

Neutral Citation Number: [2017] EWHC 2157 (Admin)

Case No: CO/6126/16

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Civil Justice Centre
1 Bridge Street West
Manchester M60 9 DJ

Date: 04/09/2017

Before:

HIS HONOUR JUDGE PELLING QC
SITTING AS A JUDGE OF THE HIGH COURT

Between:

THE QUEEN (on the application of PAUL HOUSIAUX)	<u>Claimant</u>
- and -	
STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL	<u>Defendant</u>
-and-	
LAVAR LEISURE LIMITED	<u>Interested Party</u>

Mr John Hunter (instructed by **Aaron & Partners LLP**) for the **Claimant**
Mr Hugh Richards (instructed by Legal & Election Services Staffordshire Moorlands District
Council) for the **Defendant**
Mr Paul Tucker QC and **Mr Killian Garvey** (instructed by Irwin Mitchell LLP) for the
Interested Party

Hearing dates: 20 July 2017

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

**HIS HONOUR JUDGE PELLING QC SITTING AS A JUDGE OF THE HIGH
COURT**

HH Judge Pelling QC:

Introduction

1. In these judicial review proceedings, the Claimant challenges the decision of the Defendant (“LPA”) to grant planning permission for a development of 250 holiday lodges and leisure facilities (“the revised Scheme”) on land at Moneystone Quarry, Cheadle Road, Oakmoor, Staffordshire ST10 2DZ (“the Site”), permission to continue these proceedings having been granted by Kerr J by an Order made on 17 February 2017. The case was released to me for determination by Kerr J.

Background

2. The general lay out of the Site is shown on the plan annexed to this Judgment as Appendix 1 (“Site Plan”). The Site is shown outlined on the Site Plan by a thick grey line (blue on the original). The Site is accessed via an access road that runs south west from its junction with Eaves Lane, a country lane that runs south east between the A52 to the north east of the Site and the village of Oakmoor, which is located to the south east of the site. Eaves lane to the north east of the site is known as Whiston Eaves Lane and to the south east of the site as Carr Bank. The access road is shown (faintly) on the Site Plan slightly to the right of the arrow marked “*Site Location*”. The part of the site to the north east of Eaves Lane is accessed via a tunnel that runs underneath Eaves Lane. Part of the Site located to the north east of Eaves Lane is known as “*Black Plantation*”. Eaves Lane running south east from the junction with the Site access road towards Oakmoor provides a direct route of access to Alton Towers. Carr Bank is a largely single track road with limited passing places and a steep gradient as it enters Oakmoor.
3. The Site is a former sand quarry that is subject to an approved restoration scheme. Although the Site is located in open countryside, and is surrounded on all sides by agricultural fields and woodland, it was specifically identified in the Churnet Valley Master Plan SPD as a “... *key opportunity site for new leisure development based around restoration of the quarry which includes a concept statement and concept plan identifying a maximum of 250 holiday lodges in total and the provision of supporting facilities.*” – see the section of the Planning Officer’s report concerning the subject application entitled “*Policy Officer*”.
4. The first iteration of the Scheme (“the original Scheme”) had been the subject of a refusal determined on 2 December 2015. The reasons for refusing approval for the original Scheme were four in number. The first was that the original Scheme would conflict with local policies concerned with the protection and enhancement of valued landscapes. This ground focussed on two issues:

“It is considered that within the area identified as Multi Activity Hub area on the submitted Parameters Plan the intensity of activity, the extent of built development (see indicative Schedule of Accommodation) and height of buildings (up to 12m in parts) would result in a development that was visually intrusive, particularly from the public footpath which runs directly to the west of this part of the site and in

wider views from Eaves Lane to the north and from public footpaths to the west and east. It would fail to respond to and respect this small scale landscape which the Churnet Valley Landscape Character Assessment confirms to be particularly sensitive to change. Similarly the area identified as Black Plantation occupies an elevated location, visually and physically isolated from the remainder of the proposed development. In this location and notwithstanding the submitted Woodland Approach Notes setting out a proposed phasing approach to development within this woodland, it is considered that there is potential for development to be readily visible near the skyline in near and more distant views to the south. As such the proposal is in conflict with Policies DC3 and SS7 of the Adopted Core Strategy Development Plan Document, the Adopted Churnet Valley Masterplan SPD and the National Planning Policy Framework which seeks to protect and enhance valued landscapes.”

The second ground concerned traffic and it too focussed on two issues –

“The traffic generated from the proposed leisure development comprising up to 250 holiday lodges together with traffic generated from day visitors to the proposed leisure facilities would result in a significant increase in the amount of traffic accessing the surrounding rural road network and particularly Eaves Lane/ Carr Bank to the east of the site access which would provide a direct route from the development to Alton Towers and Farley Lane which links Oakamoor and Farley. It is considered that the increase in traffic would lead to unacceptable congestion on these narrow country roads. Carr Bank, for example is largely single track with limited passing places and a steep gradient as the road enters the village of Oakamoor. Although there is an offer to agree a signage scheme, an intention to run a shuttle bus to Alton Towers as part of a Travel Plan to be secured by way of planning obligation and improve the A52/Whiston Eaves junction, these measures would not prevent guests using the aforementioned rural routes. Furthermore guests from Black Plantation will be heavily reliant upon the car to access all facilities within the Hub area via the wider rural highway network given that it is physically detached and remote from the main venue with no pedestrian connectivity provided due to the change in levels in this area. It is for these reasons that it is considered that traffic from the proposal will not be satisfactorily accommodated on the highway network and that the proposal fails to provide and /or encourage satisfactorily the use of sustainable travel modes contrary to Policy T1 of the Adopted Core Strategy Development Plan Document.”

The third ground was concerned with adverse impact on Little Eaves Farm and on the views of across the Churnet Valley. The fourth was a planning judgment to the effect that the benefits of the scheme did not outweigh the harm identified in the first to third grounds for refusing the application. The Interested Party has appealed from that refusal.

5. In addition to appealing from the refusal of permission for the original Scheme, the Interested Party submitted a revised version of the original Scheme for approval. That iteration is the revised Scheme. It was approved by the Planning Committee of the LPA at its meeting on 15 September 2016 and received formal outline consent subject to a number of conditions on 26 October 2016. It is the decision to approve and/or give formal outline consent for the revised Scheme that is the subject of these proceedings.
6. The revised Scheme was the subject of a lengthy and detailed report prepared by one of the LPA's planning case officers Ms Jane Curley ("the Report"). The Report recommended that permission be granted subject to various conditions to which I turn as necessary later in this judgment and subject to the prior completion of a s.106 Agreement to secure payment towards the Travel Plan Monitoring fees and to procure a Traffic Regulation Order. The Report identified eight changes that had been made from the first iteration of the Scheme being:

"The main changes between this application and the previous submission, SMD/2014/0682 are as follows: -

1. The Parameter Plan now identifies within the Multi Activity Hub Area various zones within which buildings will be sited and gives maximum heights for these buildings. Reference to buildings within this area having a height of up to 12m has been removed. The zone for the Main hub building and Visitor centre refers to a maximum height for buildings of up to 6m above finished floor level (FFL).
2. The area in which the Main hub building and visitor centre can be located has been reduced (see Parameters Plan)
3. Additional landscaping is shown illustratively within the Hub area (see Illustrative Landscape Detailed Plan - The Hub)
4. The 14 lodges proposed at Black Plantation and the proposed vehicular access from Blackley Lane have been removed. Whilst both the land at Black Plantation and Blakeley Lane remain within the site edged red, Black Plantation is shown as "Existing Woodland to be Retained" on the Parameter Plan;
5. The total number of lodges for which planning permission is sought as part of this application re-submission remains at up to 250 lodges. The 14 lodges removed from Black Plantation have been re-distributed within Quarry 2, The Upper Lakes (see Parameter Plan and the Illustrative Detail Plan – Upper Lakes)

6. A “no right turn” vehicular access arrangement is proposed onto Eaves Lane.

The revised vehicular access design is shown on the Eaves Lane Access Plan

7. A Tunnel Stability Report is provided

8. Further detail has been provided to clarify the alignment of the proposed footpaths, cycleways and bridleways at the site. This detail is provided on the Detailed Footpath Connection Plans and the Overall Footpath Connection Plan.”

In relation to Item 6, the report added:

“7. In the previous application, Members raised significant concern about the amount of traffic that would be generated by the development and accessing the surrounding road network. Particular concern was raised with regard to Eaves Lane/ Carr Bank to the east of the site access which would provide a direct route from the development to Alton Towers and Farley Lane. It formed one of the reasons for refusal of that application. The applicants have sought to address this concern in this revised application by providing for a ‘no right turn’ out of the site. This would be achieved by the introduction of a traffic island on the site access road which would physically prevent visitors and staff from turning right out of the site towards Carr Bank and Alton Towers. (see Drawing PB5196-0100A) These works are the subject of a separate planning application (SMD/2016/0388) which is considered elsewhere on the Agenda. Off-site improvements to the Whiston Eaves Lane/A52 junction are also proposed. Visibility at this junction is currently substandard. Works involve the provision of a no right turn facility into Whiston Eaves Lane when travelling from the west, increased visibility to the west and traffic calming measures. The works associated with the right turn and improved visibility are shown on drawing PB 1608-SK001C.”

7. The application was considered by the LPA at its meeting on 15 September 2016. Prior to the vote being taken as to whether the revised Scheme should be approved, Ms Curley was invited to summarise the application in the light of the debate that had gone before. In relation to proposed Condition 24 (which became Condition 23 in the formal Grant document and was concerned with giving effect to the No Right Turn proposal set out above) she said:

“What I am suggesting there is, in light of some of the comments this morning is that we actually ask for a scheme to be submitted and approved by us so that we can look more closely at the traffic island to make sure that vehicles can’t go

over that and then for it to be implemented prior to occupation.”

The reference to “*this morning*” was to a visit to the Site by the LPA committee members and Ms Curley. It is clear from the Minutes of the LPA Committee that residents expressed concern about traffic using Carr Bank for site access and egress. It was this issue that led to the rejection of the initial application at least in part.

8. The officer’s recommendation was accepted by the LPA, which resolved that the application be approved “... *for the reasons and based on the policies contained in the report, subject to the conditions and informatives contained in the report ... together with delegated authority for officers to refine conditions as referred to above*”. The conditions imposed were broadly those identified by the officer in the Report. The conditions included one concerned with the junction between Whiston Eaves Lane and the A52 that was the subject of Condition 22. I need say no more about that since it does not feature in these proceedings. Condition 23 was as follows:

“23. The development hereby permitted shall not be brought into use until such time that details (including signage and road markings) of the works to realign the main site access on Eaves Lane, indicated on drawing no PB 5196-0100 Rev C hereby approved, so as to prohibit vehicles from turning right out of the site into Carr Bank Lane have been submitted to and approved in writing by the Local Planning Authority. The highways works shall be completed in accordance with the approved details and shall thereafter be retained for the life of the development.

Reason:- To comply with the policies contained within the National Planning Policy Framework, the principles contained within Manual for Streets and Policies contained within the Staffordshire Moorlands Core Strategy Development Plan 2014.”

Drawing no PB 5196-0100 Rev C is reproduced at Appendix 2. A copy of the relevant part of this drawing is reproduced at Appendix 2.

9. Following the resolution that the application in relation to the revised Scheme be approved (but, obviously, before the grant of Outline Permission, which is dated 26 October 2016), the LPA at the same meeting then considered planning application SMD/2016/0388, which was an application by the Interested Party for improvements to the Site access junction with Eaves Lane and included the provision of a traffic island, widening of the bell mouth junction between Eaves Lane and the Site access road and the provision of a traffic island intended to physically prevent traffic turning right out of the Site (“the Junction Scheme”). The proposed development was to be carried out as shown on drawing PB 5196-0100 Revision A. This was in all material respects identical to drawing PB 5196-0100 Rev C, the relevant part of which is at Appendix 2. This Junction Scheme application was a free-standing application that did not depend on the outcome of the application for approval of the revised Scheme or the appeal concerning the original Scheme. Had it been approved it would or might

have defeated the purpose of imposing Condition 22 in relation to the revised Scheme, which was to ensure that the No Right Turn proposal was delivered in a form that would ensure compliance by motorists leaving the Site following constriction of the revised Scheme.

10. The Junction Scheme was the subject of a report to the LPA written by Ms Curley. Inevitably that report had been written prior to consideration by the LPA of the revised Scheme proposal, the comments made by Ms Curley at the meeting concerning the revised Scheme and the final formulation of Condition 23. She had recommended approval of the Junction Scheme having observed at paragraph 5.4:

“5.4 The application is supported by a Transport Statement (TS). This confirms that surveys undertaken in May 2016 have demonstrated that the existing site access junction is lightly trafficked and that there is no capacity issue associated with the operation of the junction either as existing or if the proposed improvement were implemented. Although not directly relevant to the consideration of this application, the TS has tested the impact of the leisure scheme proposed on the Moneystone site (submitted under SMD./2016/0378 and to be considered elsewhere on this Agenda) on this junction which shows that, based on the projected 2020 traffic flows, in capacity terms the proposed site access junction is shown to operate satisfactorily.

5.5 The Local Highway Authority have carefully considered the application and submitted TS. They agree with its conclusions and raise no objection to the application. There are as such no objections to the application on highway safety and access grounds and proposal accords with Policy T1 of the Core Strategy and advice in the NPPF.”

11. The PLA rejected the Officer recommendation and resolved that the application be refused. The reasons given for this decision as recorded in the refusal were:

“1. The proposal in isolation would be likely to lead to unsafe manoeuvres on the public highway and be likely to worsen highway safety in the locality contrary to policies DC1 - Design Considerations and T1 - Development and Sustainable Transport of the Staffordshire Moorlands Core Strategy

Informatives

1. The Local Planning Authority (LPA), in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Despite advice it has not been possible to negotiate a form of development which

overcomes the environmental and social harm referred to above.”

The minutes for the LPA meeting at which this decision was taken record that the committee was advised that the LPA was obliged to determine each application on its own merits, that the application should be determined on its merits as a stand-alone scheme and that the LPA decided to refuse the application because the proposal “... *in isolation would be likely to lead to unsafe manoeuvres on the public highway and be likely to worsen highway safety in the locality*”. This outcome was proposed by the councillor who had voted against giving approval for the revised Scheme but was seconded by the councillor who had proposed the resolution approving the revised Scheme. It is clear from the minutes that some of the councillors were confused by why the application was being made at all given the terms of the revised Scheme application – see Bundle p.894 – and others were not persuaded that the Junction Scheme as designed would achieve what was intended or needed further work before approval - see by way of example the Minutes at Bundle, page 897 and Ms Curley’s comments at Bundle, page 899. This thinking was consistent with that which had led to Condition 23 in relation to the revised Scheme.

The Issues

12. The claimant is a local resident, who has objected to the development on various grounds that include increased traffic and the lack of provision for sustainable transport. He challenges the decision of the LPA to grant outline permission for the revised Scheme. There are two Grounds in respect of which permission has been granted. There was a third but by his Reply to the Summary Grounds of Resistance, the claimant elected not to pursue that ground and the application for permission on that ground has not been renewed.
13. In summary, the Grounds relied on are:
 - (1) **Ground 1** – the No Right Turn Ground, which breaks down into two assertions being (a) that it was irrational for the LPA to grant consent for the revised Scheme subject to a condition that its subsequent decision in relation to the Junction Scheme application shows it considered to be ineffective to address the previous objections concerning this issue and (b) failed to give reasons explaining the inconsistency between the two decisions; and
 - (2) **Ground 2** – the Sustainable Transport Ground, which in summary concerns what is alleged to be a failure to give adequate reasons to explain why this was no longer considered a valid reason for refusal given that it had been one of the reasons for refusing on the original application for approval for the Scheme.

Ground 1

14. The claimant maintains this Ground by reference to three submissions. First, he submits that it was irrational or perverse for the LPA Committee to have granted permission for the revised Scheme subject to the No Right Turn (“NRT”) condition when (as it is alleged) the committee refused approval for the Junction Scheme on the grounds that it would be ineffective. Secondly, he submits that the LPA failed to take

account of a material consideration namely the alleged ineffectiveness of the NRT restriction when arriving at its conclusion that permission should be granted for the revised Scheme. This depends upon an alleged change of circumstances between the committee resolving that the revised Scheme be approved and the formal grant of outline permission being the decision to refuse approval of the Junction Scheme. Thirdly, he submits that the committee's decision should be quashed because it failed to give any reasons for granting consent for the revised Scheme subject to the NRT condition notwithstanding its earlier decision to refuse consent for the original Scheme and its conclusion that the separate approval for the Junction Scheme should be refused because the proposed restriction would be ineffective. I am not able to accept these submissions. I reach that conclusion for the following reasons.

Irrationality and Material Considerations

15. For inconsistency to form the basis of an irrationality challenge it must be shown that that in effect and reality the later decision amounted to a disagreement with the earlier one – see the authorities summarised in Pertemps Investments Limited v. SSCLG [2015] EWHC2308 (Admin) *per* Lindblom J as he then was at [53] to [54]. However as was there acknowledged by reference to the decision of Mann LJ in North Wiltshire DC v. Secretary of State 65 P & C R 137 at 145, where the earlier decision is distinguishable in some relevant respect, then the earlier decision will lack materiality by reference to consistency. If there is no inconsistency of the sort required, then irrationality in the Wednesbury sense cannot arise simply by reference to the difference in outcome between the first decision and the second.
16. The application for permission for the Scheme was an application for outline permission and was granted subject to conditions, whereas the Junction Application was an application for full permission that was made independently of whether and if so what development of the Site took place. The application for outline permission for the Scheme was considered first. Permission was granted for the reasons identified in the Minutes of the LPA Committee at which it was resolved that the application be approved namely “... *for the reasons and based on the policies contained in the report...*”.
17. The report referred to was the Report that was before the committee when it took the decision to approve the revised Scheme and which is referred to in detail above. The Report identified in detail the differences between the original application that had failed and the revised application. Those changes included a NRT access arrangement that had not been included within the original application. That change was expressly commented on in the Report at paragraph 7, the text of which is set out above. Having noted that there was no objection to what was proposed from the Local Highway Authority, the Report concluded at paragraph 16 that “... *with the mitigation measures proposed in the Travel Plan Framework and Travel Plan and with the highway works proposed at the site entrance and at the Whiston Eaves Lane/A52 junction and in the absence of any objection from the LHA, that the development can be satisfactorily accommodated on the local highway network.*”
18. It was plainly a matter of planning judgment as to whether the LPA Committee accepted the changes that were proposed as a sufficient answer to the issues raised when refusing approval for the original Scheme. It was not irrational to grant

permission for the revised Scheme having refused permission for the original Scheme given the totality of the changes made in relation to the Scheme as a whole and in particular it was not irrational to grant permission for the revised Scheme by reference to the access arrangements given the changes that were proposed and the conditions that were imposed. When comparing and contrasting the decision to grant outline permission for the revised Scheme with the refusal of permission for the original Scheme it is necessary to note the number, scope and importance of the changes that had been made to create the revised Scheme. Those were all identified in the Report, which had been before the committee when making the decision to approve the revised scheme and which was expressly adopted by the committee in reaching its decision. There was thus no “*stark and fundamental*” or “*serious*” inconsistency between the refusal of approval for the original Scheme and the later approval and grant of outline permission for the revised Scheme.

19. It is next necessary to consider the impact of the refusal of the Junction Application. In my judgment, there is no necessary irrationality between granting outline permission for the Scheme and refusing full permission for the Junction Application. It is difficult to see how there could be any inconsistency between the decision to approve the revised Scheme proposal at the 15 September meeting and the later decision at the same meeting to refuse approval for the Junction Scheme because the latter was decided after the former. In any event, they were entirely separate applications. The Junction Application was an application to alter the junction of the access road with Eaves Lane that was for full permission and which was made and had to be and was considered in isolation from the revised Scheme application. There was no associated leisure development proposed and no suggestion that the development would proceed only if it was permitted to develop the Site either pursuant to the revised Scheme or the original Scheme if the appeal against refusal of approval for that scheme succeeded. The two decisions are not inevitably or fundamentally or seriously inconsistent and thus the decision making in the round was not irrational because (a) the LPA could legitimately conclude that the benefits from the revised Scheme outweighed any residual highway concerns when granting outline permission for the revised scheme and (b) any continuing highway safety issues could be considered in the context of the detailed approval required by Conditions 23 and 25 - see in particular the remarks of Ms Curley at the LPA committee meeting referred to in paragraph 7 above.
20. The material considerations issue as it was developed in the course of the hearing on behalf of the claimant focussed on the decision concerning the Junction Application and its impact on the decision of the LPA to give effect to the approval of the revised scheme by granting formal outline permission notwithstanding that after approving the revised scheme the LPA committee refused permission for the junction scheme. In my judgment, this point adds nothing to what I have said already. If the decisions were not mutually inconsistent then the fact that permission was refused for the Junction scheme was not material to whether effect should be given to the committee’s decision to approve the revised scheme. There were elements of the Junction scheme that the committee was not satisfied. Those elements could be addressed in much greater detail in the context of an approval of the details giving effect to the NRT condition.

Reasons

21. As Lang J said in R (Hawksworth Securities Plc) v. Peterborough CC [2016] EWHC 1870 (Admin) at [87] to [89]:

“... a local planning authority is an administrative body, determining an individual application for planning permission. Its reasons ought to state why planning permission was granted, usually by reference to the relevant planning policies. But it is not conducting formal adjudication in a dispute between an applicant ... and objectors and so it is not required to give reasons for rejecting representations made by those who object ... I ... consider that it would be unduly onerous to impose a duty to give detailed reasons ... where a local planning committee gives reasons for a grant of planning permission it need only summarise the main reasons for the decision and can do so briefly. The committee is not required to set out each step in its reasoning nor indicate which factual matters are accepted or rejected ...”

Where a committee departs from the officer’s recommendations, some explanation for doing so is required – see R v. Mendip DC [2000] 80 P&CR 500 – but there is no reason why a committee that acts in accordance with an officer’s advice should have to do any more than say that is what they have done. Indeed, where a decision by a committee accords with the recommendation of an officer, the court is likely to infer that the committee has done as it has for the reasons identified in the report – see Lawrence v. Fen Tigers Limited [2014] UKSC 13. Such reports are themselves to be read in a common-sense way bearing in mind that they are addressed to decision makers who have or are expected to have extensive local and background knowledge – see Oxton Farms v. Selby DC [1997] EG 60 and R (Siraj) v. Kirklees MC [2010] EWCA Civ 1286.

22. As I have explained already, the decision to grant outline permission for the revised scheme was “... *for the reasons and based on the policies contained in the report...*”. In my judgment that is good enough in the circumstances given the detailed and careful Report that has been adopted by the committee. In respect of the inter relationship between the revised Scheme approval and grant and the refusal of the Junction Application no difficulty arises – there is no inconsistency that requires explaining for the reasons that I have identified. As I have explained already if there is no inconsistency between an earlier and a later decision then the existence of the earlier decision will not be material by reference to consistency.
23. If and to the extent that the claimant maintains that the LPA had to explain its reasons for reaching a different conclusion from that reached on the application for permission for the original Scheme, again no difficulty arises. The LPA expressly adopted the reasoning of its officer as set out in the Report and it was fully entitled to do so. There was no inconsistency between the earlier refusal of approval for the original Scheme and the subsequent grant of outline permission for the revised Scheme. The revised Scheme was different from the original Scheme in a number of respects, each of which had been identified in the Report and thus there was no inconsistency between

refusing approval for the original Scheme, and granting outline permission in respect of the revised Scheme by reference to the reasoning contained in the Report. The committee was fully entitled as a matter of planning judgment to reach a different conclusion in relation to the revised Scheme from that it had reached in relation to the original Scheme. Its reasons for doing so were those relied on by the officer in the Report whose recommendation to grant permission the committee adopted as their own. In relation to the specific issue that has been relied on by the claimant in these proceedings, the revised Scheme provided for a NRT solution at the junction of the access road with the public highway whereas the initial application had not. The issue had been explored in the course of the debate at the committee meeting and a revised condition that was satisfactory to the committee was formulated. No further explanation was required beyond that which was given.

Ground 2

24. This ground is concerned with what is said to be a failure on the part of the committee to explain why it decided to depart from its earlier conclusion that permission should be refused for the Scheme on the grounds that the sustainable transport measures proposed were inadequate. I am not able to accept that submission. My reasons for reaching that conclusion are as follows.
25. As I have explained more than once already, the committee decided to grant outline permission expressly for the reasons set out in the Report that was before the committee at its meeting at which approval was given. The Report addressed the sustainable transport issue at paragraph 13 in these terms:

“In summary and not surprisingly, the TA concludes that traffic is expected to increase on the local roads around the site. The percentage increases set out above are all noted in the TA to be from relatively low baseline traffic flows. These increases have been considered against a set of traffic capacity significance criteria in the TA. The operational capacity assessment (which includes consideration of driver delay) of both of these junctions using the significance criteria concludes that the application is expected to have low operational impact on these junctions. To help mitigate the impact of trips caused by the development a Travel Plan Framework (TPF) and Travel Plan (TP) accompany the TA and include a number of measures that will encourage travel by non car modes (staff car share, cycle storage, Alton Towers bus for example). With these measures, the residual impact is predicted to be Minor Adverse in respect of the impact on traffic flows and a Negligible impact on driver delay. In respect of pedestrian delay and amenity, pedestrian severance, accidents and safety the residual impact is predicted to range from negligible to minor beneficial. The TA notes that although the existing A52/Whiston Eaves Lane junction could cater for the additional traffic demand in capacity terms, highway works are proposed at the junction to accommodate a right turn facility and increase the visibility splay to the west.

The highway works are aimed at improving the existing sub-standard layout in highway safety terms (para 7.5.4).”

The Local Highway Authority had no objection to the revised Scheme “*subject to conditions relating to details of the precise layout, off-site junction improvements at Whiston Eaves Lane/A52, implementation of a Travel Plan, off-site traffic management incorporating directional signage, a scheme showing pedestrian and cycle connections and submission of a Construction Management Plan*”. The officer added at paragraph 15 of the Report that:

“The LHA advise that although no objection was raised to the previous application on highway grounds, this application has sort to introduce additional measures which may impact on the highway, including improvements to the existing site access to prohibit the right turn out of the site onto Eaves Lane and removal of Blakeley Lane to service part of the development. The vehicular traffic previously assigned to Blakeley Lane has now been assigned to Eaves lane. The LHA conclude by saying that the modelling in the TA of the access junctions and surrounding network shows that they will operate within their practical capacity. The existing access to the development from the A52 will be upgraded and different proposals for this improvement have been considered. It is also considered that transport mitigation measures can be secured through the TPF. It is for these reasons that the LHA raise no objection subject to conditions and a Section 106 Agreement to secure a contribution of £11 000 towards the monitoring of the Travel Plan and £5 000 in the event that a Traffic Regulation Order is pursued for speed reduction on the A52.”

When considering the initial application, the LPA had been concerned about the effect on traffic flows of lodges built in the Black Plantation area of the Site. This issue ceased to be relevant because the revised Scheme did not involve any lodges being built in that area.

26. The issue with which Ground 2 is concerned is only one amongst a very large number of material considerations that the LPA had to consider, each of which is the subject of careful and detailed reporting within the Report. Even if, as the claimant alleges, the differences between the travel plan relied on for the original Scheme application and that relied on for the revised Scheme application are minor at best, that is not the point. The Report identified the most important changes between the original Scheme and the revised Scheme. Those changes covered a number of different considerations of which only one was that covered by the travel plan. The committee was required to decide whether as a matter of planning judgment they ought to approve the revised Scheme applying the relevant policies and taking account of the various material considerations as set out in the Report and in particular the attempts by the applicant to revise the Scheme in order to meet the objections identified by the LPA that led it to refuse permission in relation to the original Scheme application. The reasons that the LPA gave were more than adequate in the circumstances applying the principles already identified. By adopting the reasoning contained in the Report, the LPA clearly

showed that they were aware of the earlier refusal and reasons for it and of the changes that had been made. They were plainly satisfied by the changes that the balance of planning judgment lay in giving outline permission for the scheme.

Conclusion

27. This claim fails and is dismissed.

Appendix 1



