



**Town and Country Planning Act 1990  
Planning and Compulsory Purchase Act 2004**

**Section 78 Appeal by Persimmon Homes Severn Valley**

**Land at Rectory Farm (North),  
Chescombe Road, Yatton**

**Rebuttal Evidence  
Kathryn Ventham – BSc (Hons), MSc, MRTPI**

**LPA: 23/P/0664/OUT  
APP/D0121/W/24/3343144**



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# 1 Planning

## 1.1 The Proposed Development

- 1.1.1 Paragraph 11.6 of Mr Smith's evidence sets out a mis-guided statement on the benefits of the Appellant's case – that is that:

***“A series of enhancements and benefits are offered on the site itself. It is recognised that these enhancements have been offered by the appellant at a late stage to try and off-set some of the identified harms”.***

- 1.1.2 This is simply untrue as the benefits remain unchanged from submission and to this extent, I enclose at **Appendix 1**, a rebuttal prepared by Mr Gareth Howell at EDP (the masterplanning consultant) who set out the way in which the scheme evolved from inception (which is also covered in the DAS – **CD.A8**) and the benefits which the proposed development, as designed and to be delivered as a whole, can offer.
- 1.1.3 I acknowledge that the description of development was amended during the course of the application, however this amendment was agreed with the Council, and serves to “firm up” the Appellant's commitment to the delivery of the benefits by embedding them within the description of development and thus there is no rowing back from them. This approach is as per the Court of Appeal Judgement, *Finney v Welsh Ministers*<sup>1</sup> where the Court of Appeal concluded that to vary the description of development by way of altering conditions is outside the remit of S73 applications – and thus, in this case, the Appellant's will be required to deliver the development as per the description of development.

## 1.2 Most Important Policies

- 1.2.1 I also note that the Council do not address the matter of most important policies or the weight to be afforded to them (and thus to any breach) in evidence. Whilst I have already referenced relatively recent appeal decisions in North Somerset in this regard, I also refer to the appeal decision at Broad Piece, Soham<sup>2</sup> (**Appendix 2**); where Inspector Boniface concluded at paragraph 20, as follows:

***“In this case, there are a number of general policies in the development plan that are applicable to proposals involving housing and that should be taken into account. However, the real question in this case is whether the proposed housing development is acceptable in principle. That is a question that can only be answered by reference to the policies discussed above, albeit within the context of considering the development plan as a whole, with its many other relevant policies. For this particular proposal, policies GROWTH 1, GROWTH 2 and GROWTH 4 are the most important for determining the case in that they together set out the amount and locational strategy for the delivery of housing, including restricting development outside settlement envelopes. They are all out of date for the reasons I have set out and so the***

<sup>1</sup> *Finney v Welsh Ministers* [2019] EWCA Civ 1868.

<sup>2</sup> Appeal Decision APP/V0510/W/21/3282449

***Framework's presumption in favour of sustainable development applies".***

- 1.2.2 In my opinion, it is fairly and squarely the case that the policies which are most important for the determination of the application, as per paragraphs 8.1.10 and 8.1.11 of my evidence, are out of date regardless of the Council's housing land supply position.

## 2 Housing Land Supply

- 2.1.1 Mr Paterson-Neild provides a separate rebuttal on housing land supply matters.
- 2.1.2 At the time of the preparation of my evidence, the evidence of Mr. Paterson-Neild was yet to be settled and therefore I advised in my evidence, that I would be updating, in response, as appropriate.
- 2.1.3 The Appellant's position, based on the evidence of Mr Paterson-Neild, is that the Council can only demonstrate 2.94 years supply. This is a factor which I attribute very substantial weight in the planning balance given that the shortfall in housing land supply was first confirmed in the Rectory Farm Appeal decision issued on the 15<sup>th</sup> June 2022.<sup>3</sup>
- 2.1.4 At paragraph 25 of that decision, the Inspector states that:

***“At paragraph 4 of the Final 5HLS Position there is an up-to-date table of the deliverable supply which replaces that at paragraph 5.1 of the Housing Land Supply SoCG. The difference between the main parties now comes down to the Council's position that it has a 5.5 year supply of deliverable housing sites and the Appellant's position that instead it is a 3.2 years' supply. The updated 5YHLS figures include four scenarios which include different reductions from the small sites source. However, in reality, these reductions make little difference to the final position calculations. Plainly, from all the evidence that is before me, the Appellant's position is preferred. Although the Council maintains there is a 5.5 years' land supply, in my view, there is only a housing land supply equivalent to 3.2 years”.***

- 2.1.5 He then went on to confirm that:

***“If no 5YHLS exists, case law suggests that it is important to gauge how large it is at least in broad terms. The Council agreed that extent of the shortfall is relevant to weight.<sup>24</sup> In Hallam Land Management Ltd v Secretary of State for Communities and Local Government [2018] EWCA Civ 1808,<sup>25</sup> the Court made plain that the extent of any such shortfall will bear directly on the weight to be given to the benefits or disbenefits of the proposed development. In a 5YHLS shortfall scenario two things are relevant; (i) the extent of the shortfall and (ii) retrievability i.e., how likely or quickly it will be made up. I return to these legal consequences in the planning balance later in this decision. I conclude on the first issue that the Council cannot demonstrate a five year housing land supply and that the extent of the shortfall is significant”.***

- 2.1.6 The Council's own position is one of 3.88 years which is not so significantly different from the 3.2 years which the Inspector considered to represent a significant shortfall. Furthermore, with regard to (ii) – it is the Appellant's position that the housing land supply has actually worsened and now sits at 2.94 years (a shortfall of 1,526 homes against a 4 year requirement; and 2,730 homes against a 5 year requirement) some 2

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<sup>3</sup> Reference: APP/D0121/W/21/3286677

years after the aforementioned decision. In the absence of any evidence of improvement in delivery and with a local plan review which has been paused pending the recent Government announcements, I consider that this shortfall is some way from being rectified. Indeed, I note that if one considers the potential for a new standard method being introduced later this year – then the shortfall would reduce further to 2.33 years (as per the evidence of Mr Paterson-Neild), thus it does not appear that this shortfall will be made up quickly. I therefore attribute **very substantial weight** to the delivery of market housing in my planning balance.



## 3 Flood Risk Sequential Test

### 3.1 Scope of Assessment

- 3.1.1 The Council's evidence mis-characterizes the Appellant's case as being that the development needs be met in Yatton (paragraph 6.2 of Mr Hewlett's evidence). This is not the case, the case is one of District wide housing need and the flood risk sequential test has been carried out on this basis; however alongside this, the Appeal Site is in Yatton and the Appellant has looked at Yatton specific need also (which by definition should be met in Yatton).
- 3.1.2 I note that in the evidence of Mr Hewlett; he firstly advises that the Appellant's proposal to deliver 50% affordable housing is "unusual" (paragraph 5.17). Whilst this may be the case for North Somerset, an enhanced affordable housing offer is not unusual, and regardless forms part of the development for which planning permission is sought. The fact that Mr Hewlett expresses such surprise at the level of affordable housing provision to be provided perhaps demonstrates why the extent of the affordable housing shortfall is so great as set out in the evidence of Mr. Parker. The scale of the shortfall demonstrates the need for unusual action. At paragraph 5.17 of Mr Hewlett's Proof, he draws on the Council's viability evidence base to set out that 50% affordable housing is unlikely to be viable elsewhere, with 20% on previously developed land and 38.5% on greenfield land as the upper limits of achievability.
- 3.1.3 Furthermore, an enhanced offer is supported by Policy CS16 which sets out a benchmark for 30% provision but no upper limit. Based on the case advanced by Mr Hewlett here, I query how the Council would therefore approach consideration of a scheme for 100% affordable housing and whether the level of need and the approach would be questioned. That the Council note the unusual nature of the offer and when coupled with the evidence of Mr Parker, this demonstrates that the affordable housing offer as proposed by the Appellant is very much needed and is not being delivered on sites elsewhere.
- 3.1.4 Mr Hewlett's evidence (paragraph 5.82) advises that the draft Plan has reached an advanced stage – Regulation 19. However this ignores the latest statement from the Council on the 7<sup>th</sup> August 2024 (which Mr Hewlett references at paragraph 4.47 of his evidence) where the Council advised that they were considering the implications of the latest Government announcements on planning reforms, and they would be considering the next steps and that the scheduled consultation in Autumn would not take place. There is no certainty that the Plan will progress in its current form and thus this reduces the reliance which can be placed upon it by the Council.
- 3.1.5 Under the proposed Transitional Arrangements in the draft consultation NPPF, unless the Council submit their Plan within one month of the date of the publication of the NPPF, the Council will be required to plan in accordance with the revised NPPF as their current proposed housing target is not within 200 dwellings of the housing target under the proposed new local housing need. Given that the Council are proposing a further Regulation 19 Plan, this target is simply not feasible such that the inevitable outcome is that the Council will have to go backwards in order to move forwards – to include new evidence gathering and local policy alignment with new national planning policy. The Council is looking at how far it has come; however, in reality it should be

looking at how far they have to go (given their stalled plan preparation): a review of the evidence base; possible new strategy / plan; one (if not two) further rounds of consultation; submission; examination; reporting; adoption. The Council has collated and considered the consultation responses from the Regulation 19 Consultation earlier this year of which there were many objections and those objectors have a reasonable expectation that their concerns will be heard. Mr Hewlett himself acknowledges (at paragraph 4.47) that the housing requirement could increase to 23,805 dwellings over a 15 year period (as opposed to the 14,902 dwellings the Council were consulting upon in its previous Regulation 19 Plan) – i.e. an uplift of 8,903 dwellings (excluding any unmet need from Bristol); and that there may be a need to review the role of Green Belt in meeting need. I consider there is every likelihood that the next version of the plan for consultation will look very different to the previous draft and may result in the need for a new evidence base / SA.

3.1.6 When looking at paragraph 48 of the NPPF (2023), it is stated that:

***Local planning authorities may give weight to relevant policies in emerging plans according to:***

***a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);***

***b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and***

***c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)***

3.1.7 For the reasons set out above, even if one were to discount the Council's own decision to pause the plan pending current national changes in policy; I do not consider that a plan which has yet to be subject to its revised Regulation 19 consultation is at an advanced stage – as described by Mr Hewlett in his Proof (paragraph 5.82). Prior to the changes to national planning policy; the Council had already made a decision to publish a revised Regulation 19 Plan and carry out further consultation in Autumn 2024 – now paused. Furthermore, there are significant unresolved objections to the previous Plan – and these objections are to policies which are central to the plan (i.e. housing need and the level of unmet housing need; and strategic allocations – for example). The Council were also proposing a level of housing growth which was lower than its identified housing need and this had yet to be tested. As such I do not consider that the plan is/was at an advanced stage and in the light of unresolved objections (many of which revolve around inconsistency with the Framework), I afford no more than limited weight to the draft Plan and do not consider that it is appropriate to rely on it in the way in which the Council do in the evidence of Mr Hewlett.

3.1.8 It is my opinion that this reliance on the alleged advanced nature of the Plan taints the conclusions of the Council's evidence. For example, the Wolverhill Strategic Location (site reference 136) is considered by the Council to represent a sequentially preferable site as it is a draft allocation in "the plan at an advanced stage of publication". Paragraph 5.82 of Mr Hewlett's evidence states that the site was discounted at the Lynchmead Farm Inquiry (CD.12) as the Inspector felt that the Plan was still at an early stage and he did not therefore conclude that the site should be

considered a reasonable alternative. For the reasons which I have set out above, I consider that this position remains.

- 3.1.9 Paragraph 5.20 of Mr Hewlett's evidence reference the proposed development as being at an average density of 20 dwellings per hectare; I highlight that the description of development as agreed is a maximum 20 dwellings per net acre which translates to a maximum net density of not more than 50 dwellings per acre.
- 3.1.10 The rebuttal provided by Mr Howell is also to be considered in direct response to paragraph 5.31 of Mr Hewlett's evidence also.
- 3.1.11 At paragraph 5.51, Mr Hewlett considers that the Appellant has applied the sequential test in an inflexible way by proceeding on the basis that all the development should be delivered on a single site. I have set out in my evidence (and supplemented by the rebuttal from Mr Howell) why I consider that the development should be on a single site and the justification for this. I do not consider this to be an inflexible approach – I consider this to be wholly appropriate given the proposed development for which has been applied.
- 3.1.12 As a final point, Mr Hewlett criticises the Appellant's methodology and approach to the flood risk sequential test in evidence. I highlight that as set out at paragraph 5.1.1 of my evidence, the initial methodology for the sequential test was first sent to the Council in December 2022 – nearly 2 years ago, with a request for feedback. None was received prior to the submission of the Application or post the Mead Realisations judgement. Clearly had the Council engaged on this matter, then the scope of difference between the two parties could potentially have been reduced; the extent of sites in dispute been reduced and the extent of Inquiry time devoted to this topic reduced. Instead the first written feedback the Appellant received was the list of disputed sites provided on the day of the CMC.

## 3.2 Housing Land Supply and the Sequential Test

- 3.2.1 As per paragraph 13.9..4 of my evidence, I set out below an updated paragraph with additions in bold (following completion of the Appellant's housing land supply evidence):

### Updated paragraph 13.9.4

**Based on the evidence of Mr Paterson-Neild**, the shortfall in supply against the 4 year requirement (~~using the Council's own calculations~~) amounts to ~~156 dwellings (the shortfall would be 1,480 homes if the calculation were based on 5 years)~~ **amounts to 1,526 dwellings; and 2,730 homes against a 5 year requirement..** Under the Council's own calculations, they cannot demonstrate a 4 year supply of housing (and arguably now this should be 5 years) even factoring in those sites which they considered are sequential preferable and capable of delivering in the same timeframe as the Appeal Scheme. If the Appeal Site were allowed; a shortfall would remain in both a 4 year and 5 year scenario given that the Appellant's scheme will deliver in years 3 - 5. The logical and only conclusions which can be reached is that even if the Council's conclusions on the identified sites being sequentially preferable were accepted, there are insufficient sequentially preferable sites to the Appeal Site which can come forward within 4 or 5 years (the timeframe for the delivery of the Appeal

Site) to meet current need based on the Council's own calculations given all 1,648 dwellings on allegedly sequentially preferable sites are already factored into their supply calculations. Again this is unsurprising given the draft plan proposed the allocation of sites at risk of flooding – clearly acknowledging that future (and current) housing need cannot be met on sites completely clear from flood risk. However clearly in such a situation, the focus should be on sites which are defended (such as the Appeal Site). ~~This paragraph will however be reviewed further in rebuttal evidence upon completion of the evidence of Mr Paterson-Neild which will set out the Appellant's position on 4 and 5 year supply.~~

### **3.3 Planning Balance and the Sequential Test**

- 3.3.1 I note that both Mr Smith and Mr Hewlett address the weight to be afforded to a failure of the sequential test in their evidence (both affording it very substantial weight) and therefore it would appear to be an agreed position between the parties, that a failure of the sequential test is a matter which goes into the planning balance.

## 4 Drainage

- 4.1.1 Within my evidence, I did not address matters specific to drainage as the evidence of Mr Mirams was delayed upon resolution of the Council's position on flood modelling. I confirm that as far as Main Issue 3 is concerned, I rely on the evidence of Mr Mirams whose evidence covers matters relating to Policy CS3 of the Core Strategy and paragraph 173 of the NPPF. I also rely on his evidence in relation to the flood risk aspects of the Exception Test.

## 5 Errata

- 5.1.1 As an aside, I note that paragraphs 13.9.5 and 13.9.6 of my evidence are duplicates and thus 13.9.6 can be deleted.
- 5.1.2 Finally – I note that in my table of weightings at paragraph at 13.11.2, I had omitted to include:
- An enhanced edge to Yatton through a more sensitively designed and responsive urban form. It is a matter which I give **moderate weight** in my planning balance.
- 5.1.3 This was included within the planning balance in the Statement of Case and the Council reference this in their evidence.

# APPENDIX 1



**Land at Rectory Farm  
(North), Yatton, North  
Somerset**

Rebuttal:

**Gareth Howell**

BA (Hons) Dip Arch RIBA

In respect of:

**Urban Design Matters: Public  
Open Space, Play and  
Recreation**

On behalf of:

**Persimmon Homes Severn Valley**

PINS Ref

**APP/D0121/W/24/3343144**

LPA Ref

**23/P/0664/OUT**

September 2024

Report Reference

**edp7842\_r005**



## Document Control

### DOCUMENT INFORMATION

<b>Client</b>	Persimmon Homes Severn Valley
<b>Report Title</b>	Rebuttal of Proof of Evidence of Max Smith
<b>Document Reference</b>	edp7842_r005

### VERSION INFORMATION

	<b>Author</b>	<b>Formatted</b>	<b>Peer Review</b>	<b>Proofed by/Date</b>
005	GHo	FJe	NPR	SCh 100924

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## **Section 1**

### **Witness Qualifications and Experience**

#### **WITNESS QUALIFICATIONS AND EXPERIENCE**

- 1.1 This Rebuttal has been prepared by Gareth Howell, a Director at The Environmental Dimension Partnership Ltd (EDP). I have over 26 years' experience in the fields of architecture, masterplanning and urban design. I have been a chartered member of the Royal Institute of British Architects (RIBA) since October 2000, and a member of the Architects Registration Board (ARB).
- 1.2 I hold a 2.1 Bachelor of Arts (with Honours, 1995) in Architecture and a Post Graduate Diploma in Architecture 1998 (Dip Arch) both from Plymouth University.
- 1.3 I am a recognised practitioner in Urban Design affiliated with the Urban Design Group.
- 1.4 I am also a design review panel member of the Design Commission for Wales.
- 1.5 Throughout my career I have worked both in architectural and multi-disciplinary practices which has allowed me to gain a broad appreciation of the wide range of issues which influence the field of architecture and urban design – these include landscape design and environmental disciplines. In my portfolio of work, I have undertaken a lead design role for numerous schemes, primarily in the residential sector and ranging from single dwellings to strategic urban extensions. I have produced urban design material in support of numerous outline and detailed applications, authored design codes, briefs and statements.
- 1.6 In my current role, I am the Discipline Lead for Masterplanning and Urban Design for EDP, responsible for quality, consistency and training of my discipline across the EDP offices. I also champion environmentally-led masterplanning for EDP and am an environmental design advocate. Throughout my time with EDP, I have undertaken numerous ecological and environmental surveys and work closely with my environmental colleagues to ensure design solutions are appropriate, balanced and robust.
- 1.7 The evidence I provide within this Rebuttal has been prepared and given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my own true and professional opinions.
- 1.8 I am familiar with the Appeal Site and the surrounding area and I have made myself aware of the policy background and the issues relating to this inquiry.

#### **KNOWLEDGE OF SITE AND APPEAL CONTEXT**

- 1.9 EDP has been involved with the appeal scheme since September 2022. The initial site evaluation and design work was undertaken by appropriately qualified members of the masterplanning team at EDP, working alongside colleagues in EDP (Archaeology and Heritage); as well as the rest of the design team: Stantec (Planning); SLR (Landscape and

Visual Impact Assessment); Clarkson Woods (Ecology); Hydrock (Flood Risk, Drainage, Highways, Air Quality and Noise); and JP Associates (Arboriculture).

- 1.10 My first direct involvement with the scheme was in October 2022 when, along with masterplanning colleagues, I carried out a full site and context appraisal. Since that appraisal, EDP developed the Constraints and Opportunities Plan in collaboration with the design team which informed the initial design proposals as illustrated in the Concept and Vision Masterplan. I led the design team from inception to the submission and was the author of the Design and Access Statement (DAS).

## Section 2

### The issues from Max Smith's evidence relating to the open space

#### INTRODUCTION

- 2.1 This Rebuttal relates to the planning evidence provided by Mr Max Smith with specific reference to paragraphs 11.10 and 11.11 of his evidence as detailed below:

*"It is evident that with regard to the open space, a virtue is being made of necessity. Significant parts of the site would need to be left as open space, or at least undeveloped, in any case for landscaping reasons to provide, for instance, buffers to the Strawberry Line and to the rhynes. Nevertheless, the proposed open space has variety and would contribute to and complement existing provision in Yatton and the setting of the Strawberry Line, subject to appropriate detailed design and maintenance measures being secured. As such I would give this moderate weight.*

*The appellant suggests that 'an enhanced edge to Yatton through a more sensitively designed and response urban form' should be given moderate weight. However, the appellant's own LVIA notes that there would be some landscaping harm and so this should be credited as a limited harm rather than a benefit in the planning balance."*

- 2.2 Whilst these urban design and placemaking issues are to a degree intertwined with landscape setting and visual impact in their understanding of the issue, this Rebuttal seeks to clearly distinguish between placemaking and landscape harm. For example, Guidelines on Landscape and Visual Impact Assessment (GLVIA) work on the basis of landscape harm for all greenfield development, whereas the policies and guidance relating to good placemaking, urban design, and landscape have wider ranging issues to assess quality, and how development can indeed complement and enhance existing provision and setting, and therefore one assessment does not affect, reduce or outweigh the wider benefits brought about through the proposals as detailed below.
- 2.3 To set the context regarding the open space provision of the proposals, **Section 3**, will be in two parts:
- 2.4 Part 1 will consider relevant local and national planning policy in relation to open spaces, including the following key policy documents:
- The National Planning Policy Framework (NPPF);
  - North Somerset Council's Core Strategy 2012 (NSCCS);
  - Yatton Neighbourhood Development Plan 2017-2026 (YNDP); and
  - Fields in Trust (FiT) November 2020 policy and guidance.

- 2.5 Part 2 contains a summary of the scheme to demonstrate compliance with the relevant Public Open Space (POS) policy, drawing upon evidence submitted within the application DAS. **Section 3** also reflects more broadly on the integrated and holistic placemaking approach to green infrastructure that goes beyond delivering the minimum quantum.
- 2.6 A short summary and conclusion is provided in **Section 4** that sets out how the scheme will deliver a characterful, attractive and distinctive place for people and nature to address the issues raised by Mr Smith's evidence in respect of open space and its setting, and the clear need to distinguish between placemaking and landscape assessment harm.

## **Section 3**

### **Compliance with Open Space Policy**

#### **NATIONAL AND LOCAL OPEN SPACE AND PLACEMAKING POLICY**

- 3.1 Paragraph 8 of the NPPF sets out the overarching objectives to achieving sustainable development, stating that *“fostering well-designed, beautiful and safe places, with accessible services and open spaces”* is key to supporting the health and well-being of communities;
- 3.2 Paragraph 102 of the NPPF relates to open space and recreation. It states:
- “Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change...”*
- 3.3 The Core Strategy CS12 aims to achieve high-quality design and place-making through high quality architecture and urban design and that development must demonstrate *“a robust design process to generate solutions that have clearly considered the existing context, and contribute to social, economic and environmental sustainability.”* It goes on to note that *“sound urban design principles should be used to generate schemes that create a quality public, semi-public and private mix of places that are attractive, durable and function well.”*
- 3.4 The Core Strategy notes that an assessment of existing open space provision needs to be undertaken to identify shortfalls of open space facilities and set out future requirements for provision of the population of North Somerset. The intention is that a Supplementary Planning Document would contain this guidance, however, this has not yet been published.
- 3.5 In the absence of any POS standards setting out the quantity and quality of open space typologies to serve the new community we have used guidance from the FiT, which seeks *“to help developers, planners, urban designers and landscape architects in the design of outdoor sport, play and informal open space”*. The guidance has long been recognised by national and local government and 75% of Local Authorities adopt this or an equivalent standard.
- 3.6 The YNDP gives some indications on the priorities of local people in relation to environment and wildlife, namely the protection of the rural character of Yatton (E01), enhancing access to the surrounding green spaces, public spaces, and sports and leisure facilities (E02); and ensuring that the provision of open space for sports and recreational facilities is maintained at an appropriate level (E03).

#### **THE PROPOSED DEVELOPMENT: COMPLIANCE WITH POS POLICY/STANDARDS**

- 3.7 The Appeal Site’s total area is 13.79 hectares (ha) and proposes up to 190 new homes.
- 3.8 A significant proportion of the Appeal Site is proposed as open space and green infrastructure, as illustrated in Figure 24: Land Use Parameter on page 46 of the DAS.

- 3.9 The open spaces and public realm proposed on-site have been designed with careful consideration of the surrounding context, existing green and blue infrastructure networks, and the movement of wildlife and people through the area. The design includes;
- A large multi-functional green infrastructure space, containing play spaces, orchards, parks, Sustainable Drainage (SuDS), and natural/semi-natural open spaces;
  - A network of retained and enhanced Rhynes, a distinctive somerset drainage ditch feature, that provide habitat and character and will be enhanced to improve their function and habitat value;
  - A new native linear woodland to the west of the Appeal Site that buffers views into the development from the Strawberry Line active travel route, and provides habitat and an ecological corridor for wildlife. Hedgerows are to be enhanced to improve their habitat value;
  - Community allotments are provided that encourage local growing, reducing food-miles, and in combination with community orchards, providing food foraging opportunities; and
  - Provision of a planted buffer along the eastern boundary to create a bat foraging corridor and provide a buffer to the existing development.
- 3.10 The FiT standards state that for every 1000 people, a total area of 5.35ha of land should be provided to deliver all POS requirements (including outdoor sports, equipped play areas, amenity greenspace, parks and gardens and natural and semi-natural green space).
- 3.11 The proposals would generate an estimated population of 456, based on an average household size of 2.4 persons. This population would therefore require a total green space area of 2.44ha according to the FiT standard. The scheme delivers above the minimum level of greenspace, with 6.46ha on-site, the majority of which being natural and semi-natural space. These high-quality open space areas will result in benefits to the environment by providing habitat and increasing biodiversity, and by contributing to the character of the development by offering a variety of spaces for new and existing residents to rest, exercise and play. As described in the DAS, the design and extent of the public realm aims to encourage easy access and interaction with nature, bringing wider health and wellbeing benefits to residents of what would be expected by meeting the minimum policy requirements. The proposals seek to do more than meet minimum standards and to use the extensive Green Infrastructure effectively through a more multi-functional landscape
- 3.12 An extensive network of footpaths and cycleways is integrated into the scheme, providing a mixture of 'active travel connections' for example, linking with the Strawberry Line to Yatton Station, as well as more informal nature trails throughout the biodiversity areas of the Appeal Site. This makes the design more permeable, and encourages residents to walk and cycle rather than travel by private vehicle, helping with the development of healthier lifestyles and greater social cohesion by improving opportunities for interaction between residents.



- 3.13 In terms of play facilities, FiT guidance has informed the size, quality and placement of the formal areas of play within the scheme. The scheme falls within the 1-200 dwelling category; therefore, a Local Area of Play (LAP) and a Locally Equipped Area of Play (LEAP) are required. Recommended buffer zones between dwellings and play areas have been implemented to ensure natural surveillance without being overbearing on future properties.
- 3.14 The scheme provides, in compliance with the FiT 'Guidance for Outdoor Sports and Play' and illustrated on Figure 33: Illustrative Landscape Masterplan (DAS page 57):
- One LEAP within a central location that is no more than 400m from any dwelling. It is a minimum size of 400m<sup>2</sup> with a separation of 20m between activity zone and the habitable room façade of dwellings; and
  - One LAP that will provide a trim trail and exercise stations.
- 3.15 Regarding formal outdoor space (i.e. playing pitches, outdoor sports courts or artificial surfaces), the proposals do not include this typology. This is justified on the basis that:
- Firstly, Yatton already has several playing fields and sports facilities within walking distance, as illustrated on page 11 of the DAS. These include the playground and fields at Rock Road Playing Fields, the Claverham Cricket Club, Yatton Rugby Club on High Street, the Yatton Bowling Club on Well Land, and the Yatton Recreation Ground;
  - Secondly, it is considered that the Appeal Site should have a focus on biodiversity and natural POS, given its proximity to the edge of the countryside, sensitivity to dark skies and sensitivity of adjacent landscapes (Site of Nature Conservation Interest and the Strawberry Line);
  - Therefore, it is considered that a financial contribution to the provision of formal sports off-site is a more suitable approach. This financial contribution could help support existing sports clubs in Yatton to upgrade or extend their facilities to allow for growing demand in a more suitable location; and
  - The Appeal Site does include extensive flexible areas that could be used for informal sports, games and 'kickabout' space that allow for doorstep play.

### **NEW SETTLEMENT EDGE AND SETTING OF THE STRAWBERRY LINE**

- 3.16 The Appeal Site is not within any nationally designated valued landscapes like AONBs or National Parks, but the Strawberry Line/NCR 26 runs along its western boundary.
- 3.17 From a landscape assessment (GVLIA), the overall landscape character would see minor localised effects. However, in placemaking terms, the existing unresolved, varied architectural character and urban form of the settlement edge of Yatton in this location is considered rather unattractive. The development is designed to align new homes with the existing settlement edge, and a proposed woodland belt would help screen views from the west over time as planting matures. This combined with a significant open space network of routes and green spaces, would allow a better relationship between built form and landscape and overall a more legible and defined settlement edge.

3.18 As highlighted on page 37 Figure 18: Landscape Constraints and Opportunities of the DAS, and page 38, the key opportunities to improve the settlement edge from a placemaking perspective are:

*“Landscape and Visual Context*

- *Retain/enhance network of rhynes through the site to add character to the development and provide habitat;*
- *Retain/enhance existing hedgerows and trees in order to soften views of the development from adjacent locations and provide habitat;*
- *Provide woodland buffers adjacent to the Strawberry Line to soften impact of the development and to increase biodiversity;*
- *Respect the privacy and amenity of existing development on the eastern edges of the site and take opportunity to improve the visual urban edge of the western settlement boundary;*
- *Focus views through and across the site toward Cadbury Hill and the Church of St Mary tower by limiting the amount of built form and maximising landscape elements to frame views where possible; and*
- *Utilise the best characteristics of the areas landscape to create an exciting and attractive development of local character that integrates with its context.”*

## Section 4 Summary and Conclusions

4.1 In this section, I summarise the main elements of my Rebuttal and draw together my conclusions.

4.2 This has been prepared in response to Mr Smith's evidence, specifically paragraphs 11.10 and 11.11:

*11.10 "It is evident that with regard to the open space, a virtue is being made of necessity. Significant parts of the site would need to be left as open space, or at least undeveloped, in any case for landscaping reasons to provide, for instance, buffers to the Strawberry Line and to the rhynes. Nevertheless, the proposed open space has variety and would contribute to and complement existing provision in Yatton and the setting of the Strawberry Line, subject to appropriate detailed design and maintenance measures being secured. As such I would give this moderate weight."*

*11.11 "The appellant suggests that 'an enhanced edge to Yatton through a more sensitively designed and response urban form' should be given moderate weight. However, the appellant's own LVIA notes that there would be some landscaping harm and so this should be credited as a limited harm rather than a benefit in the planning balance."*

4.3 In consideration of these matters, I have undertaken a detailed review of the appeal proposals, the Appeal Site and context and setting of Yatton. Informed by this knowledge it is my professional opinion that the appeal scheme reflects an appropriate response to the context and in particular the open space offering an enhancement to the existing provision and setting in placemaking terms. The proposals have been developed with clear regard to both natural and built environs. The appeal scheme, in my professional opinion, responds positively to these features, balances competing objectives and can create a characterful, high-quality, bio-diverse design solution with health and wellbeing central themes which the community of Yatton will benefit from.

4.4 The following paragraphs summarise my reasoning.

4.5 The DAS demonstrates that a landscape-led, sensitive masterplanning approach has been undertaken that provides a generous quantity of high quality, multi-functional green infrastructure. The approach focusses on retaining, protecting and enhancing existing green and blue landscape elements such as the network of Rhynes, the woodland along the Strawberry Line, orchard planting and new wetland and meadow habitats, helping to maintain the distinctive rural character of the Appeal Site and of Yatton.

4.6 The landscape officers consultation response echoes this:

*"The proposed built area is identified as of 'low' sensitivity to housing in the NS Landscape Sensitivity Assessment 2018. The fields bordering the Strawberry Line are 'Medium' sensitivity and the Strawberry Line and beyond is of 'High' sensitivity. The NS Landscape Character Assessment records the A1 Kingston Seymour and Puxton Moors LCA as of*

*strong character and an area in good condition, however this section is heavily influenced by the settlement edge and contained from the wider moor by the extensive tree and shrub growth along the Strawberry Line bordering much of the site. In landscape terms the site can accommodate housing without impacting upon the wider landscape and Strawberry Line, subject to suitable buffers being retained. It is good to see that key characteristics like the watercourses have been accommodated in wide green corridors **and the scheme can bring about visual improvements to this edge of Yatton if well designed and executed.***” (emphasis added).

- 4.7 The approach has been supported by a robust design process that involves careful consideration of the Appeal Site’s context as well as technical inputs. Multi-functional green infrastructure spaces have been integrated with the built form to follow the existing, organic small-scale field pattern, reinforcing the local character and creating a high-quality, attractive and distinctive place for people and nature. This is best summarised in pages 52 and 53 of the DAS, and with regard to the placemaking approach to views and vistas:

*“The legibility of the development will be enhanced through incorporating views and vistas both within, and beyond, the site. On the western edge of the development, views to the community park and countryside beyond will reinforce the character of the lower density areas with a ‘rural character’. In other areas, views along the GI corridors will reinforce the sense of place of a development in the Somerset Levels. Views along the spine road and secondary streets will reinforce the more formal character in these locations.*

*Development should be focussed to the east of the site against the existing settlement edge of Yatton to maximise the open feel of the community park and offer views back across the development to Cadbury Hill and Yatton.”*

- 4.8 The POS proposals far exceed the overall standards for play, parks and gardens, amenity and natural/semi-natural open space as defined by the FiT guidelines. A LEAP and LAP have been provided, within the required catchments of the new homes.
- 4.9 In respect of formal sports, it is proposed that this provision be delivered as an off-site contribution, with potential to support upgrade and/or extension of existing sports facilities in Yatton at more suitable locations.
- 4.10 In respect of the landscape-led approach to placemaking, pages 53 – 59 of the DAS highlight how the opportunities the Appeal Site provides to address and better the settlement edge have been addressed in the design strategy:

*“Key elements of the landscape strategy include:*

- 1. The landscape buffer, along the western boundary of the site, takes account of the existing settlement edge, created by new development to the south, ensuring that the built element of the proposed development respects existing settlement form;*
- 2. The landscape setting of Yatton comprises small-scale open fields; the landscape buffer responds to this maintaining this open field setting intersected by a network of rhynes and hedgerows;*

3. *The settlement edge is currently visible to the west, with recent development particularly visible and limited opportunities to access direct from the settlement edge into the PRoW network (including the Strawberry Line). The proposed development has been designed to enhance the permeability of the settlement edge and provide new links through to the Strawberry Line and connected PRoW, whilst proposed planting within the landscape buffer would soften and eventually screen views towards the built edge of the settlement;*
4. *The existing rhyme network would be retained and improved, both reinforcing the local character of the landscape and enhancing biodiversity;*
5. *A new linear, mixed, native woodland belt has been proposed along the western boundary which would both filter views of proposed built form and support the bat population; and*
6. *Opportunities to view the Church of St Mary spire from within the site would be created on footpath links to the Strawberry Line. Filtered views are currently available from the Strawberry Line in winter.”*

## **OVERALL CONCLUSION**

- 4.11 This Rebuttal has demonstrated that the proposals can provide for a quality and distinctive development, which will appropriately create a betterment to the existing settlement edge and setting of Yatton in this location. It is my professional opinion that the proposals succeed in placemaking in this respect, and there is a clear distinction between landscape visual assessment and good urban design principles for a development to provide comprehensive benefits to the community.
- 4.12 It is my professional opinion therefore, the proposals are consistent with National, Regional, Local Policies and Design Guidance.
- 4.13 This Rebuttal has demonstrated in respect of Mr Smith’s evidence relevant to paragraphs 11.10 and 11.11:
- That there is potential to enhance the setting and local distinctiveness through addition of the extensive public open space with community orchards, woodland and ecology zones, informal natural play and sitting areas provided through the proposals. It is considered that this, and the increased access for all the community will only help foster more pride and natural stewardship in this area.
- 4.14 Finally, given that the application, which is the subject of this appeal, is made in Outline, I am also of the view that the design principles and rationale presented within the DAS gives sufficient instruction to give confidence that any detailed design issues are capable of being addressed at a potential future reserved matters design stage. With reference to proof of evidence presented by Kathryn Ventham under 9.12.5, highlights the same point and appeal decision reference in Bramley:

*“...However in this particular instance, some of the placemaking benefits are included within the description of development to give further confidence in respect of the delivery and the important of these aspects for the placemaking of the development. In this respect I refer to the appeal decision in Bramley, Hampshire<sup>18</sup> (Appendix 7) where the Inspector was clear to conclude that whilst only an outline application (as is the case here), the Appellant will have to demonstrate how they continue to achieve high quality design at the reserved matters stage; and that the Council are the decision makers in this respect (paragraph 46).”*

4.15 I therefore commend the scheme to the Inspector in placemaking and urban design terms.



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# APPENDIX 2





## Appeal Decision

Inquiry held on 11-14 January 2022

Site visit made on 14 January 2022

**by Michael Boniface MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> February 2022

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**Appeal Ref: APP/V0510/W/21/3282449**

**Land to the North East of Broad Piece, Soham**

- 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 Persimmon Homes East Midlands against the decision of East Cambridgeshire District Council.
  - The application Ref 19/00717/OUM, dated 16 May 2019, was refused by notice dated 8 March 2021.
  - The development proposed is up to 175 dwellings and associated infrastructure.
- 

### Decision

1. The appeal is allowed and planning permission is granted for up to 175 dwellings and associated infrastructure at Land to the North East of Broad Piece, Soham in accordance with the terms of the application, Ref 19/00717/OUM, dated 16 May 2019, subject to the conditions contained in the attached Schedule.

### Applications for costs

2. At the Inquiry applications for costs were made by East Cambridgeshire District Council against Persimmon Homes East Midlands and by Persimmon Homes East Midlands against East Cambridgeshire District Council. These applications are the subject of separate Decisions.

### Preliminary Matters

3. The application is submitted in outline with all matters reserved for subsequent consideration except for the access into the site. This is the basis upon which I have considered the appeal.
4. Before the exchange of evidence, the Council confirmed that it no longer had concerns about transport and highways; flooding and drainage; or the effect on the character and appearance of the area. As such, it did not provide evidence on these topics and opted not to defend its second, third and fourth reasons for refusal.
5. At the case management conference preceding the Inquiry, the main issue in this case was identified. However, in addition to addressing this matter, the appellant provided written evidence dealing with affordable housing; custom/self-build; design; drainage; and transport. Witnesses were made available at the Inquiry by the appellant but none of this evidence was challenged by the Council and it did not seek to cross examine on these topics,

nor did any interested parties opt to ask questions. As such, it was not necessary to call these witnesses for oral evidence and the unchallenged written evidence has been taken into account.

6. The Government published its 2021 Housing Delivery Test (HDT) results on 14 January 2022, to be applied from the following day. As these results had not been known before the Inquiry closed, the parties were given the opportunity to comment in writing and their responses have been taken into account.
7. A signed and executed version of the S106 agreement securing planning obligations was received after the Inquiry, in accordance with an agreed timetable. I deal with this later in my decision.

### **Main Issue**

8. The main issue is whether the site is a suitable location for the proposed residential development, having regard to planning policy.

### **Reasons**

9. The development plan, so far as it is relevant to the appeal proposal, comprises the East Cambridgeshire Local Plan (April 2015) (ECLP) and the Cambridgeshire and Peterborough Minerals and Waste Local Plan (July 2021) (M&WLP). Policy GROWTH 1 of the ECLP expects the delivery of some 11,500 dwellings in East Cambridgeshire during the plan period, with the balance of the need (some 1,500) being met by neighbouring authorities under the duty to cooperate.
10. ECLP Policy GROWTH 2 provides the locational strategy for delivering the expected growth in the district. The majority of development is to be focused on the market towns of Ely, Soham and Littleport. Development is supported within defined development envelopes and strictly controlled outside of these envelopes, having regard to the need to protect the countryside and setting of towns and villages.
11. Policy GROWTH 4 of the ECLP explains that sites will be allocated for the delivery of approximately 6,500 dwellings on the edge of towns and villages and includes a list of allocations for Soham. The supporting text refers to broad locations on the edge of key settlements as potential sources of housing supply. These are identified in a key diagram and there is no disagreement between the parties that the appeal site falls within one such area.
12. Although broad locations are said to be indicative, supply is anticipated from these areas in the later part of the plan period. Indeed, some 1,800 dwellings contributing to the supply identified in the ECLP is expected at the broad locations. Therefore, the supporting text is an important consideration in this case that assists with interpretation of the policy. It is intended that the specific site boundaries will be identified through the next Local Plan review but this is yet to occur and the Council abandoned its last attempt to prepare a new Local Plan during the latter part of the examination process.
13. It is agreed between the parties that policy GROWTH 1 is out of date since the plan is now more than five years old and the identified housing requirement can no longer be relied upon. The Council is now pursuing a Single Issue

Review of the ECLP but this is at a relatively early stage of preparation and the Council accepts that it should attract very little weight at this time.

14. There was much debate during the Inquiry as to whether policies GROWTH 2 and GROWTH 4 should also be considered out of date for the purposes of this appeal. Based on the evidence put to me there is little doubt in my mind that they should. Policy GROWTH 2 is a locational strategy predicated on delivering the housing requirement contained in out-of-date policy GROWTH 1. This requirement cannot be relied upon and the amount of housing now needed in the district within this plan period to 2031 is uncertain, as is the question of whether the need can be accommodated within existing settlement envelopes and/or whether sufficient housing allocations exist. The Council's planning witness accepted during cross examination that it would be wrong to assume what the locational strategy should be without knowing the new housing requirement and I agree.
15. What is known, is that the balance of the need identified at the plan making stage will no longer be accommodated by adjoining authorities. In addition to that balance of 1,500 homes that the plan does not seek to deliver, there has been a significant shortfall against the ECLP housing requirement to date, meaning that the plan cannot be said to have been effective in delivering the anticipated housing need to date.
16. Whilst there is no dispute that for the purposes of calculating housing land supply, the standard method should now be used and that this seeks to address past shortfalls, that does not make the hefty shortfalls against the ECLP requirement immaterial. It is, in my view, an important indication that the ECLP has not been effective in meeting housing needs since the beginning of the plan period and casts further doubt as to whether the Council's locational strategy can be relied upon to significantly boost housing delivery in line with the National Planning Policy Framework (the Framework). The latest HDT results, whilst showing an improved position in the district, still indicate that sufficient housing has not been delivered over the past three years, as has been the case in this district against previous HDT results published by the Government.
17. Continued strict application of policy GROWTH 2 would be likely to worsen this situation. Whilst the general objectives of the policy to manage patterns of growth and protect the setting of towns and villages are good ones that are consistent with the Framework, the policy can no longer be considered up to date because it can no longer be said that sufficient housing can and will be accommodated within the defined settlement envelopes. This is particularly so when the plan itself anticipated that development outside of the envelopes would at some point be needed within the plan period, at the broad locations identified. This must reduce the amount of weight that is placed on conflict with the policy.
18. Similarly, policy GROWTH 4 only makes allocations with the objective of delivering against the out-of-date housing requirement. The past shortfalls in delivery against the plan requirement are indicative that the allocations are not meeting housing needs and may be insufficient. Even if the Council can currently demonstrate a deliverable housing land supply in the region it suggests against its Local Housing Need, that does not make the long-term strategy of the ECLP any more reliable when it comes to housing delivery.

19. The parties agree that there are a large number of policies relevant to this appeal but there is great disparity about which policies are most important for determining the application, or the appeal in this case. There is, in my view, an important distinction between a policy being relevant and a policy being 'most important' in the context of the Framework.
20. In this case, there are a number of general policies in the development plan that are applicable to proposals involving housing and that should be taken into account. However, the real question in this case is whether the proposed housing development is acceptable in principle. That is a question that can only be answered by reference to the policies discussed above, albeit within the context of considering the development plan as a whole, with its many other relevant policies. For this particular proposal, policies GROWTH 1, GROWTH 2 and GROWTH 4 are the most important for determining the case in that they together set out the amount and locational strategy for the delivery of housing, including restricting development outside settlement envelopes. They are all out of date for the reasons I have set out and so the Framework's presumption in favour of sustainable development applies.
21. I recognise that previous Inspectors have concluded differently, finding that policies GROWTH 2 and GROWTH 4 are not out of date. I have no doubt that this was the case at the time they considered them and in the context of the cases they were dealing with, which were not at a market town. However, the decisions highlighted by the parties were now some time ago and I must consider circumstances as I find them now<sup>1</sup>. I do not know what evidence was presented to the Inspectors in those cases but it can be expected that the pertinent issues were tested to a greater degree through this Inquiry than would have been the case as part of the hearings procedure followed there. In this case, I have been presented with evidence from the appellant seeking to persuade me to take a different view, including detail of the very small number of houses granted planning permission as exceptions to Policy GROWTH 2 in recent years. Based on the evidence that I have seen and having considered this appeal proposal on its own merits, a different conclusion is now warranted.
22. The only policy with which the Council suggests a conflict is GROWTH 2 and the appellant accepts that to be the case. There can be no other conclusion, given that the appeal site is located outside of the development envelope and the proposed housing scheme does not fall within the defined list of exceptions. I will come on to consider this policy conflict in the round, later in this decision.

## **Other Matters**

### *Housing land supply*

23. Much time was taken up at the Inquiry discussing the potential contribution of individual sites to the Council's housing land supply but given the small deficit identified by the appellant against the requisite five-year requirement it is not necessary for me to consider more than a couple of matters in my decision.
24. I do not accept the appellants argument that a windfall allowance should only be made at years four and five of the Council's supply. The evidence available to the Inquiry clearly demonstrates a healthy past provision of windfall sites in the district, far exceeding the 50dpa that the Council seeks to include at years

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<sup>1</sup> APP/V0510/W/20/3245551, APP/V0510/W/18/3213834 and APP/V0510/W/19/3227487

three, four and five<sup>2</sup>. No provision is made for years one and two so as to avoid double counting, given that any schemes likely to deliver in those years would likely already have planning permission and be included in the supply on that basis. The evidence suggests that further sites could well be identified and begin to deliver by year 3 and does not indicate any likelihood of the number of windfall sites diminishing. As such, it seems to me that the windfall allowance suggested by the Council is a realistic, reasonable and robust one.

25. One of the sites in dispute between the parties is at Stanford Park, Burwell (Ref. 50028) and involves a scheme for up to 91 mobile homes. The Council expects that 64 of these will be delivered in the five-year period. The development has detailed planning permission and so, in accordance with the Framework, should be considered deliverable unless there is clear evidence that homes will not be delivered within five years. In this case, there has been clear progress on site in implementing the planning permission with works to construct an internal road. There is also up to date evidence from the developer which the Council has had regard to in concluding on the likely supply from this site. Although the developer has identified some supply issues resulting from the pandemic and acknowledges that mobile homes are generally slower to sell than traditional housing, this is allowed for in the Council's modest trajectory. Having commenced development, there is more than a realistic prospect that 64 units can be delivered in the five-year period and there is no clear evidence before me to indicate otherwise.
26. My conclusion in relation to these two matters means that 114 units should be added to the supply suggested by the appellant. Consequently, the Council can demonstrate a deliverable five-year housing land supply, whichever of the calculations put to me are applied, noting that there was some disagreement on the correct inputs. For the purposes of this appeal, it is not necessary for me to determine the exact housing land supply figure beyond the requisite five years.

#### *Other considerations*

27. Many local people raised concerns about the potential impact of the development on local highways. This is a topic addressed extensively in written evidence, including in a comprehensive Transport Assessment. It has been demonstrated that the scheme can be accommodated without material harm to highway safety or capacity, with a range of highway improvements and mitigation proposed as part of the development. As part of the works, a section of Broad Piece would be widened within the highway boundary. This would result in the loss of a small strip of land currently used by some residents for parking but would not materially impact on highway safety. Residents would continue to have sufficient space to pull clear of the carriageway and greater opportunities for on-street parking are also likely to be available after road widening. No conflict with policies COM 7 or COM 8 of the ECLP would result in so far as they seek to avoid highway safety and capacity issues.
28. I have had careful regard to concerns about flooding and drainage. The submitted Flood Risk Assessment demonstrates that the scheme can be accommodated without increasing flood risk to surrounding properties. I acknowledge the reservations of some interested parties and the past issues

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<sup>2</sup> Five Year Land Supply Report

that have been experienced, but that does not mean that a suitable scheme cannot be achieved. Indeed, appropriate drainage provision that controls surface water run-off may assist in improving the current situation. The scheme is currently in outline with much of the detail yet to be designed. What is clear, having regard to the evidence submitted and the comments from the Lead Local Flood Authority, is that a suitable drainage scheme can be achieved and the subsequent detail can be secured by planning condition. The scheme would accord with policy ENV 8 of the ECLP.

29. A Landscape and Visual Impact Assessment considers the likely landscape and visual effects of the scheme and concludes that no significant harm would result. Although there would be an inherent loss of agricultural land and countryside, the site is very well contained by existing built form and I concur that the effects on the character and appearance of the area would be very small indeed. There would be no conflict with ECLP policy ENV 1.
30. The site would be close to a sewage treatment works, though the indicative masterplan indicates that houses could be sited away from this area, with intervening open space. An Odour Assessment determines that suitable living conditions would be achieved for future residents. There would be no conflict with Policy 16 of the M&WLP or ENV 9 of the ECLP.
31. Generally, as a ploughed field, there would be limited impact on biodiversity resulting from the scheme and it has been demonstrated that an overall biodiversity net gain would result from the measures to be incorporated into the scheme. The submitted wildlife surveys identify the presence of a bat in the garage building to be demolished for access to the site but improvements to hedgerows and new greens spaces would be likely to provide some mitigation for this loss of habitat. A protected species licence will need to be obtained from Natural England before any disturbance takes place.
32. Some noise and disturbance would be likely to result from the development, affecting neighbouring occupants. However, this would be a relatively short-term impact during construction. Once complete, the residential development would be compatible with the surrounding, predominantly residential land uses. Given the outline nature of the scheme the ultimate layout of the proposed houses is not yet known but it is clear from the indicative details provided that a suitable scheme could be achieved that would not unacceptably impact on neighbours living conditions.
33. Concerns that local facilities and infrastructure cannot accommodate the future residents of the proposed scheme are noted but I am mindful of the detailed evidence provided by the Council and other service providers in this regard. Subject to appropriate developer contributions, there is no evidence before me that any services or facilities would exceed their capacity. On the other hand, the additional population of the development would be likely to support local businesses and facilities through increased expenditure.
34. As set out above, the appellant submitted evidence on a range of topics and demonstrated that the proposal would contribute towards the local need for affordable housing and custom/self-build housing. It was also clear that the scheme was capable of delivering a high-quality design that would contribute positively to the character and appearance of the area. Other benefits were identified, including economic benefits during construction. Together, these matters weigh significantly in favour of the proposal, as does the delivery of



additional market housing in the context of the Framework's objective to significantly boost supply. The scheme, subject to reserved matters approval, could provide a suitable housing mix and density, as well as delivering affordable housing in accordance with policies HOU 1, HOU 2, HOU 3.

### **Conditions**

35. The parties agreed a list of conditions considered necessary in the event that planning permission is granted. These have been attached without significant alteration but have been amended to improve their precision and otherwise ensure compliance with the appropriate tests. The conditions and the reason for imposing them are contained in the attached Schedule.
36. Condition 27 requires that works the subject of another planning permission are completed prior to any dwelling approved as part of the appeal scheme being occupied. The scheme involves the surfacing of a short section of footpath to the north of the site. Having discussed the suitability of such a condition during the condition's session, it was clarified that the works are to be carried out by the appellant and are deliverable in line with the trigger incorporated into the condition. Therefore, I am satisfied that the condition is reasonable and would ensure that suitable pedestrian access is provided to the north of the site, where a school is currently located.

### **Planning Obligations**

37. A S106 agreement would secure a range of planning obligations to make the development acceptable in planning terms and mitigate the impact of the development on local infrastructure. The obligations include financial contributions towards local education provision, libraries, wheeled bins, necessary highway improvements and a contribution towards mitigating the impacts of the development on Soham Common. It would also secure a policy compliant provision of self and custom build housing, and the provision of a sustainable urban drainage system with future maintenance arrangements.
38. The Council provided a CIL Compliance Statement demonstrating how these obligations meet the tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010. The appellant accepts that these obligations are necessary and otherwise in accordance with the tests. I agree with this conclusion and have taken the obligations into account.
39. I also agree that 30% affordable housing is a necessary and CIL compliant obligation having regard to ECLP policy HOU 3 and have taken this into account. The appellant refers to an enhanced affordable housing offer equating to 36% provision. Whilst additional provision is undoubtedly a good thing, particularly given the need in the district, the additional provision is not necessary to make the development acceptable in planning terms and cannot constitute a reason for granting planning permission. As such, I have not attached additional weight in favour of the proposal for provision beyond the policy requirement.

### **Planning Balance and Conclusion**

40. I have found a conflict with a single policy of the development plan, in that the appeal site falls outside of the development envelope for Soham defined by policy GROWTH 2. That is a policy which I have determined to be out of date and for the reasons set out, reduces the weight that I attach to the conflict.

41. It is very apparent that the scheme otherwise accords with the development plan. GROWTH 2 seeks to direct housing development to Soham, one of three market towns that are a focus for development. Furthermore, the appeal site falls within a broad location specifically identified and expected to deliver a significant quantum of development during the later part of the plan period. The Council does not dispute that Soham is a sustainable location for development and made no argument that the development would cause unacceptable harm to the setting of the town, a stated purpose of policy GROWTH 2.
42. Even if the Council can currently demonstrate a housing land supply in the region it suggests (more than 6.5 years), there has been significant under delivery against the development plan requirement to date and there can be no certainty that the strategy contained in the ECLP will deliver sufficient housing in the long-term of the plan period. In fact, the evidence before me suggests that it will not. There has been a persistent failure to meet housing requirements in the area based upon published HDT results and it seems likely that the strict application of out-of-date policies is a relevant factor.
43. Despite a conflict with one important but out of date policy, I have found overwhelming compliance with other relevant policies of the development plan. Overall, I find that the appeal proposal would be in accordance with the development plan taken as a whole and material considerations indicate firmly in favour of the proposal. There would be very few adverse impacts arising from the development but so far as harm would result, for example from the loss of agricultural land or changes to the character of this previously undeveloped countryside, it is far outweighed by the significant benefits of the scheme.
44. The Council itself accepts that planning permission should be granted if the tilted balance applies, as I have determined to be the case.
45. In light of the above, the appeal is allowed.

*Michael Boniface*

INSPECTOR



## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Jack Smyth of Counsel

He called:

Richard Kay BA (Hons) Strategic Planning Manager  
DipTP MA

Barbara Greengrass BSc Planning Team Leader  
(Hons) MSc MRTPI

### FOR THE APPELLANT:

Charlie Banner QC

He called:

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BA (Hons) MSC MRTPI

Paul Hill BA (Hons) Senior Director, RPS Planning and Development  
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James Stacey BA (Hons) Senior Director, Tetlow King Planning  
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Andy Moger BA (Hons) Tetlow King Planning  
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Jonathan Reynolds BA Technical Director, SLR Consulting Ltd  
(Hons) DipTP MA MRTPI

Simon Parfitt MSc BA Director, David Tucker Associates  
MCILT

Rob Hill BSc MCIHT Director, Infrastructure Design Ltd  
GMICE

### INTERESTED PERSONS:

Councillor Warner  
Mike Rose  
Judith Carballo

Soham Town Council  
Local resident  
Cambridgeshire County Council

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- 1 Appellant's opening submissions
- 2 Council's opening submissions
- 3 Speaking notes of Cllr Warner and Mr Rose, with attachments
- 4 Transport response to Mr Rose from the appellant
- 5 Drainage response to interested parties from the appellant
- 6 Draft conditions
- 7 CIL Compliance Statement
- 8 Court judgement – Dignity Funerals v Breckland District Council...
- 9 Updated 5YHLS Position Statement
- 10 Written costs application from Council
- 11 Revised affordable housing figures from appellant
- 12 Updated CIL Compliance Statement
- 13 Final draft of S106 agreement
- 14 Revised conditions, clean version and tracked changes version
- 15 Note on condition 26 from the appellant
- 16 Appellant's costs response and application against the Council
- 17 Site visit meeting place
- 18 Closing submission of the Council
- 19 Closing submissions of the appellant

## **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- 1 Council's submission on 2021 HDT results
- 2 Appellant's submission on 2021 HDT results
- 3 Completed S106 agreement

## **SCHEDULE OF CONDITIONS**

- 1) Save for the details of vehicular access into the site from Broad Piece, details of the access, 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 and the development shall be carried out as approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.

Reason: In accordance with the timescale agreed between the parties to ensure prompt delivery, and to comply with Section 92 of the Town and Country Planning Act 1990, as amended.

- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990, as amended.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: SSS/LP/001 Rev B, 18409-02 Rev E, 18409-08 Rev O, 18409-08-1 Rev O, 18409-08-2 Rev O, 18409-08-3 Rev O and 18409-12-2 Rev B.

Reason: In the interests of certainty and to define the terms of the permission.

- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for but not be limited to:

- (i) The parking of vehicles of site operatives and visitors;
- (ii) Loading and unloading of plant and materials;
- (iii) Storage of plant and materials and site facilities;
- (iv) A dust management plan;
- (v) Measures to control the emission of noise;
- (vi) Wheel washing facilities;
- (vii) Surface, storm and waste water management and disposal including any pollution to surface and ground water bodies; and
- (viii) Lighting during construction phase.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To safeguard the living conditions of neighbouring occupiers in accordance with policy ENV 2 of the East Cambridgeshire Local Plan.

- 6) No above ground construction shall take place until a Foul Water Strategy has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the works have been carried out to serve that dwelling, in accordance with the Foul Water Strategy so approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the environment and prevent flooding in accordance with policies ENV 2 and ENV 8 of the East Cambridgeshire Local Plan.

- 7) No above ground works shall commence until a Surface Water Drainage Scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before development is completed. The scheme shall be based upon the principles within the submitted Flood Risk Assessment prepared by Amazi Consulting Ltd (ref: AMA743 Rev A) dated 23 April 2019 and the Drainage Feasibility Layout prepared by Infrastructure Design Limited (ref: 971-00-01 Rev B) dated December 2019 and shall include:

- (i) Full calculations detailing the existing surface water runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events;
- (ii) Full results of the proposed drainage system modelling in the above-referenced storm events (as well as 1% AEP plus climate change), inclusive of all collection, conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with an assessment of system performance;
- (iii) Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers;
- (iv) Full details of the proposed attenuation and flow control measures;
- (v) Details of overland flood flow routes in the event of system exceedance, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants;
- (vi) Full details of the maintenance/adoption of the surface water drainage system;
- (vii) Measures taken to prevent pollution of the receiving groundwater and/or surface water;
- (viii) Full details of measures taken to reduce the existing surface water flood risk to adjacent areas from the site.

The drainage scheme must adhere to the hierarchy of drainage options as outlined in the National Planning Policy Framework and Planning Practice Guidance.

Reason: To prevent the risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with the policies ENV 2 and ENV 8 of the East Cambridgeshire Local Plan.

- 8) Details of long-term maintenance arrangements for the surface water drainage system (including all SuDS features) shall be submitted to and approved in writing by the Local Planning Authority prior to the first

occupation of any of the dwellings hereby approved. The submitted details should identify run-off sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. Thereafter, maintenance shall be undertaken in accordance with the approved maintenance plan.

Reason: To ensure the satisfactory maintenance of drainage systems that are not publicly adopted and to prevent the increased risk of flooding, protect water quality and improve habitat in accordance with policies ENV 2 and ENV 8 of the East Cambridgeshire Local Plan.

- 9) As part of the first reserved matters application, an Energy and Sustainability Strategy for the development, including details of any on site renewable energy technology and energy efficiency measures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved strategy.

Reason: To ensure a sustainable development in accordance with policy ENV 4 of the East Cambridgeshire Local Plan.

- 10) No development shall take place until a Phase 2 Intrusive Site Investigation and Risk Assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken. The investigation and risk assessment must be undertaken by competent persons, and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- (i) A survey of the extent, scale and nature of contamination;
- (ii) 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;
- (iii) 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'. Any remediation works proposed shall be carried out in accordance with the approved details and timeframe as agreed in writing by the Local Planning Authority.

Reason: To minimise the risks from land contamination to the users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy ENV 9 of the East Cambridgeshire Local Plan.

- 11) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place within the area concerned until an investigation and risk assessment has been undertaken and submitted to and

approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken and following completion of measures identified in the approved remediation scheme a verification report must be prepared and approved in writing by the Local Planning Authority.

Reason: To minimise the risks from land contamination to the users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy ENV 9 of the East Cambridgeshire Local Plan.

- 12) No development shall take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. No development shall take place on land within the WSI area other than in accordance with the approved WSI which shall include:
- (i) The statement of significance and research objectives;
  - (ii) The programme and methodology of site investigation and recording;
  - (iii) The nomination of a competent person(s) or organisation to undertake the agreed works.
  - (iv) The programme for post-excavation assessment and subsequent analysis, reporting, publication and dissemination, and deposition of the resulting archive.

Reason: To ensure that any archaeological remains are suitably recorded in accordance with policy ENV 14 of the East Cambridgeshire Local Plan.

- 13) Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 07:30 – 18:00 each day Monday – Friday; 07:30 – 13:00 on Saturdays; and none on Sundays, Public Holidays or Bank Holidays.

Reason: To protect neighbours living conditions in accordance with policy ENV 2 of the East Cambridgeshire Local Plan.

- 14) As part of the first reserved matters application, a Landscape and Ecology Management Plan, setting out details of mitigation, habitat creation and long term management to achieve the target conditions for created habitats, in line with the Biodiversity Impact Assessment calculator (as set out in Appendix 2 to the Natural Environment Statement Rev B – Jan 2021), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed Management Plan and maintained in perpetuity thereafter.

Reason: To protect and enhance species in accordance with policies ENV 1, ENV 2 and ENV 7 of the East Cambridgeshire Local Plan and the Natural Environment SPD.

- 15) The recommendations made within Section 5 of the Ecological Impact Assessment (May 2019), shall be adhered to at all times throughout the construction and operational phase of the development.
- Reason: To protect and enhance species in accordance with policies ENV 1, ENV 2 and ENV 7 of the East Cambridgeshire Local Plan and the Natural Environment SPD.
- 16) Prior to occupation of the first dwelling, the provision and implementation of a Travel Plan shall be agreed in writing with the Local Planning Authority. The Plan shall include the provision of cycle discount vouchers and/or bus taster tickets and shall be provided to new occupiers of the development. The Plan is to be monitored annually, with all measures reviewed to ensure targets are met.
- Reason: To encourage sustainable modes of transport in accordance with Policy COM 7 of the East Cambridgeshire Local Plan.
- 17) Prior to the occupation of any dwelling the road(s), footway(s) and cycleway(s) required to access that dwelling shall be constructed to at least binder course surfacing level from the dwelling to the adjoining County road in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.
- Reason: In the interests of highway safety and in accordance with policies COM 7 and COM 8 of the East Cambridgeshire Local Plan.
- 18) Prior to occupation of the first dwelling, the new access junction shall have been constructed in accordance with approved plan 18409-02-Rev E. The junction shall thereafter be retained in that form.
- Reason: In the interests of highway safety and in accordance with policies COM 7 and COM 8 of the East Cambridgeshire Local Plan.
- 19) Prior to occupation of the first dwelling, the visibility splays shall be provided each side of the vehicular access in full accordance with the details indicated on the submitted plan 18409-02- Rev E. The splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.
- Reason: In the interests of highway safety and in accordance with policies COM 7 and COM 8 of the East Cambridgeshire Local Plan.
- 20) Prior to occupation of the first dwelling, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details.
- Reason: To ensure that estate roads are managed and maintained to a suitable and safe standard in accordance with policy COM 7 of the East Cambridgeshire Local Plan.
- 21) In the event that any piling is required, a report/method statement detailing the type of piling and mitigation measures to be taken to protect local residents from noise and/or vibration shall have first been submitted to and approved in writing by the Local Planning Authority. Noise and



vibration control on the development shall be carried out in accordance with the approved details.

Reason: To safeguard neighbours living conditions in accordance with policy ENV 2 of the East Cambridgeshire Local Plan.

- 22) As part of any reserved matters application, details of the number, type and location of electric vehicle charging points (EVCP) to be installed, shall be submitted to and approved in writing by the Local Planning Authority. The EVCP shall be installed as approved prior to occupation of the dwelling to which it relates and retained thereafter.

Reason: To encourage and facilitate sustainable modes of transport in accordance with Policy COM 7 of the East Cambridgeshire Local Plan.

- 23) No development shall take place until a detailed Arboricultural Method Statement (AMS) compliant with BS 5837:2012 'Trees in relation to design, demolition and construction' has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include justification and mitigation for any tree removal proposed and details of how trees will be protected at all stages of the development.

Recommendations for tree surgery works and details of any tree surgery works necessary to implement the permission are required, as is the method and location of tree protection measures, the phasing of protection methods where demolition or construction activities are essential within root protection areas and design solutions for all problems encountered that could adversely impact trees (e.g. hand digging or thrust-boring trenches, porous hard surfaces, use of geotextiles, location of site compounds, office, parking, site access, storage etc.). All works shall be carried out in accordance with the agreed AMS.

Reason: To ensure that the trees on site are adequately protected so as to maintain the character and appearance of the area in accordance with policies ENV 1 and ENV 2 of the East Cambridgeshire Local Plan.

- 24) As part of the first reserved matters application, a Noise Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- (i) Identify noise levels from adjoining features such as the adjoining potato store, rail and public highways;
- (ii) Demonstrate how the proposed layout and dwellings have been designed so as to ensure that non-noise sensitive frontages or rooms face noise creating areas or sources so as to achieve acceptable internal noise levels with windows open;
- (iii) Demonstrate that private amenity space meets acceptable noise levels.

The Noise Mitigation Scheme shall be implemented as approved.

Reason: To ensure acceptable living conditions in accordance with policy ENV 2 of the East Cambridgeshire Local Plan.

- 25) Prior to the approval of reserved matters, details of a Design Code shall have been submitted to and approved in writing by the Local Planning Authority. The Design Code shall demonstrate how the objectives of the Design and Access Statement and illustrative masterplan will be met. Any



reserved matters application shall demonstrate compliance with the approved Design Code. The Design Code shall include the following:

- (i) principles for built-form strategies to include density and massing, street grain and permeability, street enclosure and active frontages, type and form of buildings including relationship to plots and vistas;
- (ii) a strategy for a hierarchy of streets and spaces;
- (iii) design principles for the public realm, areas of public open space including planted areas, and area for play, including principles for biodiversity enhancements and conservation of flora and fauna interests;
- (iv) design principles for hard and soft landscaping including the inclusion of trees and hedgerows;
- (v) design principles for sustainable drainage systems (SuDS);
- (vi) principles for determining quality, colour and texture of external materials and facing finishes for roofing and walls of buildings and structures including sustainable design and construction of the buildings;
- (vii) principles for accessibility to buildings and public spaces for those with impaired mobility;
- (viii) design principles for structures including street lighting, boundary treatments including walling, street furniture, signage, public art, and play equipment;
- (ix) principles for the alignment, width, and surface materials (quality, colour and texture) proposed for all footways, cycleways, highways and other vehicular accesses within the site and including site access proposals;
- (x) principles for on-street and off-street residential vehicular parking, including principles to discourage casual parking and to encourage parking in designated spaces;
- (xi) principles for cycle parking and storage; and
- (xii) the principles for integrating strategic utility requirements, landscaping and highway design.

Reason: To ensure high quality design in accordance with Policy ENV 2 of the East Cambridgeshire Local Plan and the Design Guide SPD.

- 26) The development hereby approved shall include 20% of the dwellings built to Lifetime Homes standard (or equivalent).

Reason: To ensure dwellings are suitable or easily adaptable for occupation by the elderly or people with disabilities in accordance with Policy HOU 1 of the East Cambridgeshire Local Plan.

- 27) Prior to the first occupation of any dwelling in the development hereby approved, the footway improvement works as detailed in planning permission reference 19/01729/FUL (or any equivalent subsequent planning permission for the same works) shall have been completed in accordance with the approved details.

Reason: To ensure safe and convenient pedestrian access to nearby facilities in accordance with Policy COM 7 of the East Cambridgeshire Local Plan.

- 28) Prior to the first occupation of any dwelling hereby approved, the offsite highway works to be carried out within the public highway and as detailed in drawing nos. 18409-08 Rev O, 18409-08-1 Rev O, 18409-08-2 Rev O, 18409-08-3 Rev O and 18409-12-2B shall have been completed in accordance with the approved details.

Reason: In the interests of highway safety and in accordance with Policy COM 7 of the East Cambridgeshire Local Plan.