to collect pooled contributions ending on 6 April 2015. Despite the recent development pressures in Moulton, the Council confirmed that since 2010 only 3 large schemes and possibly a fourth medium sized scheme had made tariff style contributions towards the specific infrastructure funding being sought. This was not disputed or challenged by the appellant and I have no reason to doubt the veracity of the Council's evidence on this matter. Accordingly, I am satisfied that the pooled contributions would not infringe the transitional arrangements under CIL Regulation 123(3).
72. The provision of on-site open space through the UU was disputed between the parties and in particular the inclusion of a reference to a scheme and a plan fixing the location of the open space. Whilst I understand the Council's concerns about specificity in an outline application, in my view it is the appellant's prerogative if they want to establish its location at this early stage. I heard no dispute that the delivery mechanism and maintenance was unacceptable and overall I find the proposed specificity in the UU acceptable.
73. I therefore conclude that the effects of the proposal on the provision of affordable housing, on-site open space, community infrastructure, highways and sustainable travel would be acceptable by virtue of the provisions within the submitted UU. Accordingly, the planning obligations would accord with the requirements of DDLP Policies GN2 and GN3.

### **Conclusions and Planning Balance**

74. I have found that the Council is able to demonstrate a 5 year deliverable housing land supply. However, as I have reasoned elsewhere in my decision, the DDLP policies GN1, HS22 and HS24 because of their age and limited degree of consistency with the NPPF are now only of limited weight. To some degree they have been superseded by the more up-to-date and NPPF compliant

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<sup>26</sup> Doc 5

<sup>27</sup> Docs 16, 23, various consultation responses to the original planning application

- policies of the WNJCS. These include Policies S1, S3 and R1 that seek to deliver at least 2,360 new homes in the rural areas of Daventry, including a focus on sustainable locations, sites that would avoid open land that is of particular significance to the form and character of a village and land which is previously developed.
75. Whilst the WNJCS sets a framework for a rural settlement hierarchy, that work has not been sufficiently progressed through the nascent SaCLP. The emerging MNDP remains at an early stage such that I can only attach limited weight to conflict of the appeal proposal with the draft policies and proposals in that document. The potential role of Moulton in the rural hierarchy of the SaCLP remains to be determined. In the interim, restricting its role to an infill village on the basis of long established DDLP policies seems somewhat dated given the up-to-date policy approach of the WNJCS to secure sustainable housing development in the District's rural areas of at least 2,360 dwellings.
76. In this context, I have carefully considered the case law<sup>28</sup> submitted by the parties regarding approaches to determine whether the appeal proposal would be sustainable development for which there is a presumption for in the NPPF. In this context the appeal proposal comes under the approach of paragraphs 49 and 14 of the NPPF and Policy SA of the WNJCS. That approach requires any adverse impacts to significantly and demonstrably outweigh the benefits of the appeal proposal when assessed against the policies in the NPPF taken as a whole. Such an approach would be in broad accordance with the Council's evidence<sup>29</sup>, which was not withdrawn or amended during the Inquiry.
77. The appeal proposal would deliver economic benefits in terms of jobs during the construction and the relocation of the business to a nearby site which weigh moderately in favour of the proposal. It would provide social benefits in respect of market housing, 29% affordable housing and a sizeable area of public open space in a part of the village. These are notable benefits which weigh significantly in favour of the proposal. In contrast there are no persuasive adverse economic and social impacts before me. I acknowledge that the Council considers the appeal proposal would result in a weakening of the identity of Moulton but as I have concluded on the green wedge matter, the appeal proposal would not undermine Moulton's distinction from Northampton.
78. In environmental terms it would make use of previously developed land and it would do so in a sustainable location where residents would have a realistic choice to walk, cycle and use public transport to access essential day-to-day services and facilities. These are factors which weigh significantly in favour of the appeal proposal.
79. The appeal site is outside of the confines of Moulton in countryside designated as green wedge, which is the principal environmental harm identified by the Council. Accordingly, the proposal would be contrary to DDLP Policies GN1, HS22 and HS24 and WNJCS Policy R1 (criterion g) which seek to restrict development in the countryside, but when balanced against the benefits these should be given only limited weight. Additionally, I have concluded that the proposed development would not undermine the planning purpose and integrity of the green wedge which is a notable factor weighing in its favour. It also follows that the limited environmental harm to the openness of the site does

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<sup>28</sup> Docs 19, 20, 21, 22 and Davis v. SSCLG etc. [2013] EWHC 3058 (Admin)

<sup>29</sup> Paragraph 6.6, Steve Ellis Proof of Evidence



not significantly and demonstrably outweigh the wider environmental benefits of the scheme.

80. Accordingly, despite some limited conflict with development plan policy on development outside the confines of villages, the proposal would achieve an overall net positive contribution to economic, social and environmental gains jointly and simultaneously as required by paragraphs 6-9 of the NPPF. As such it would represent sustainable development, for which there is a presumption in favour of. The establishment of a 5 year housing land supply in the District does not mean that the appeal proposal would not make a sustainable contribution to the unmet and uncapped rural housing requirement in the WNJCS. The proposed development, therefore, subject to the UU and the conditions set out in the schedule, would be in broad accordance with WNJCS Policies S1, S3 and R1. It would also be consistent with the NPPF in terms of delivering homes, recognising the intrinsic character and beauty of the countryside, making effective use of PDL and focusing development in locations which are sustainable.
81. I have had regard to all other matters raised, both in the oral and written representations, but have found nothing to change my conclusion that this appeal should be allowed.

### **Conditions**

82. A number of conditions were tabled at the Inquiry<sup>30</sup>, which were the subject of a helpful discussion. I have considered these in the light of the PPG. For clarity and to ensure compliance with the PPG, I have amended some of the suggested wordings. Conditions (1)-(5) are necessary because the application was made for outline permission and set reasonable and necessary time limits and parameters for the submission of reserved matters.
83. Conditions (6)-(9) are to protect the character and appearance of the surrounding area. Conditions (10) and (11) are necessary to minimise the risk of flooding and exposure to contamination respectively. Condition (12) is necessary in the interest of highway safety and to ensure the site can be appropriately accessed by a variety of modes of transport. This latter aspect is further augmented by the necessary imposition of condition (14) to promote sustainable transport. Condition (13) is required to safeguard the living conditions of nearby residents and highway safety. Finally, condition (15) is necessary to secure the provision of fire hydrants.
84. I have not included a specific condition requiring separately the submission of plans and particulars at the reserved matters stage, as these would be included within the details required by condition (1). I have also omitted the suggested condition requiring a detailed tree survey given the 2013 tree survey and plan submitted with the application identifies the notable specimens within the site. However, I have amalgamated the two proposed tree conditions into a composite condition (9) which I consider reasonably secures the importance of tree protection on the site.

*David Spencer*

INSPECTOR.

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<sup>30</sup> Docs 17 & 18

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

Simon Aley, Solicitor

Instructed by Mr Steve Ellis of  
Daventry District Council.

He Called

Richard Wood, MRTPI

Local Strategy Manager, DDC

Steve Ellis, MRTPI

Senior Planning Officer, DDC

FOR THE APPELLANT:

Jeremy Cahill, Of Queen's Counsel

Instructed by Mr Matthew Taylor of  
Aitchison Raffety

He Called

Matthew Taylor  
BA (Hons), DipTP MRTPI

Aitchison Raffety

David Coomes, CMLI

EDCO Design

INTERESTED PARTIES

Mr John Clark

Chairman, Boughton Parish Council

Mr Barry Care

Chairman, Moulton Parish Council

## **DOCUMENTS Submitted during the Inquiry**

- 1 Infrastructure and Developer Contributions Supplementary Planning Document adopted October 2013, Daventry District Council
- 2 Drawing No. 20650\_03\_001 – Development Access Road Junction Layout Rev A – dated 7 November 2013, prepared by MEC.
- 3 High Court Judgment of South Northamptonshire Council v. SSCLG & Barwood Land and Estates Ltd [2014] EWHC 573 (Admin)
- 4 Additional Extracts from West Northamptonshire Joint Core Strategy Local Plan (Part 1) Adopted December 2014
- 5 Signed Unilateral Undertaking (dated 8 May 2015)
- 6 Additional Plans and Information to Proof of Evidence of David Coomes
- 7 Statement of Moulton Parish Council
- 8 Letter from Christ Church, Oxford dated 23 April 2015 regarding North East Daventry
- 9 Report to Daventry District Council Strategy Group 12 February 2015 re: Homes to Rent 2 on part of Site 8, Middlemore, Daventry
- 10 Affordable Housing Supplementary Planning Document, adopted December 2012. Daventry District Council
- 11 A3 Plan of Daventry showing the five 'Other Sites' for potential housing supply.
- 12 Page 5 of Decision Letter APP/Y2810/A/14/2214145
- 13 Decision Letter APP/F1610/A/13/2196383 (Bourton-on-the-Water)
- 14 Decision Letter APP/R0660/A/13/2203282 (Alsager)
- 15 Policies INF 1 & 2, West Northamptonshire Joint Core Strategy Local Plan (Part 1) Adopted December 2014
- 16 Details from Moulton Parish Council on community infrastructure, dated 5 May 2015
- 17 Suggested conditions
- 18 Suggested conditions from the Local Highway Authority
- 19 High Court Judgment of Hopkins Homes Ltd v. SSCLG & Suffolk Coastal District Council [2015] EWHC 132 (Admin)
- 20 High Court Judgment of Bloor Homes East Midlands Ltd v. SSCLG & Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin)
- 21 High Court Judgment of Dartford Borough Council v. SSCLG & Landhold Capital Ltd [2014] EWHC 2636 (Admin)
- 22 High Court Judgment of Cheshire East Borough Council v. SSCLG & Richborough Estates Partnerships LLP [2015] EWHC 410 (Admin)

## **DOCUMENTS submitted after the Inquiry**

23 LHA plan of junction improvements

### **Schedule of Conditions**

- 1) Details of the 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 begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: C1307 (08)00 Rev P1 – Site Location Plan; C1307 (08) 01 Rev P1 – Site Location Plan; C1307 (08)02 Rev P1 – Existing Layout Plan; Dwg No. 20650\_03\_001 Rev A – Development Access Road Junction Layout and Refuse Vehicle Tracking; and Open Space Plan EDCO Design 30.04.15.
- 5) There shall be no more than 70 dwellings erected on the site.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of the slab levels of the proposed dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include planting plans, species, size and proposed numbers/densities. All hard and soft landscape works shall be carried out in accordance with the approved details. The hard landscape works shall be carried out in accordance with the programme agreed with the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the

development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 9) In this condition "retained tree" means an existing tree which is to be retained in accordance with the submitted Tree Survey and Arboricultural Implication Assessment (Doc Ref TSAIA-001) and accompanying Tree Plan (dwg no. HED.1016.101 Rev B); and paragraphs (i) and (ii) below shall have effect until the expiration of 3 years from the date of the occupation of the building for its permitted use.
- i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
  - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
  - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 10) No development shall take place until details of the proposed foul and surface water drainage for the site, including the arrangements for the management and maintenance of any surface water drainage features or installations, have been submitted to, and approved in writing by, the local planning authority. No dwelling shall be occupied until the drainage scheme for the site has been completed in accordance with the submitted details. The drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 11) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

- If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 12) No development shall take place until details of the closure of the existing highway access to the site, the footpath extension, crossing points and bus stops have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until these measures have been completed in accordance with the approved details.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- (i) the parking of vehicles of site operatives and visitors
  - (ii) loading and unloading of plant and materials
  - (iii) a routing agreement
  - (iv) wheel washing facilities
  - (v) measures to control the emission of dust and dirt during construction
  - (vi) hours of operation
- 14) No dwelling shall be occupied until the details of the Travel Plan have been submitted and approved in writing by the local planning authority. The Travel Plan shall be managed and monitored thereafter in accordance with the agreed details.
- 15) No development shall take place until details of a scheme for the provision of fire hydrants for the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Schedule Ends.