
Appeal Decision

Inquiry held on 18, 19, 24, 25, 26 & 28 July 2017

Site visit made on 28 July 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 06 October 2017

Appeal Ref: APP/N1730/W/17/3167135

Land North of Netherhouse Copse, Fleet, Hampshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an outline application for planning permission.
 - The appeal is made by Berkeley Strategic Land Limited against Hart District Council.
 - The application Ref 16/01651/OUT, is dated 24 June 2016.
 - The development proposed is outline application for up to 423 residential dwellings and a community facility. Associated vehicular, pedestrian and cycle access, drainage and landscape works, including the provision of public open space and sports pitches. Provision of country park/Suitable Alternative Natural Greenspace (SANG) as an extension to Edenbrook Country Park.
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Decision

1. The appeal is allowed and outline planning permission is granted for the development of up to 423 residential dwellings and a community facility; associated vehicular, pedestrian and cycle access, drainage and landscape works, including the provision of public open space and sports pitches; and provision of country park/Suitable Alternative Natural Greenspace (SANG) as an extension to Edenbrook Country Park at Land North of Netherhouse Copse, Fleet, Hampshire in accordance with the terms of the application Ref 16/01651/OUT dated 24 June 2016, subject to the conditions in the schedule at the end of the decision.

Procedural Matters

2. The appeal was made on the basis of the Council's failure to determine the application within the prescribed period. Following the lodging of the appeal the Council indicated that they would have refused planning permission had they been in a position to determine the application. Seven putative reasons for refusal were identified with the first two relating to the location of the proposed development within a designated local gap and highway safety. In a Statement of Common Ground (SoCG) between the Council and the appellant it was agreed that putative reasons for refusal 3-7 were capable of being overcome through suitable legal obligations.
 3. The application was submitted in outline, with only access for determination at this stage. All other matters are reserved for future consideration. Except for those plans referred to in Condition 4, I have treated any submitted details concerning layout, appearance, scale and landscaping as being illustrative only.
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4. A draft agreement made pursuant to Section 106 of the Town and Country Planning Act, 1990 was discussed at the inquiry and a signed and dated agreement was provided following the inquiry. This contains obligations in respect of affordable housing, transport and highways works including a travel plan, educational contributions, play space and open space, a SANG and a community facility. There is also an obligation not to develop on land to the south of Netherhouse Copse. I shall return to these matters later in my decision.
5. Prior to the inquiry the appellant also submitted a SoCG which it had agreed with Hampshire County Council as highway authority.

Main Issues

6. In the light of the evidence presented at the inquiry I have modified the main issues as outlined at the start of the inquiry, which I now present as:
 - The effect of the proposed development on the Local Gap between Fleet, Church Crookham and Crookham Village, in physical and visual terms and its effect on the character and setting of the countryside and on public footpaths;
 - The effect of the proposed access on highway safety, with particular reference to the proposed southern site access roundabout; and
 - Whether there are any other material considerations which would justify the development being determined other than in accordance with the development plan.

Reasons

Planning Policy

7. The development plan includes the saved policies of the Hart District Local Plan (Replacement) 1996-2006 and the First Alterations to the Hart District Local Plan (Replacement) 1996-2006 (the LP). Policy RUR1 of the LP defines the areas covered by Rural Economy and Countryside (RUR) Policies. These include the open countryside outside of settlement boundaries.
8. Policy RUR2 of the LP establishes an in-principle restriction on development in the open countryside outside the defined settlement boundaries and restricts development unless it is specifically provided for by other policies of the LP. In addition, new development will not be permitted if it has a significant detrimental effect on the character and setting of the countryside. Policy RUR3 states that developments in the countryside which are provided for by other policies of the plan will be permitted where they meet a number of specified criteria.
9. The appeal site was identified as part of the West Fleet Strategic Location in the now withdrawn Local Plan: Core Strategy, 2011-2029. More recently the site was identified as part of a West of Fleet potential strategic site as part of the early consultation on the emerging Local Plan but is not allocated in the draft Hart District Local Plan, 2011-2032. The Council and the appellant agree that only very limited weight can be attached to the emerging Local Plan at this stage, a view I share.

10. Policy RUR1 provides the context for Policies RUR2 and RUR3 but, as acknowledged by the Council and the appellant, it is not in itself capable of being breached. As the appeal site is outside of the settlement boundaries of Fleet and therefore within the open countryside the proposed development would be contrary to Policy RUR2. It is also contrary to Policy RUR3 as it is not covered by the criteria of that policy.

Local Gap

11. The appeal site comprises predominantly agricultural land, grassland, hedgerows and woodland. It consists of two separate parcels of land to the west and east side of Hitches Lane. Hitches Lane links the northern part of Fleet with Crookham Village, to the south of the appeal site.
12. There are two public footpaths which cross the site. Footpath No. 6 runs in a southerly direction from Fleet to Crookham Village whilst Footpath No. 7 runs east-west extending beyond Hitches Lane. Footpath 502 passes along the eastern edge of the appeal site.
13. Policy CON21 of the LP states that development which would lead to the coalescence of, or damage the separate identity of, neighbouring settlements will not be permitted within identified Local Gaps. The eastern site lies within a defined Local Gap between Fleet and Crookham Village.
14. The appellant indicated that in 1998 when the LP Inspector considered the Local Gap he came to the view that it need only extend northwards as far as Netherhouse Copse to secure the separation between Fleet and Church Crookham. Nevertheless, in adopting the LP the Council confirmed the gap as denoted on the Proposals Map which includes the appeal site.
15. Policy CON21 is not breached by development within a Local Gap in itself. However, it is necessary to consider whether, as a consequence of the proposed development, the diminution of the Local Gap would result in the coalescence of, or harm to, the identity of neighbouring settlements. This judgment is concerned with the spatial relationship between places rather than the quality of the landscape.
16. The Council's assessment to determine the value of the gap identified a number of criteria beginning with distance. The existing gap extends approximately 1.25km north to south with the walk time between Fleet to the north and Crookham Village to the south estimated to be approximately eight minutes. The remnant gap between Netherhouse Copse and Crookham Village if the development were to take place would be approximately 400m and approximately 205m along Hitches Lane with housing occupying the central third of the gap. In terms of topography The Tump, which currently provides a distinctive landscape feature, would be re-profiled, while new housing would obscure much of the remaining form.
17. With open countryside replaced by built development the landscape character of the central part of the gap would change drastically whilst the character of Hitches Lane which borders the gap would become more urbanised with the introduction of additional street furniture. Roadside trees would also be removed to accommodate visibility splays and new accesses. New housing would incorporate the routes of footpaths across the site, changing their character. Moreover, the new housing edge would be more visually prominent

- than the existing western edge of Fleet, at least until the new planting matures sufficiently to provide screening.
18. Currently it is not possible to see the northern edge of Crookham Village from the western edge of Fleet, at least in summer. However, there would be potential for the new housing to be seen from the edge of the village, across the gap at Hitches Lane, particularly in winter, notwithstanding the filtering effect of Netherhouse Copse. Currently there are very limited opportunities to see both edges of the settlements from a single point, but the proposed development would make this possible from Hitches Lane and from Footpaths 7a and 6.
 19. The existing gap along Hitches Lane serves to create the perception of leaving one settlement before entering another. A strong sense of countryside is experienced, reinforced by the agricultural use. This sense of entering or leaving Crookham Village or Fleet would change as a result of the proposed development. The gap would be considerably reduced with a walk time of approximately two minutes and new housing would affect the character of Footpath 7b and the northern part of Footpath 6.
 20. The proposals would result in development occupying approximately one third of the existing Local Gap. The remaining area would comprise an undeveloped northern part occupied by open space and the southern gap between Netherhouse Copse and Crookham Village. Notwithstanding the changes to the gap the absence of development between Netherhouse Copse and Crookham Village would result in no direct coalescence of these settlements.
 21. At present views into the eastern site are possible from a number of locations on Hitches Lane. Furthermore, Netherhouse Copse with trees of varying heights and thickness, would not provide an impenetrable screen to prevent views of the proposed development from the south, because it does not extend across the full width of the gap. However, Netherhouse Copse and proposed vegetation between the village and the new housing would provide significant mitigation resulting in limited visibility between the proposed development and Crookham Village, including during the winter months.
 22. Crookham Village derives its identity from being a settlement of rural character and appearance, largely surrounded by open agricultural land. It has numerous historic buildings, many of which are timber framed and part of the village is a conservation area.
 23. The Council argued that even if the remnant gap did not result in direct coalescence, the separate identity of the village would be materially damaged. But as the identity of Crookham Village derives in part from its physical separation from Fleet I find that there would be no material harm to the separate identity of Crookham Village as a result of the proposed development. For these reasons I do not consider that Crookham Village would lose its sense of place or distinctive character notwithstanding the physical diminution of the Local Gap.
 24. Through a planning obligation the appellant has committed for the land between Crookham Village and the development to be subject to restrictive controls. This would prevent further development within the remnant gap and would further ensure that Policy CON21 was not breached, notwithstanding that development in this location would be subject to planning controls.

- Nevertheless, this proposed obligation would add further limited weight to the protection of the remnant Local Gap.
25. Consequently, whilst the proposed development would be within the Local Gap it would not result in the physical and visual coalescence of settlements or the loss of individual identities and therefore I find no conflict with Policy CON21.
 26. Policy CON22 of the LP aims to prevent development which would adversely affect the character or setting of a settlement or lead to the loss of important areas of the development of open land around settlements. Development will not be permitted where it would have a serious adverse effect on the character or setting of the settlement. The supporting text to the policy also indicates that land immediately outside settlement boundaries may be important to the form and character of a settlement in providing opportunities for views.
 27. The visual impact of the proposed development would be experienced within the appeal site and its immediate surroundings but also from further afield, including from viewpoints to the west of Hitches Lane and from Pilcot Road. Landscape mitigation, particularly over the longer term, would in my judgment soften the negative impacts whilst not completely eliminating views of new development. Nevertheless, these adverse impacts need to be considered in the context of views of existing buildings in the area which form part of the landscape character.
 28. Whilst there will be glimpsed views of the proposed development when using Footpath 6, south of Netherhouse Copse and from Hitches Lane, I regard the appeal site as being largely outside of the setting of Crookham Village. This is because the visual envelope of Crookham Village extends as far as Netherhouse Copse but not beyond. From within the appeal site, Crookham Village is not experienced to any great degree and it is only when one moves south from the appeal site beyond Netherhouse Copse that the village setting is experienced. Proposed mitigation along Hitches Lane and to the south of Netherhouse Copse would add to the existing planting to reduce the urban character of development and preserve the setting and character of Crookham Village.
 29. Indicative drawings show The Tump, being developed for housing and regraded to reduce the impact of development. Even with this change views from the west of the development of the upper slopes of The Tump would still be apparent above roadside trees along Hitches Lane. Nevertheless, the effect of this change on the character of the landscape would be limited largely to the immediate surrounds or views from the west, where housing within trees is characteristic of the wider area. As a result there would be no serious adverse effect on the rural composition of existing views or the setting of Crookham Village.
 30. Paragraph 109 of the National Planning Policy Framework (the Framework) states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The appeal site does not lie within a designated landscape but case law¹ indicates that a landscape does not have to be designated for it to be a valued landscape. Nevertheless, it does need to have characteristics which make it more than ordinary countryside. I heard during the inquiry how local people

¹ Stroud DC v Secretary of State for Communities and Local Government [2015] EWHC 488 Admin

value the area north of Netherhouse Copse for recreational and amenity value and as a special landscape, with The Tump providing a distinctive local landform.

31. The Council undertook an assessment of the landscape value of the site based on criteria set out in *Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3)*. This confirmed that in landscape quality terms the appeal site is characterised by woodland and field boundary vegetation patterns which are intact and of reasonable condition, including rare ancient woodland, a range of conservation interests and a high recreational value. The assessment also found a high scenic quality provided by the woodland and tree cover and the distinctive form of the knoll and a sense of tranquillity. Taken together I consider that these elements establish the eastern site as a valued landscape. Nevertheless the main elements which contribute to its value, namely the woodland, vegetation and recreational use, would be protected and enhanced by the development to some extent.
32. The appellant sought to argue that as set out in paragraph 113 of the Framework a distinction may be drawn between designated sites so that protection should be commensurate with their status and appropriate weight should be given to their importance. As a result, the appeal site was described as 'off the bottom of the scale'. However, such an argument seems to me to suggest that sites with no designation cannot have value, which is contrary to the view in the Stroud case².
33. The Hart Landscape Assessment, 1997 identified the site as being within a Category C landscape which is the lowest category. This assessment was based on a methodology which has now been superseded by the GLVIA3 criteria and also failed to recognise recreational value. Accordingly I attach limited weight to its findings.
34. The much more recent Hart Landscape Capacity Study, 2016 identified a wide area to the west of Fleet (FL-01) including the appeal site as having a low capacity for development with a medium visual sensitivity, a medium to high landscape sensitivity and a high landscape value. The study acknowledged that the precise location and extent of development would depend on a closer study and evaluation and that the upper/middle section of Hitches Lane had urban characteristics following urban fringe development. I was also referred to the Strategic Housing Land Availability Assessment, 2016 which recognised the constraint provided by the knoll, but did not suggest that the landscape itself was a constraint.
35. The disagreement between the Council and the appellant about the effect of the scheme in landscape terms depends to some extent on the scope of the assessment. Focusing on the site itself, the effect on character would be major adverse according to the Council but considered in a wider setting the appellant assessed the effect as minor negative with those elements of higher value, including the adjacent ancient woodland retained and enhanced. I consider both of these assessments are reasonable. Nevertheless, the localised nature of the landscape impacts would reduce any harm to a limited effect.
36. The key test of Policy CON22 in this case is that development should not have a serious adverse effect on the character or setting of the settlement.

² Stroud DC v Secretary of State for Communities and Local Government [2015] EWHC 488 Admin

Notwithstanding the Council's assessment of the capacity of the appeal site for development, its visual and landscape sensitivities and landscape value there would not be a seriously adverse effect on the character or setting of Crookham Village. I therefore find that the proposal would not conflict with Policy CON22. Nevertheless, there would be limited conflict with the advice in paragraph 17 of the Framework, which states that planning should seek to conserve and enhance the natural environment, and limited harm to the character of the appeal site, which I consider to be valued in terms of paragraph 109 of the Framework.

37. Policy CON23 of the LP states that development will not be permitted which would seriously detract from the amenity and consequent recreational value of well-used footpaths in the countryside close to main settlements by reducing their rural character and detracting from significant views.
38. The illustrative plans indicate that there would be no change to the alignment of any public footpaths but clearly their character would change as a result of the proposed development from rural routes passing through or on the edge of countryside. In addition the perception of users of the footpaths would change. Consequently, although the impact would be localised, limited in extent and mitigated as far as possible, I conclude that there would be a breach of the policy tests such that the extent of the change would seriously detract from the amenity and recreational value. Consequently there would be conflict with Policy CON23.
39. For these reasons I conclude that the proposed development would not result in the physical or visual coalescence of neighbouring settlements or damage their separate identities by development within the Local Gap between Fleet/Church Crookham and Crookham Village. As a result I find there would be no conflict with Policy CON21 of the LP. The impact of development in landscape and visual terms would be localised and limited and would not have a serious adverse effect on the character or setting of settlements such that Policy CON22 would be breached, although I have found that there would be limited conflict with paragraphs 17 and 109 of the Framework. Additionally there would be some adverse impact on the amenity and recreational value of local footpaths which would seriously detract from those qualities resulting in conflict with Policy CON23 of the LP.

Highway Safety

40. The proposed access arrangements to the eastern site would comprise a priority junction at the north-western corner and a roundabout at the south-western corner. Each is proposed with 120m visibility splays which is representative of a Stopping Sight Distance for a 40 mph design speed as set out in the *Design Manual for Roads and Bridges* (DMRB). An additional access to the western site from the western side of Hitches Lane would serve the proposed country park. The proposals envisage the introduction of a 40 mph speed limit on Hitches Lane where the current speed limit is 60 mph. Approval for the revised speed limit would be sought separately through a Traffic Regulation Order.
41. The southern access is proposed as a 22m Inscribed Circle Diameter (ICD) compact roundabout which was confirmed as acceptable in the SoCG with the highways authority. However, that SoCG also commented that a larger 28m

- ICD, with the same visibility sight lines would provide a more robust solution to the access onto Hitches Lane.
42. By the end of the inquiry, the difference between the Council and the appellant concerned the design of the proposed access arrangements rather than whether safe access could be achieved. This largely related to two matters, namely visibility sight lines and roundabout size.
 43. The Council identified that Hitches Lane is a classified 'C' road with 85% of vehicles travelling at greater than 37.5 mph. Consequently, it argued that as set out in the *Hampshire Companion Document to the Manual for Streets*, the appropriate design standard was provided through DMRB. However, as Hitches Lane is neither a trunk road nor a strategic road, based on the guidance in *Manual for Streets 2* (MfS2) and as confirmed by the highway authority, regard should be had to local circumstances.
 44. With regard to visibility sight lines, the highways authority confirmed that a 120m splay would be acceptable whilst the Council's position was that 160m splays were required. The *Department for Transport Circular 01/2013* indicates that mean speeds and 85th percentile speeds are commonly used measures of actual traffic speed but mean speeds should be used as the basis for determining local speed limits. Moreover, as Hitches Lane will primarily serve as a local access road, in such situations Circular 01/2013 considers 40 mph speed limits to be appropriate.
 45. From the traffic surveys undertaken by the appellant and the Council, based on the existing 85th percentile speed of 47.2 mph southbound and 50.7 mph northbound a design speed of 85 kph was identified by the Council leading to a requirement for a forward visibility of 160m. It was also justified by the Council on the basis that the introduction of a reduced speed limit of 40 mph could not be guaranteed and existing speeds indicated that it would not be self-enforcing.
 46. The Council also argued that a 120m visibility splay when considered against the existing speed limit corresponded to two steps below the desirable minimum standard which represented a departure from the applicable standard in TD16/07 *Geometric Design of Roundabouts* which forms part of DMRB.
 47. However, the Council's traffic survey indicated that for northbound and southbound traffic 74% of the total flow was travelling below 45 mph with the mean northbound speed being 41.7 mph and the southbound mean being 41.9 mph. Taking account of three proposed access points in a relatively short stretch of road between two 30 mph sections, the associated road markings and signage, the entry width of the roundabout and single lane entry compact format, it appears likely to me that speeds would be predominantly below 40 mph in the future.
 48. The Council sought the introduction of a package of traffic calming features on Hitches Lane to achieve a satisfactory reduction of speeds and ensure that the 40 mph speed limit would be self-enforcing. However, having found that the speeds would be likely to reduce to below 40 mph and noting that the highway authority has not considered such a package to be necessary, I too conclude that such measures are not required.

49. Whilst it is for the appellant to pursue the formal 40 mph speed limit I consider that, on the basis that speeds would be reduced such that the 40mph limit would be largely self-enforcing, 120m visibility splays would be appropriate for both the northern access and the southern roundabout.
50. MfS2 emphasises that the guidance in TD16/07 is written specifically for trunk roads and where used in other situations should not be applied uncritically. MfS2 also advises that the recommended approach to the design of roundabouts is to make the overall diameter of the junction as compact as possible. The issue of the size of the proposed roundabout is determined in part by the relevant 'design vehicle' using Hitches Lane. In this case the design vehicle was determined through TD18/07 as a 15.5m articulated vehicle with single rear axle.
51. TD16/07 requires compact roundabout to have a minimum 28m ICD, being the smallest roundabout that can accommodate the swept path of the design vehicle. The traffic survey data recording the number of vehicles within the classification of the design vehicle is inconclusive but it is clear that, although the number is low, it could include daily movements. The numbers are likely to be suppressed because of the lack of such vehicles currently in use, the existing 7.5 tonne weight restrictions in the vicinity of the appeal site and the limited numbers of HGV vehicles using Hitches Lane.
52. MfS indicates that junctions should accommodate vehicles which regularly negotiate the junction rather than always designing for the largest legal articulated vehicle. The appellant demonstrated that the 22m ICD design can accommodate through movements of the design vehicle. However, the Council's evidence did indicate that the 22m ICD roundabout leaves no margin for driver error and the likelihood of drivers taking up the optimum position to achieve the through movement would be limited particularly because of the reverse curve nature of the manoeuvre and therefore there would be a risk of conflict with other road users.
53. The Council's preferred access solution would be a 36m ICD roundabout but this size of roundabout would not be required in terms of capacity. Moreover, a full standard roundabout with two entry lanes could lead to drivers not observing the deflection with the result that speeds would increase leading to other safety issues.
54. The Council also argued in favour of the 36m ICD roundabout on the basis of route consistency given that other roundabouts in Hitches Lane are larger. TD16/07 indicates that where several roundabouts are to be installed on the same route they should be of similar design in the interests of route consistency and hence safety. Roundabouts on Hitches Lane which might justify consistency are some distance away, were designed to have two lane entry approaches, have four arms and serve different levels of traffic, one having a dual carriageway entry and exit. Consequently a similar design approach would not be appropriate for the proposed roundabout and I see no reason for a 36m ICD roundabout. Accordingly, for the reasons given, I find that it is appropriate for the southern access to be configured as a 28m ICD roundabout.
55. Concern was raised by the Council that the entry path radius of the roundabout of 102m for northbound vehicles was excessive and would lead to inappropriate speeds through the roundabout. TD16/07 indicates that for a compact

roundabout within a 40 mph speed limit the entry path radius must not exceed 70m. Amendments to the design indicate that a 69m deflection is achievable for either the 22m or 28m ICD roundabouts and therefore the standard can be met. In addition the Council suggested that the northern approach alignment to the roundabout could result in swerving manoeuvres but based on the design proposed with warning signage, road markings and speeds of 40 mph I consider appropriate measures would be in place to limit such manoeuvres.

56. With regard to pedestrian movements, existing Footpaths 7a and 7b are located to the south of the proposed roundabout where there is no change in the alignment of Hitches Lane. The proposed roundabout would assist walkers to cross the road because vehicles speeds at the crossing would be low. Consequently, as the development will not materially change the safety or acceptability of the existing crossing point which is over 70m south of the proposed roundabout and no changes to pedestrian routes have been requested by the highway authority there is no need to introduce additional pedestrian crossing measures.
57. The second putative reason for refusal made reference to the absence of a Stage 1 Road Safety Audit. Whilst not submitted with the original application the appeal documentation did include safety audits. These demonstrated that there are no outstanding safety matters to be addressed. Nevertheless, further refinements of the design, including further safety audits would be undertaken as part of the highways agreement process.
58. In terms of entry angles, the Council's position was that the design is essentially a four-arm roundabout with a missing arm rather than a balanced three-arm roundabout accommodating the minimal realignment of Hitches Lane. However, based on the alternative approach angles put forward by the Council and the appellant and the lack of applicable standards governing such matters, I find no reason to conclude that the roundabout configuration should change.
59. For these reasons I find that the site can be accessed appropriately in terms of highway safety. Consequently I find that the proposed development would not conflict with Policy T14 of the LP which requires development proposals to make adequate provision for highway safety and access or Policy T15 which states that development requiring new access will not be permitted if it would adversely affect the safety and character of the non-strategic road network. Additionally I find no conflict with paragraph 32 of the Framework which requires decisions to take account of whether safe and suitable access to the site can be achieved for all people.

The Weight to be Attached to Development Plan Policies

60. The settlement boundaries associated with Policy RUR1 were based on development needs derived from the former Hampshire Structure Plan. The LP covered the period 1996-2006, was adopted in 2002 and therefore considerably pre-dated the Framework.
61. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework thereby establishing whether or not policies are out-of-date. The Council suggested that the judgment about whether a plan or policy is up-to-date or out-of-date is determined by whether, in the context of a particular

- planning proposal, the plan or its relevant policies remain fit for purpose, allowing the acceptability of the development to be assessed, having regard to the planning circumstances at the time of the decision. Among the relevant tests would be whether the policies in question are consistent with the Framework, whether they still serve a planning purpose and, if constraint policies, whether they preclude the meeting of needs that current circumstances require to be met.
62. Paragraph 211 of the Framework states that policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. The fact that the development plan covered the period 1996-2006 does not in itself render it out-of-date notwithstanding that the development strategy and allocations were to accommodate anticipated development within the plan period.
63. Nevertheless, as the Supreme Court held in the case of *Suffolk Coastal*³, the weight to be given to restrictive policies can be reduced where they are derived from settlement boundaries that in turn reflect out-of-date housing requirements. In that case the Inspector's finding was consequential upon there being no five year housing land supply and on the basis that the Council could not deliver the housing to meet current needs. In the current appeal the Council argued that it can provide five years supply of housing land. However, this is a reflection of the Council granting a number of permissions for housing development outside of settlement boundaries identified in the LP in breach of Policies RUR2 and RUR3 in order to meet market and affordable housing needs and maintain a rolling five year land supply. Consequently it is not meeting current housing needs on the basis of the settlement boundaries in the development plan. I therefore find that Policy RUR1 is out-of-date and carries only moderate weight.
64. Policy RUR2 is similarly dependent upon the out-of-date settlement boundaries of RUR1. Notwithstanding the Council's revised assessment that Policy RUR2 has a high degree of consistency with the Framework, and irrespective that it is negatively expressed, it relates to out-of-date settlement boundaries established by Policy RUR1 and therefore is also out-of-date. Policy RUR3 also relies on the out-of-date settlement boundaries associated with Policy RUR1 and therefore I attached moderate weight to these policies too.
65. For similar reasons I attach moderate weight to Policy CON21. In addition, it is out-of-date because it specifically recognises that Local Gaps will be the subject of review and protected only for the lifetime of the plan, that is up to 2006.
66. Policy CON22 adopts a blanket approach to landscape protection and does not comply with the hierarchical approach of paragraph 113 of the Framework or the valued landscape approach of paragraph 109. Consequently, notwithstanding the Council's revised assessment of the policy for consistency with the Framework, which changed its status from medium to high, the weight to be attached to the policy is also limited. In contrast I find that Policy CON23 of the LP has a high degree of consistency with paragraph 75 of the Framework which states that planning policies should seek to protect and enhance public rights of way.

³ *Cheshire East v Richborough Estates & Suffolk Coastal v Hopkins Homes* [2017] UKSC 37

67. The fourth bullet point of paragraph 14 of the Framework indicates that where relevant policies of the development plan are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, or specific policies indicate development should be restricted. Having found that policies RUR1, RUR2, RUR3, CON21 and CON22 cannot be considered up to date, paragraph 14 is engaged in this case, notwithstanding that the policies serve various planning purposes.
68. The appellant also argued that the policies were out of date because of a claimed lack of a five year housing land supply, a point disputed by the Council. However, even if I were to conclude that the Council does have a five year supply of housing sites, my conclusion in respect of the applicability of paragraph 14 would not be different. It is not necessary for a plan to be in conflict with paragraph 49 of the Framework in order for paragraph 14 to be engaged as the Supreme Court held in the case of *Suffolk Coastal*⁴. Moreover, the existence of a five year supply of housing and the potential identification of a longer term housing supply does not mean that settlement boundaries cannot be out-of-date. Consequently, I have not considered the question of the housing land supply further.

Other Matters

69. Concern was expressed by many residents about the impact of the proposal in terms of traffic generation and highway capacity. Traffic data was provided by interested parties and the appropriateness of the appellant's transport modelling was questioned. Notwithstanding the suggestion that the highway authority had been inconsistent with regard to earlier advice relating to west Fleet, Hampshire County Council did not object to the proposed development subject to the imposition of appropriate conditions and an appropriate package of mitigation measures being secured.
70. Hart's transport consultant when asked to review the appellant's Transport Assessment to determine whether there was a reason to refuse the application on traffic generation grounds concluded that the vehicle trip rates were acceptable. Moreover, the Transport Assessment considered all committed development in the area as well as future year growth to 2022 and demonstrated that the traffic impact on local roads would not be significant and that predicted flows could be accommodated without adverse impact. The suggestion that the junction modelling of two roundabouts to the north of Hitches Land should have been modelled as one junction is addressed by the highway authority's acknowledgment that the capacity related to the proximity of the roundabouts, a view I accept.
71. The issue of car parking can be addressed at reserved matters stage whilst the provision of transport facilities as an alternative to the private car would be addressed through the implementation of a Travel Plan. Consequently I find that there is no reason to dismiss the appeal based on these further transport matters.
72. The Habitat Regulations 2010 require an assessment to be undertaken as to whether a proposal would be likely to have a significant effect on the interest

⁴ *Cheshire East v Richborough Estates & Suffolk Coastal v Hopkins Homes* [2017] UKSC 37

- features of a protected site. The Thames Basin Heaths Special Protection Area (SPA) is such a protected site.
73. The assessment is required to ensure that development does not result in a likely significant effect upon designated sites. Taking account of the Habitat Regulations and Policies CON1 and CON2 of the LP it is necessary to demonstrate that all development either individually or in combination with other development which would increase the use of the Thames Basin Heath SPA for recreational and other purposes would not have a damaging impact on wildlife habitats or other natural features of importance. Policy NRM6 of the saved South East Plan requires adequate measures to avoid or mitigate any potential adverse effects on the SPA.
74. Natural England has indicated that on sites within 5km of the SPA, which includes the appeal site, additional residential development will have a significant effect on the SPA without adequate mitigation. Consequently, any such unmitigated proposal would be contrary to the Habitats Regulations. The Thames Basin Heath Delivery Framework enables the delivery of housing in the vicinity of the SPA without a significant effect on the SPA as a whole through avoidance measures which take the form of areas of Suitable Alternative Natural Greenspace (SANG).
75. The proposed development includes the creation of a SANG on the western part of the site as an extension to Edenbrook Country Park, which is an existing SANG. Natural England had reviewed the proposal and confirmed that, on the basis of the provision of SANG land, compliance with the SANG Management Plan to ensure its on-going management and maintenance in perpetuity and the making of appropriate Strategic Access Management and Monitoring (SAMM) contributions which would be secured through the Section 106 agreement, they do not object to the proposed development.
76. I heard from local residents that the proposed expansion of the Edenbrook Country Park to accommodate the SANG would fail to provide a suitable alternative to the existing countryside footpaths close to Crookham Village. It was suggested that the proposal would cause significant adverse effects on the SPA and that the condition of the existing SANG leads people to visit the SPA resulting in an adverse impact. However, based on the evidence before me including the SANG Management Plan I find that the proposed mitigation would adequately address the impacts of development and that the SANG is likely to be effective.
77. The proposal is therefore in accordance with the Council's Thames Basin Heath Avoidance Strategy, LP Policies CON1 and CON2 and Policy NRM6 of the South East Plan. Consequently I am of the view that the proposal would not have an adverse effect on the integrity of the SPA, either alone or in combination with other projects, and therefore would not be contrary to the Habitat Regulations.
78. Concerns were also raised about the effect of the proposal on ecology within the eastern site but the evidence before me indicates that the site does not have any particular significance in ecological terms. Furthermore, whilst the Framework states that the planning system should minimise impacts on biodiversity and provide net gains in biodiversity where possible, the lack of net biodiversity gain would not be a reason to dismiss the appeal because there is no necessity to secure a net gain.

79. Although the character of the footpaths within the appeal site would change they would still be available and I have no evidence that the mechanisms to create and manage the extended Country Park would not provide a suitable recreational facility. A number of other concerns raised relating to noise, disturbance and construction impacts as well as the effect of street lighting pollution are matters which can be addressed through conditions or at the reserved matters stage.
80. The risk of flooding and the tendency of Edenbrook Country Park to flood were also raised as concerns but I note that the Environment Agency has not objected to the proposal subject to the inclusion of a condition that development is carried out in accordance with the submitted Flood Risk Assessment. Comments about the design and layout of the proposed development can be addressed at the reserved matters stage.
81. It was suggested that the scheme would put a strain on local services but I consider that the site is well located in terms of access to local facilities and services which are available within Fleet town centre, less than a mile to the north east of the site. Furthermore, with the proposed contributions to community infrastructure the proposed development would not give rise to a material impact on community facilities and services. The effect of the proposed development on the Crookham Village and Dogmersfield Conservation Areas was highlighted whilst Ms ten Kate identified the possibility of traffic adversely affecting her Grade II listed building on Crondall Road. However, since I have found that the proposal would not adversely affect the setting of the village and I have no detailed evidence relating to the impact of the development on these heritage assets I find no harm in this respect.
82. The proposed development would contribute economic benefits to the local area both during construction and in the longer term as residents provide custom for existing shops and services. The Council accepted that such benefits would result from the scheme whilst acknowledging that they would apply in any location in the District where development of that scale took place. On that basis the Council apportioned moderate weight to them. However, on the basis of the scale of the benefits as described by the appellant, I afford them significant weight.

Planning Obligations

83. In the Section 106 agreement the appellant has undertaken to provide 169 units of affordable housing, out of a total of up to 423 units on site, with the remainder of the 40% contribution (0.2%) as a financial contribution of £24,500. This obligation is in line with the requirement of paragraph 50 of the Framework which supports the delivery of a wide choice of high quality homes and Policy ALT GEN13 of the LP which seeks the provision of 40% of new housing to be affordable.
84. The appellant has undertaken to provide land within the appeal site to the Council and to make a contribution of £501,207 towards the development of a community facility building. This would be provided as part of a wider contribution to provide leisure and open space facilities. It is also proposed to mitigate the demand for open play space through the provision of Local Areas of Play, Locally Equipped Areas of Play, a Neighbourhood Equipped Area of Play and a Trim Trail, together with a contribution towards their maintenance. Provision is also made for landscape and ecological buffers and southern

- boundary planting and there is a commitment not to develop the land between the appeal site and Crookham Village. Such measures are in line with Policy GEN1 of the LP which addresses the need for infrastructure improvements.
85. Mitigation to address the potential effects of the development on the Thames Basin Heaths SPA comprises the creation of a SANG, including the transfer of land and associated contributions, as an extension to the Edenbrook Country Park. This would be in line with Policies CON1 and CON2 of the LP and Policy NRM6 of the South East Plan. The size and scale of the SANG and the SAMM contribution is fairly and reasonably related in scale and kind to the development site as it seeks to mitigate the additional impact of the development proposal on the SPA.
86. The agreement also makes provision for a financial contribution towards primary and secondary education including the transfer of land for the expansion of Calthorpe School. The appellant has undertaken to make a contribution of £4,287,810 which is the sum requested as part of an earlier application in 2014 plus £100,000 to reflect an increase in prices. This does not provide the full amount indicated by the County Council guidance *Developers Contributions Towards Children's Services Facilities*. However, the District Council considered that in the context of the overall contribution this amount was acceptable, a view which I share, and both the County and District Councils are signatories to the agreement.
87. A contribution of £1,429,284 would be provided to mitigate the transport impact of the development through a number of improvement schemes comprising junction improvements, improvements to cycle routes, pedestrian crossings and bus infrastructure. The agreement also makes provision for various off-site junction improvements which are required to ensure that the site can be safely accessed and for the implementation of a Travel Plan. The transport and highways provisions are in accordance with Policies T1, T14 and T16 of the LP which collectively support improvements to local transport infrastructure including developing a choice of transport modes.
88. I am satisfied that all of the provisions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development and therefore consistent with Regulations 122 and 123 of the Community Infrastructure Regulations, 2010. I have therefore taken account of them in reaching my decision.

Planning Balance

89. Section 38 (6) of the Planning and Compulsory Purchase Act, 2004 requires applications for planning permission to be determined in accordance with the development plan unless other material considerations indicate otherwise. I find that because the appeal site is outside of the settlement boundary for Fleet the proposals are not in accordance with the development plan as a whole.
90. Nevertheless, the fourth bullet point of paragraph 14 of the Framework is relevant where the development plan is absent, silent or relevant policies are out-of-date. In this case I have found that Policies RUR1, RUR2, RUR3, CON21 and CON22 are out-of-date and I attach little weight to these policies. In such circumstances, paragraph 14 states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as

a whole, or specific policies in the Framework indicated that development should be restricted. No such restrictive policies apply in this case, bearing in mind my findings in respect of the SPA.

91. I have found that there would be some harm from development in the countryside and some harm to the valued landscape of the appeal site contrary to paragraph 109 of the Framework. In addition, harm would occur to the amenity and recreational value of footpaths crossing the site, contrary to Policy CON23 of the LP, to which I attach modest weight.
92. Balanced against the conflict with the development plan is the contribution to the supply of housing which the provision of up to 423 homes would make. This carries significant weight in the context of paragraph 47 of the Framework which states that local planning authorities should boost significantly the supply of housing to meet the needs for market and affordable housing.
93. The provision of 40% affordable homes would be in accordance with Policy ALT GEN13 of the LP and because of the substantial under delivery of affordable housing within the district over a number of years the provision of up to 169 new affordable homes carries significant weight. Other suggested social benefits including the promotion of sustainable transport, the provision of healthy communities and securing good design are generally requirements of local and national policies and therefore have a neutral effect.
94. I have attached significant weight to the economic benefits which the proposal would achieve. Other environmental benefits which the appellant highlighted, including meeting the challenge of climate change and conserving and enhancing the natural environment also have a neutral effect.
95. Taking all of this into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole and that the proposal represents sustainable development. On this basis a decision, other than in accordance with the development plan is justified and therefore the appeal should be allowed.

Conditions

96. Planning conditions were discussed with the Council and the appellant at the inquiry. In considering conditions I have had regard to both the Framework and Planning Practice Guidance (PPG) in respect of the need for individual conditions and their precise wording.
97. Conditions relating to the submission of reserved matters and the timing of commencement are needed due to the outline nature of the application (Conditions 1, 2 and 3). I have imposed a condition specifying the relevant drawings with which the scheme should comply as this provides certainty (4). This specifies a number of parameter plans which it is necessary for the scheme to comply with to ensure a satisfactory development notwithstanding the provisions of the reserved matters. It is particularly important to address these matters now given my findings in terms of the impact of the scheme on the landscape. I have considered an alternative condition regarding access which was discussed at the inquiry but I conclude that it is not necessary in order to secure the accesses which I have found to be required.

98. A condition requiring a phasing plan to be prepared and for development to be undertaken in accordance with the approved plan is appropriate in order to ensure that the proposed development proceeds in a planned and phased manner (5). In order to protect the interests of nearby residents and in the interests of highway safety a condition requiring the submission and approval of a Construction Method Statement (CMS) is imposed (6).
99. Notwithstanding the provision of reserved matters I have imposed a condition requiring details of existing and proposed ground or floor levels to be approved prior to construction in order to ensure that the development does not have an overbearing impact on the landscape (7). Similarly conditions are imposed to require the submission of highways infrastructure (8) and access and parking arrangements (9) to ensure that satisfactory access to the development is provided. A condition requiring the provision of cycle parking is necessary in the interests of providing a choice of transport modes in support of sustainable transport aims (10) whilst a condition specifying how spoil or arisings generated by the development will be managed is necessary to protect the living conditions of local residents (11).
100. Conditions are required to ensure the satisfactory alleviation of flood risk (12) and in order to address the possible effects of land contamination on site (13). It is also necessary to impose conditions to ensure that there are no adverse impacts on protected species (14) and to ensure that the SANG is available for use prior to the occupation of the proposed dwellings (15) to avoid any significant effect on the SPA. Conditions are required to protect trees and other vegetation to benefit the appearance of the development and its surroundings (16) and to address the potential archaeological significance of the site (17 and 18).
101. A separate condition limiting the hours of construction is not necessary as this can be addressed as part of the CMS under condition 4. Similarly, it is not necessary to impose conditions requiring details and samples of external surfaces or landscaping at this stage due to the outline nature of the proposal. As I have found that 120m visibility splays would be acceptable based on a self-enforcing 40 mph speed limit it is not necessary to impose a condition to undertake traffic surveys to ascertain whether the introduction of traffic calming measures is required. Similarly, 'Condition 3' (ID30) is not necessary because I have found visibility splays of 120m to be appropriate.
102. I have considered the suggestion that a condition should be imposed to secure net biodiversity gain and this was discussed with the main parties. Whilst acknowledging the appellant's corporate objective to meet this requirement, because a condition to achieve this objective does not have the support of the Council and I am not convinced that such a condition would meet all of the tests in the Framework I have not imposed it.
103. PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for conditions 5, 6, 7, 8, 11 and 16 to be pre-commencement conditions because they are fundamental to the development permitted.

Conclusion

104. For the reasons set out above, and having taken into account all matters presented in evidence and raised at the inquiry, I conclude the appeal should be allowed.

Kevin Gleeson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Michael Bedford QC,

Instructed by the Joint Head of Legal of Hart and Basingstoke Councils.

He called:

Christopher Cobbold
MA MBA MRICS

Director,
Wessex Economics Limited

Christopher Blamey
BSc (Hons) MSc (Eng) MCIHT

Director
Russell Giles Partnership

Jane Jarvis
BSc (Hons) DipLD MA CMLI

Principal Landscape Architect
SLR Consulting Limited

Christine Tetlow
MA MRTPI

Development Management Team Leader
Hart District Council

FOR THE APPELLANT

Christopher Boyle QC,

Instructed by Jonathan Lambert, MRTPI of Berkeley Strategic Land Limited

He called:

Andrew Smith
BSc (Hons) MSC CMLI

fabrik Limited,

David Wiseman
BA (Hons) MRTPI

Director
Stuart Michael Associates

Matthew Spry
BSc (Hons) Dip TP (Dist) MRTPI MIED FRSA

Senior Director, Lichfields

INTERESTED PERSONS

Max Clark

Co-Chairman, Face-It

Kerry ten Kate

Local Resident

Tony Gower-Jones

Co-Chairman, Face-It

Ed Dane

Local Resident

Michelle Hulse

Local Resident

Richard Hellier	Local Resident
Brian Whyatt	Crookham Village Speedwatch Co-ordinator
Cllr. Julia Ambler	Crookham Parish Council.

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1. Section: Viewpoint F to Housing on Knoll, submitted by the Council.
- ID2. Planning Application Representations, submitted by the Council.
- ID3. Opening Statement on behalf of the Council.
- ID4. Summary of Traffic Data for Crookham Village, submitted by Mr Whyatt.
- ID5. Vehicle Classifications, submitted by the Council.
- ID6. DRMB TD9/93, submitted by the Council.
- ID7. Notice of Appeal, submitted by the Council.
- ID8. Minutes of the Committee Meeting 14 December 2016, submitted by the Council.
- ID9. Traffic Survey 19 April – 27 April 2016, submitted by the Appellant.
- ID10. Amendment to ID1, submitted by the Appellant.
- ID11. Extracts from the Inspector’s Report into the Hart (Replacement) Local Plan, submitted by the Council.
- ID12. Speaking Notes submitted by Mr. Clark.
- ID13. Comments by Ms ten Kate.
- ID14. Area of 7.5 Tonne (Except for Access) Restriction submitted by the Council.
- ID15. Roundabout Approach Angles submitted by the Council.
- ID16. Speaking Notes submitted by Mr Gower-Jones.
- ID17. Comments on the Site Visit Route, submitted by Mr Clark.
- ID18. Southern Roundabout Site Access Approach Lanes, submitted by the Council.
- ID19. Southern Roundabout Site Access Autotrack Swept Paths, submitted by the Appellant.
- ID20. Notes on Vehicle Classifications, submitted by the Appellant.

- ID21. Response to Comments on the Site Visit Route, submitted by the Appellant.
- ID22. Comments by Mr Hellier.
- ID23. Southern Roundabout Site Access Footpath Positions, submitted by the Appellant.
- ID24. Response to Third Party Highway Concerns, submitted by the Appellant.
- ID25. Draft Conditions, submitted by the Appellant.
- ID26. Draft Section 106 Agreement, submitted by the Appellant.
- ID27. Section 106 CIL Compliancy, submitted by the Council.
- ID28. Revised Southern Roundabout Access Drawings, submitted by the Appellant.
- ID29. Presentation by Councillor Ambler.
- ID30. 'Condition 3', submitted by the Appellant.
- ID31. Closing Submissions on behalf of Hart District Council.
- ID32. Closing Submissions on behalf of the Appellants.

DOCUMENT SUBMITTED FOLLOWING THE INQUIRY

- ID33. Signed Section 106 Agreement

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 takes place.
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 begin not later than two 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: 13109/S101, 13109/C01S, 13109/C02S, 13109/C03S, 13109/C04S, 13109/C05S, 13109/C06S, 5463.051, 5463.053, 13109/C07S, 5463.017, 5463.018, 5463.019, 5463.020, 5463.021, 5463.022, 5463.030 and 5463.031.
5. Prior to the commencement of the development hereby approved, a phasing plan identifying all phases of development shall be submitted to and approved in writing by the Local Planning Authority. All phases of the development shall be completed and carried out in accordance with the phasing plan unless otherwise agreed with the Local Planning Authority.
6. Prior to the commencement of development a Construction Method Statement shall be 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 include details of:
 - i) The parking of vehicles of site operatives and visitors;
 - ii) Loading and unloading of plant and materials;
 - iii) Storage of plant and materials used in constructing the development;
 - iv) The erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;
 - v) Wheel washing facilities and the dispersal of water;
 - vi) Measures to control the emission of dust and dirt during construction;
 - vii) Details of the site office / compound;
 - viii) A construction traffic management plan, to include details of how the site will be accessed and from which point(s), any works required to provide new access or upgrading of existing access routes, construction traffic routes, haul roads, parking and turning provision to be made on site, measures to prevent mud from being deposited on the highway and a programme for construction;
 - ix) Site waste management; and
 - x) Details of the control measures for air quality, biodiversity, waste management and lighting.
7. No development in any phase shall commence until plans showing details of the existing and proposed ground levels, proposed finished floor levels,

levels of any paths, drives, garages and parking areas and the height of any retaining walls within the application site have been submitted to and approved, in writing, by the Local Planning Authority for that part of the site. The development shall be completed and retained in accordance with the details so approved.

8. No development in any phase shall commence until details of the width, alignment, gradient and type of construction proposed for the roads, footways and accesses, including all relevant horizontal cross sections and longitudinal sections showing the existing and proposed levels, together with details of street lighting and the method of disposing of surface water from highways, and details of a programme for the making up of roads and footways for that part of the site have been submitted to and approved by the Local Planning Authority in writing before development in any phase commences. The development shall be completed in accordance with the details so approved.
9. No dwelling shall be occupied in any phase until all proposed vehicular accesses, driveways, parking and turning areas serving that dwelling in that phase have been constructed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.
10. No dwelling shall be occupied until the approved cycle parking serving that dwelling has been provided on site. The cycle parking shall be retained thereafter for its intended purpose.
11. No development shall take place in any phase until details of how it is intended to relocate any spoil or arisings caused by the development of that part of the site, either on or off site, have been submitted to and approved in writing by the Local Planning Authority. The works shall take place in accordance with the approved details.
12. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment & Drainage Statement (FRA) June 2016, 5463/FRA&DS Issue 01, produced by Stuart Michael Associates Limited and the following mitigation measures detailed within these documents:
 - a) No residential development will be located within Flood Zones 2 or 3.
 - b) There will be no net loss of floodplain storage within the SANG/Country Park.

The mitigation measure(s) in relation to each phase shall be fully implemented prior to occupation of that phase and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

13. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1-4 of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that

part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part 4 has been complied with in relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The developer shall submit the written report to the Local Planning Authority for approval prior to the works being undertaken and works shall not commence until approval has been received. The report of the findings must include:
a survey of the extent, scale and nature of contamination;
an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme.

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared. The developer shall submit the detailed remediation scheme in writing to the Local Planning Authority for approval prior to the works being undertaken and works shall not commence until approval has been received. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified the developer shall undertake an investigation and risk assessment in accordance with the requirements of part 1. Where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part 2, which the developer shall submit in writing to the Local Planning Authority for approval and works shall not continue until approval has been received.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which shall be submitted to and approved in writing by the Local Planning Authority in accordance with part 3 of this condition.

14. The development hereby approved shall be carried out for each phase in accordance with the methodology and mitigation measures in relation to that phase detailed in Chapter 9 (Ecology and Nature Conservation) of the submitted Environmental Statement (June 2016).
15. The Suitable Alternative Natural Greenspace (SANG) which shall serve the development hereby permitted will be made available for public use prior to the first occupation of the residential development hereby permitted and shall be maintained thereafter in accordance with the approved Management Plan.
16. Prior to the commencement of development in any phase details of the means of protection, including method statements where appropriate, for all trees, hedges, hedgerows and shrubs in that phase, unless indicated as being removed, shall be submitted to, and approved in writing by the Local Planning Authority. The trees, hedges, hedgerows and shrubs shall be retained and protected in accordance with the approved details for the duration of works on the site and retained for at least five years following occupation of the approved development. Any such vegetation immediately adjoining the site shall be protected on the site in a similar manner for the duration of works on the site. Any vegetation within the site which is removed without the Local Planning Authority's consent, or which dies or becomes, in the Authority's opinion, seriously damaged or otherwise defective during such period shall be replaced and/or shall receive remedial action as required by the Local Planning Authority. Such works shall be implemented as soon as is reasonably practicable and, in any case, replacement planting shall be implemented by not later than the end of the following planting season, with others of the same size, species, numbers and positions unless the Local Planning Authority gives consent in writing to any variation.
17. No works shall take place on land to which reserved matters relate in any phase until the applicant has secured the implementation of a programme of archaeological assessment in accordance with a Written Scheme of Investigation that has been submitted to and approved by the Local Planning Authority for that part of the site. As set out in paragraph 11.9.2 of Chapter 11 of the submitted Environmental Statement, the first phase of evaluation should consist of geophysical survey(s), followed by trial

trench investigations. The works shall thereafter take place in accordance with the approved details.

18. Following completion of archaeological fieldwork a report shall be prepared in accordance with an approved programme including where appropriate post-excavation assessment, specialist analysis and reports, publications and public engagement. The report shall be submitted in writing to the Local Planning Authority.