



Appeal Decision

Inquiry held on 11 May 2016

Site visit carried out on the same day

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 20 June 2016

Appeal Ref: APP/Y3940/W/15/3129040

Land off Prince Charles Drive, Calne, Wiltshire SN11 8NX

- 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 Robert Hitchins Limited against the decision of Wiltshire Council.
 - The application, No 14/11179/OUT, dated 25 November 2014, was refused by a notice dated 6 March 2015.
 - The development proposed comprises residential development of up to 130 dwellings, including infrastructure, ancillary facilities, open space and landscaping and the construction of a new vehicular access off Prince Charles Drive.
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Decision

1. For the reasons that follow the appeal is allowed and planning permission is granted for up to 130 dwellings, including infrastructure, ancillary facilities, open space and landscaping and the construction of a new vehicular access on land off Prince Charles Drive, Calne, Wiltshire, in accordance with the terms of the application No 14/11179/OUT, dated 25 November 2014, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. This is an outline application with all matters other than access reserved for future consideration. Vehicular access to the site would be from Prince Charles Drive, with footpath/cycleway links to Low Lane and Tern Close. In addition, a footpath link is proposed to an existing public footpath that runs east-west across the northern part of the appeal site. The application was also accompanied by an indicative Masterplan (H.0466_01-1C). Whilst not formally part of the scheme, I have treated the submitted details relating to the reserved matters (appearance, landscaping, layout and scale) as an indication as to how the site might be developed.
 3. The Council's decision notice sets out two reasons for refusal. The first refers to the scale and location of the development proposed being contrary to the Council's sustainable development strategy. However, in answer to queries I raised with the main parties before the event, the Council confirmed that whilst it had been able to demonstrate a five year supply of housing land at the time the application was determined, that was no longer the case (for the purposes of this appeal). As a consequence, the Council did not pursue the first reason for refusal at the Inquiry. Since this was an agreed position, no detailed evidence was presented by either party on the supply of housing land.
 4. The second reason for refusal refers to the absence of any means of securing affordable housing on the site and the absence of financial contributions
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towards education provision, public transport, open space, community facilities, indoor leisure provision, cemetery provision and waste collection. By the time of the Inquiry, and as set out in the Statement of Common Ground, the Council was only seeking arrangements in relation to some of these matters. To that end, a draft planning obligation, in the form of a deed of agreement between the Council and the relevant parties, was before the Inquiry. It relates to affordable housing provision, contributions towards surfacing improvements to Low Lane and other local rights of way and for improvements to the Calne Town Cycle Network, green travel vouchers for future residents as part of the Travel Plan, and a refuse contribution. The Council confirmed that it addresses the second of the reasons for refusal. However, following my questions during the related discussion at the Inquiry, it became clear that further work was required on both the obligation itself and the associated CIL compliance statement. With the agreement of the parties, revised documents were submitted after the event¹. The obligation is a material consideration in this case and I deal with the matters provided for later in this Decision.

5. In light of the above, the Council did not submit a proof of evidence as such, relying instead on the Statement of Common Ground.

Main Issue

6. These relate to whether the development proposed can be considered as sustainable development having particular regard to:
 - whether the planning policies and guidance relevant to the appeal scheme are up-to-date and, if not, what weight they should be afforded in the planning balance;
 - whether, in light of the above, this is a sustainable location for new residential development; and,
 - whether the planning obligation makes appropriate provision for affordable housing and addresses the impact of the development on local infrastructure.

Reasons for the Decision

Planning Policies and Guidance

7. Although adjacent to existing and approved residential development, the appeal site lies outwith the development boundary for Calne as defined by the Core Strategy². Thus, for the purposes of planning policy, it lies within the open countryside. However, having regard to the provisions of paragraph 49 of the National Planning Policy Framework (the Framework) the current housing land supply position renders the development boundary, and those policies restricting development to within those boundaries (other than in certain circumstances that are not relevant here) including Core Policy 2 (CP2) of the Core Strategy and saved Local Plan³ policy H4 as out-of-date, since they relate to the supply of housing. The effect of that is that the presumption in favour of sustainable development is to be applied. That is not to say that the policies are to be disregarded. Rather, they are to be given the weight they are due in all the circumstances of the case. As agreed at the Inquiry, whilst there would

¹ Docs 7 and 8

² Wiltshire Core Strategy (adopted January 2015)

³ North Wiltshire Local Plan 2011 (adopted June 2006)

be conflict with policies CP2 and H4, both of which seek to resist development outside the defined settlement boundaries (other than in particular circumstances, none of which are relevant here) they are generic in nature, covering wide swathes of the District. As such, they are to be afforded little, if any weight in the planning balance at the present time.

8. Among other things, Core Strategy policy CP8 sets out that approximately 1,440 new homes will be provided at Calne over the Plan period. At the Inquiry, the Council confirmed that that figure has already been exceeded. It was agreed, however, that as the policy is relevant to the supply of housing, it is out of date. On the basis that it is not a site specific policy the Council also confirmed that, at the current time, it carries little, if any weight. Having said that, whilst the figure has already been exceeded, it does not represent a ceiling or cap on the delivery of further housing development. In exceeding the stated figure, there would be no conflict with the policy in any event.
9. A Neighbourhood Plan for the area is currently being prepared. I was advised that a steering group has been formed and evidence gathering is in progress, with a call for sites having been made. The appeal site was put forward in response to the call. However, I was advised that all the sites are still being assessed and that nothing has been finalised as yet. No draft version of the Plan is publicly available and the Council confirmed that it currently attracts little, if any weight.

Whether a Sustainable Location

10. The 6.7 hectare appeal site, which comprises undeveloped agricultural land, lies on the eastern edge of Calne, approximately 1 kilometre from the town centre. Whilst the Council seeks to focus growth in the principal settlements of Chippenham, Trowbridge and Salisbury, market towns, including Calne, are also identified in the Core Strategy as having the ability to support sustainable patterns of living in Wiltshire through their current level of facilities, services and employment opportunities. As such, Calne is a location that is expected to accommodate new housing development.
11. There are no technical or physical constraints to development on the site and, other than the loss of countryside, no site specific harm is identified as a consequence of the development proposed. Whilst the loss of countryside would cause some environmental harm, the Council confirmed, in answer to my questions, that it was likely that some greenfield land would be required in any event to meet the full objectively assessed housing need.
12. In terms of accessibility, Priestley Primary School lies approximately 350 metres walk from the appeal site (within the 500 metres 'desirable' walking distance) and the John Bentley Secondary School is approximately 1.4 kilometres walk (within the 2 kilometres 'preferred maximum' walking distance)⁴. A Co-operative store lies within 1.1 kilometres walking distance of the site, with a Sainsbury's within a 1.3 kilometres walk. Both would provide top-up shopping opportunities within walking/cycling distance. The weekly shopping trip would be difficult on foot or cycle and would generally be undertaken by car in any event, often in conjunction with other activities. Employment opportunities at Calne include Porte Marsh Industrial Estate, which

⁴ IHT 'Guidelines for Providing Journeys on Foot'

is within the 'preferred maximum' walking distance, as well as the town centre, which is within 'acceptable' walking distance⁵.

13. The nearest bus stops are on Oxford Road, just over 1 kilometre from the site. Whilst further than the 'acceptable' walking distance to a bus stop,⁶ the services are very frequent throughout the week, with the No 55/55A bus linking to Chippenham, Royal Wootton Bassett and Swindon where further services, facilities and employment opportunities are available. Whilst the bus stops are located further from the appeal site than is ideal, that is balanced, to some extent, by the good frequency of service and the nature of the destinations. All in all, given the accessibility of a number of services and facilities by foot /bicycle, combined with a good frequency of public transport service to nearby towns, albeit that the nearest bus stops are just over a kilometre away, I am satisfied that future residents would have a realistic alternative to the private car to access services and facilities required on an every day basis.
14. Local residents raised concerns about the potential imbalance between the delivery of new housing on the one hand, and the employment, infrastructure and local facilities to service the increased population on the other. As acknowledged by the Council in a report relating to development on land east of Oxford Road⁷, this is a real impact of development and could be a disbenefit of the scheme when considered in the context of policy CP8, which identifies potential imbalance as a risk to the self-containment, and thus the sustainability of Calne as a settlement. However, the Council takes no issue on this point in relation to the appealed application. Moreover, the appellant advised, and it was not disputed by the Council, that the combination of sites which have recently received a resolution to grant planning permission in Calne, and the supply of homes identified in the Housing Land Supply Statement 2015, amounts to 6.6% of the total number of homes to be provided within the North Wiltshire Housing Market Area. Even when the appeal scheme is added, Calne would still only receive 7.1% of the planned total. That equates to 0.8% increase above the currently planned supply, or 1.3% increase above that originally planned. In both instances, I agree with the appellant that the increase is not material. I am mindful too, that the emerging Neighbourhood Plan anticipates allocating additional housing.
15. In addition, since the 2011 Census (which informed the Core Strategy) the number of jobs in the town centre has increased by over 400⁸, with the number of jobs expected to grow following development of the 6 hectares of allocated employment land (including 3.2 hectares on land east of Beversbrook Farm and Porte Marsh Industrial Estate. An under-utilised warehouse has also been granted permission recently, for change of use to Class B2, and there are plans for a new Tesco superstore which, I am advised, is expected to generate 150 additional jobs.
16. To conclude on this issue, whilst the appeal scheme would represent unplanned growth I am satisfied that, when considered in the round, it would not prejudice the fulfilment of sustainable development objectives as set out in

⁵ Ibid

⁶ IHT '*Guidelines for Planning for Public Transport in Developments*'

⁷ Application No 15/11230/OUT outline application for up to 42 dwellings

⁸ Business Register and Employment Survey (ONS)

local and national planning policy. I therefore consider this to be a sustainable location for new housing development, as is recognised by the Core Strategy.

Planning Obligation

17. Consideration of planning obligations is to be undertaken in the light of the advice at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulations 122 and 123 of the Community Infrastructure Levy Regulations. These require that planning obligations may only constitute a reason for granting planning permission where they are necessary to make the development acceptable in planning terms; are directly related to the development; are fairly and reasonably related in scale and kind to it; and, since April 2015, must not be a pooled contribution where more than five such pooled contributions have already been collected.
18. Core Strategy policy CP3 requires the delivery of necessary on-site and, where necessary off-site infrastructure, to support and serve new development. In addition, the Council has adopted a Planning Obligations Supplementary Planning Document (May 2015) to ensure that the necessary infrastructure is put in place to support new development. All of the obligations secured were explored in detail at the Inquiry, informed by the Council's CIL compliance statement. Both the obligations and the compliance statement were updated as a consequence of that discussion.
19. Affordable Housing: Affordable housing is an important element of the overall housing need in the area. To that end, Core Strategy policy CP43 requires 30% affordable housing provision on this site, with a 60% affordable rent and 40% shared ownership tenure split. The provision secured by the planning obligation accords with the policy and the meets the relevant tests. Affordable housing provision is excluded from the pooling regulations.
20. Recreation and Open Space: Policy CF3 of the Local Plan sets out the formula for calculating open space. Based on the indicative housing mix, at least 7,830 square metres of public open space is required, at least 786 squares of which would need to be provided as an extended Local Equipped Area for Play with seven pieces of play equipment. The planning obligation provides a policy compliant quantum of recreation and open space, together with arrangements for its transfer to a management company. The arrangement is supported by policy and meets the relevant tests. It is an on-site provision and no other contributions have been secured for this particular provision.
21. Highways and Travel Vouchers: The application was accompanied by a Transport Assessment and a Residential Travel Plan. The planning guidance⁹ indicates that Travel Plans should, among other things, evaluate and consider proposals to enhance the use of existing, new and improved public transport services and facilities for cycling and walking, including possible financial incentives. Policy CP61 of the Core Strategy requires appropriate contributions towards sustainable transport improvements and confirms that Travel Plans will be required to encourage the use of sustainable transport alternatives.
22. The Council has identified that mitigation measures are required, including surfacing improvements to Low Lane and other local rights of way (CALW16 and CHER34) which link the site to the wider rights of way network. A

⁹ Paragraph: 011 Reference ID: 42-011-20140306

highways contribution of £103,000 is secured for that purpose. A contribution of £46,000 is also provided towards improvements to sections of the Calne Town Cycle Network (Abberd Brook shared use path; Abberd Brook to The Glebe shared use path; and conversion of Penn Hill Road to a shared use path including widening where necessary) to link into Calne town centre and the surrounding cycle network. In addition, the obligation sets out that Green Travel Vouchers towards the costs of travel by bus to and from the area and/or the costs of cycle purchase and repair and/or cycle accessories, up to the value of £250 per unit (or £150 where all occupants of a unit over the age of 18 are entitled to a concessionary pass) will be available for future occupiers. To that end, the obligation requires that the developer enter into a bond in favour of the Council providing a Green Travel Voucher Sum of £32,500. The CIL compliance statement sets out the derivation of all the figures referred to above and confirms that there are no other obligations directed towards the specific improvements referred to. I am satisfied that the arrangements secured are policy compliant and meet the relevant tests.

23. Waste: Policy WCS6 of the adopted Waste Core Strategy requires that development proposals should make provision for source separation and storage of different types of waste for recycling and/or composting. Further detail is set out in a document entitled 'Waste storage and collection guidance for new developments' (March 2011). In addition, the Council is hoping to adopt a currently draft Supplementary Planning Document entitled 'Waste storage and collection: guidance for developers'. The Council retains control of procuring waste containers that are issued to occupiers of residential properties to ensure that the containers are compatible with lifting equipment and that branding (essential for ensuring that residents know what materials are designated for each container) meets the required standard. As a developer cannot directly provide the facilities for the separation and storage of waste, the requirement under WCS6 is met by securing a section 106 contribution. Based on the policy and associated guidance, a sum of £91 per residential unit is secured towards providing waste and recycling bins for the development. I am satisfied that the arrangement secured in this regard is policy compliant and meets the relevant tests.

Other Matters

24. Local residents, including those who attended the Inquiry, are very concerned about the volume of traffic already using Prince Charles Way/Abberd Way, reporting problems of congestion at peak times, particularly since it is the only route by which vehicular traffic can enter/exit the entire estate.
25. The Transport Assessment looked at existing traffic movements and traffic movements likely to be generated by the development proposed, together with other permitted, but not yet completed development, that would use the local highway network. It also takes account of future traffic growth factors. The evidence before me is that in all assessment scenarios for the weekday morning and evening peak hours¹⁰, the development proposed would not result in a significant increase in queuing and delays at any of the junctions assessed, including the junction of Abberd Way with Oxford Road¹¹. Whilst I understand

¹⁰ Scenario 1 – 2014 base year (observed); Scenario 2- 2019 without development; Scenario 3- 2019 with committed development; Scenario 4 – 2019 with committed development plus the appeal scheme.

¹¹ The junctions assessed were A3102/Oxford Road, Oxford Road/Sandpit Road, Oxford Road/Abberd Way, Oxford Road/ The Pippin (western junction), Oxford Road/North Street, A4/The Square.

the concerns of local residents, no objective or substantiated evidence was before me that undermines the findings of the Transport Assessment. I am also mindful that neither the Council, nor the local Highway Authority, raise any objection on this basis.

26. Lower lying land within the northern part of the appeal site lies within Flood Zones 2 and 3. Local residents were very concerned about the potential for the development to increase surface water run-off thus exacerbating existing problems. Indeed, during the site visit, I saw first hand existing problems with surface water ponding on adjacent roads and footpaths and running down driveways.
27. The indicative Masterplan shows the dwellings proposed to be confined to the higher, southern part of the site, wholly within Flood Zone 1. The remaining, northern portion of the site, would be used as public open space and would include a drainage attenuation pond. The Flood Risk Assessment and Drainage Strategy submitted with the planning application confirms that the arrangement proposed would not increase surface water run-off, with flows restricted to existing green-field rates or less, for all events up to and including a 1 in 100 year event, including a 30% allowance for climate change. That is a matter that could be controlled by condition, were the appeal to succeed.

Benefits of the Development Proposed

28. Guidance set out at paragraph 19 of the Framework advises that significant weight should be placed on the need to support economic growth through the planning system. For a limited period at least, the scheme would offer employment in the local construction industry, with 'knock-on' effects for other sectors during the construction period. In addition, future occupiers would generate additional spend in the local area. These economic benefits carry significant positive weight.
29. The provision of up to 130 dwellings adjacent to a town that is identified as an affordable second tier settlement and which is agreed by the Council to be a sustainable location for new homes, at a time when the Council cannot demonstrate a five year supply of housing land, is a significant benefit. Although the provision of 30% of the homes on the appeal site as affordable is a policy requirement, I consider that to be a further benefit of the scheme, given the pressing need for such accommodation.
30. Although the open space and play area referred to above would be provided as a necessary facility for future residents of the appeal scheme, existing residents would also be able to use it. However, given that there is other open space in the vicinity, it is a consideration that attracts no more than limited weight. Similarly, whilst the improvements secured to footways, public rights of way and the local cycle network are intended to encourage the use by future of means other than the private car to access facilities, they would also benefit existing residents. The scheme would also deliver enhancements to biodiversity. These are benefits to which I attach some weight.

Overall Planning Balance and Conclusion

31. In circumstances such as this, where the Council cannot demonstrate a five year supply of housing land, policies for the supply of housing are not to be considered as up-to-date, with paragraph 14 of the Framework advising that

permission should be granted unless any adverse impact of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted.

32. I have found that this is a sustainable location for residential development. There are also benefits that would accrue from the proposal. In total they are substantial and would resonate with the economic, social and environmental dimensions of sustainable development. The combination of those benefits accords with the principal thrusts of the Framework of securing economic growth and boosting significantly the supply of housing, and are sound arguments carrying considerable weight in favour of the proposal.
33. Whilst there would be conflict with the housing land supply policies of the development plan, those policies attract very little weight in light of the Council's current housing land supply circumstances. Moreover, this is a settlement to which new development is directed and there is a realistic prospect that modes of transport other than the private car would be used to access the services and facilities likely to be required by future occupiers on an everyday basis. On this basis, I am satisfied that the appeal scheme does not conflict with the vision and spatial strategy for the District. Accordingly, even acknowledging that there are some shortcomings in terms of accessibility, with some harm as a consequence of the loss of open countryside, the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken in the round. Accordingly, the proposal can be considered as comprising sustainable development and thus benefits from the presumption in favour of such as set out in the Framework. Therefore, for the reasons set out above I conclude, on balance, that the appeal should succeed.

Conditions

34. Possible conditions¹² were discussed in detail at the Inquiry in the light of related advice in the Framework and the planning guidance. During that discussion, some conditions were deleted on the basis that they were unnecessary, or that the provisions were covered elsewhere. Additional conditions were also discussed having regard to consultation responses and recommendations with the various reports that accompanied the planning application. The conditions set out in the attached schedule, including amended wording, reflect the discussion.
35. In addition to the standard conditions relating to the submission of reserved matters (1, 2, 3), it is necessary for the outline permission to define the maximum capacity of development (4). It is also necessary to ensure that any reserved matters applications are informed by the principles, objectives and parameters set out in the Design and Access Statement (DAS), since the DAS informed the decision making process (5).
36. To avoid pollution and to prevent increased risk from flooding, details of a sustainable surface water drainage scheme are required, together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended (6). It is also necessary to ensure that buildings, roads and the attenuation pond are constructed within Flood Zone 1,

¹² Based on an agreed list provided prior to the event.

- in order to ensure that existing and future residents are not at risk from flooding (7).
37. In order to minimise detrimental impacts during the construction period to the living conditions of existing residents and the natural environment, and in the interest of highway safety, a Construction Management Plan is required for the duration of works (8).
 38. In the interest of highway safety, it is necessary to ensure that vehicular access is provided to the site (9) and that dwellings are provided with adequate parking (13).
 39. To promote walking and cycling as more sustainable travel choices, the on-site pedestrian and cycleway improvements shown on the submitted plans, and the off-site works required by the Council's Sustainable transport officer¹³, need to be secured (10, 11, 12). In order to promote more sustainable travel choices, in accordance with national guidance and development plan policies, it is necessary to ensure that the recommendations set out in the Residential Travel Plan submitted with the planning application are implemented (14).
 40. In the interest of visual amenity, it is necessary to set out the details to be included in the landscaping reserved matters (15, 16). For the same reason, a scheme for the ongoing management and maintenance of all landscaped areas, other than private domestic gardens and open space covered by the planning obligation, is required (17). In the interests of visual amenity, biodiversity and the protection of wildlife, conditions are necessary to secure the retention of existing trees and their protection during construction works (18, 19) to ensure that development is carried out in accordance with recommendations set out in the Ecological Assessment that accompanied the planning application (20) and to control the timing of works in relation to the bird nesting season (21).
 41. Details of external lighting are required in the interest of visual amenity and in order to protect wildlife interests (22).
 42. Pursuant to paragraph 5.21 of the Residential Travel Plan, a condition is justified to ensure that each dwelling is provided with the potential to connect to the internet/high speed broadband in order to meet modern communication and technology needs (23).
 43. Although the desk-based archaeological assessment submitted with the planning application identifies a number of features of possible archaeological origin, including buried remains of former Medieval/early post-Medieval cultivation, any features are likely to be only of local significance and so would not preclude development of the site. A condition securing an archaeological watching brief would therefore be appropriate in this instance (24).

Jennifer A Vyse

INSPECTOR

¹³ Email dated 19 January 2015

Schedule of Conditions
APP/Y3940/W/15/3129040
Land off Prince Charles Drive, Calne, Wiltshire

Reserved Matters

- 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 (with the exception of the vehicular access off Prince Charles Drive) 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 begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Development Parameters

- 4) No more than 130 dwellings shall be constructed on the site.
- 5) The reserved matters to be submitted pursuant to condition 1 above shall accord with the principles, objectives and parameters set out in the Design and Access Statement dated November 2014, submitted with the planning application.

Drainage/Flood Risk

- 6) No development shall take place in any phase, including works of site clearance, until details of a sustainable surface water drainage scheme, based on the surface water drainage strategy set out in the Flood Risk Assessment and Drainage Strategy dated October 2014 and the accompanying Drainage Connections Plan (Dwg No C3.DCP.01) submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
 - iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) The attenuation pond required in connection with the approved drainage strategy shall be sited within Flood Zone 1 and all buildings and roads shall be confined to those parts of the site shown as containing such on Dwg No H.0466_01-1C.

Construction

- 8) No development, including works of site clearance, shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall be adhered to throughout the construction period. The Construction Management Plan shall include, but is not limited to, the following matters:

- site management arrangements, including on-site storage of materials, plant and machinery, on-site parking and turning provision for site operatives, visitors and construction vehicles, and provision for the loading/unloading of plant and materials within the site;
- wheel washing facilities to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
- measures to minimise the emission of dust and dirt during construction;
- adherence to the measures for identification and dealing with waste materials expected to be generated by the development during construction as set out in paragraphs 4.6-4.24 of the Waste Minimisation and Waste Management Plan dated October 2014 submitted with the planning application, so as to minimise waste and to maximise re-use, recycling and recovery;
- measures for preventing pollution of the local water environment during construction;
- hours during which construction work, including works of site clearance, and deliveries can take place.

Highways/Parking/Travel Plan

- 9) No dwelling shall be occupied unless and until the vehicular access shown on Plan No C3-AP-01 Rev A has been constructed, surfaced and drained in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 10) No dwelling shall be occupied until the footpath link, footpaths and cycleways shown on Dwg No H.0466_01-1C have been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 11) No dwelling shall be occupied unless and until the existing public footway between the development hereby permitted and the end of Tern Close has been planed-off and resurfaced (insofar as can be carried out within the extent of the existing public highway) and new street lighting installed to current standards, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 12) No dwelling shall be occupied unless and until the existing public footway to the south of Nos 9-23 Tern Close, between the development and Prince Charles Drive, has been reconstructed, including widening to 2 metres and the installation of new street lighting to current standards, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 13) No dwelling shall be occupied unless and until the related provision for car parking, in accordance with the Council's Local Transport Plan Car Parking Strategy, together with access thereto, has been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The spaces provided shall be retained and kept available for the parking of vehicles thereafter.
- 14) The measures provided for in Table 5.1 of the Residential Travel Plan, dated October 2014 submitted with the planning application, shall be implemented in accordance with the timetable set out therein. In addition, the survey, monitoring and mitigation regime, as set out in Section 6 of the same document, shall be carried out in accordance with details, including a timetable for implementation, which shall previously have been submitted to and approved in writing by the local planning authority.

Ecology/Trees/Landscaping

- 15) The landscaping details to be submitted pursuant to condition 1 above shall include, but are not confined to, the following:
 - i) a written specification clearly describing the species, plant sizes, proposed numbers/densities and giving details of cultivation and other operations associated with plant and grass establishment;
 - ii) finished levels and contours;
 - iii) the position, design and materials of all means of enclosure;
 - iv) vehicle and pedestrian circulation areas;
 - v) all hard and soft surfacing materials;
 - vi) minor artefacts and structures (eg play equipment, street furniture, refuse storage areas, signage etc).
- 16) All soft landscaping comprised in the approved landscaping details shall be carried out in accordance with a timetable that shall previously have been submitted to and approved in writing by the local planning authority.
- 17) No development, including any works of site clearance shall begin unless and until a scheme for the ongoing management and maintenance of all landscaped areas, other than private domestic gardens and open space covered by the planning obligation, including long term design objectives, management responsibilities and maintenance schedules has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with approved details.
- 18) Prior to the commencement of development, including any works of site clearance or ground preparation, a plan showing all trees and hedges to be retained shall be submitted to and approved in writing by the local planning authority. No tree or hedgerow identified as being retained in the approved details 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 BS3998:2010 *Tree Work – Recommendations*, or other arboricultural techniques where such have been demonstrated to be in the interest of good arboricultural practice. If any retained tree or hedgerow is removed, uprooted or destroyed or dies, another tree or hedge shall be planted at the same place and that tree or hedge 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.
- 19) Prior to the commencement of development, including any works of site clearance or ground preparation, an Arboricultural Method Statement specifying the measures to be put in place during the construction period, for the protection of those trees and hedgerows to be retained, shall be submitted to and approved in writing by the local planning authority. The Method Statement shall be prepared in accordance with the principles set out in BS5837:2012 – *Trees in relation to design, demolition and construction: Recommendations*. Development shall be carried out in accordance with approved Method Statement.
- 20) The development hereby permitted shall be carried out in accordance with the recommendations set out in Section 5 of the Ecological Assessment dated October 2014, submitted with the planning application.
- 21) No development in any phase, including any works of site clearance, shall commence during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated through the submission of a method statement that shall previously have been submitted to and approved in writing by the local planning authority, that nesting birds can be adequately protected.

Development shall be carried out only in accordance with the approved details which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas.

External Lighting

- 22) Prior to commencement of development, details of a wildlife sensitive lighting scheme for roads and footpaths within the site, and any lighting for the areas of public open space, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.

Communications and Technology

- 23) No dwelling shall be occupied until arrangements to facilitate broadband and/or high speed internet connection to that dwelling has been implemented in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

Archaeology

- 24) No development, including works of ground clearance and site preparation, shall take place until a detailed scheme for an archaeological watching brief has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the monitoring of all groundworks and excavations, and the recording of all archaeological observations. The archaeological watching brief scheme shall thereafter be implemented in accordance with the approved details.

-----END OF CONDITIONS-----

APPEARANCES

FOR THE APPELLANT:

Mr A Crean, of Queen's Counsel
Mr D Hutchison BSc(Hons), Planning Consultant with Pegasus Group
DipTP, MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Way Senior Planning Officer within Economic and Planning Services at the Council (Spatial Projects Team)
Mr S Croft BSc, MSc, MRTPI Senior Planning Officer within Economic and Planning Services at the Council (North Wiltshire Development Planning Team)
Mr T Felton Wiltshire Legal Services

INTERESTED PERSONS:

Mr R Lee Local resident
Mrs J Lovelock Local resident
Mr B Lovelock Local resident

DOCUMENTS HANDED UP DURING THE INQUIRY

Doc 1 Appeal notification letters
Doc 2 Core Documents list
Doc 3 Opening submissions for the Council
Doc 4 Opening submissions for the appellant
Doc 5 Local Plan policy H4
Doc 6 Summary of S106 provisions

DOCUMENT SUBMITTED AFTER THE INQUIRY

Doc 7 Signed and sealed planning obligation (as revised) dated 25 May 2016
Doc 8 Revised CIL compliance statement attached to email dated 25 May 2016

CORE DOCUMENTS

Application Documents

A1 Volume 1
A2 Volume 2

Appeal Documents

B1 Notice of Refusal
B2 Officer Report
B3 LPA Questionnaire
B4 LPA Statement of Case
B5 Appellant Statement of Case

Other Documents

D1 Statement of Common Ground
D2 LPA letter re Five Year Housing Land Supply (1 April 2016)
D3 Draft conditions (6 May 2016)
D4 Draft Planning Obligation
D5 LPA CIL Compliance Statement (original)

