



## **PLANNING COMMITTEE**

**18 SEPTEMBER 2014**

### **SUPPLEMENTARY PAPERS**

**TO: ALL MEMBERS OF THE PLANNING COMMITTEE**

The following papers were circulated at the above meeting.

Alison Sanders  
Director of Corporate Services

**Supplementary Report circulated at the meeting.**

**Page No**

### **PLANNING APPLICATIONS**

(Head of Development Management)

**The conditions for public speaking have been met in the applications marked 'PS'.  
For further information or to register for public speaking, please contact Customer  
Services 01344 352000.**

11. **GOVERNMENT CONSULTATION ON FURTHER RELAXATION TO  
PLANNING CONTROLS**

25 - 44

A presentation from the Head of Development Management to outline the main changes proposed to planning regulations set out in the Government Consultation. The Consultation has previously been circulated to Members.

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**BRACKNELL FOREST BOROUGH COUNCIL**  
**PLANNING COMMITTEE**  
**18th September 2014**  
**SUPPLEMENTARY REPORT**

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**Correspondence received and matters arising following preparation of the agenda.**

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**Item No: 5**  
**13/00784/REM**

**Land South Of Foxley Lane and East Of Murrell Hill Lane Foxley Lane Binfield  
Bracknell Berkshire**

ISSUE DATE: 16.09.2014

**Correction to Officer Report**

Section 18 of the main report on pages 58 - 60 discusses planning obligations. For clarity, members should note that whilst the reserved matters submissions would be acceptable in relation to planning obligations attached to the outline planning permission, the submissions do not necessarily include everything that would be required to satisfy the planning obligations, therefore further submissions will be necessary. For example, in relation to the open space, no programme which relates to occupations for laying out and maintaining the open space has been submitted.

**Additional Information**

The Inspector's decision notice for the outline planning permission is attached as an appendix to this supplementary report, which includes the conditions attached to the outline planning permission, for information.

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**Item No: 6**  
**14/00384/3**

**Owlsmoor Primary School 22 - 42 Cambridge Road Owlsmoor Sandhurst Berkshire  
GU47 0TA**

ISSUE DATE 16.09.2014

**Correspondence received**

The following representation has been received from the 1st Owlsmoor Scouts:-

The group has pedestrian and vehicular access to the scout hut located to the rear of the school via the road access to front of the school through the double gates into the front playground and then down the access to the north of 'Block A' into the central playground from here up the ramp to the south of 'Demountable 2' and this gives access to the rear playground and then access to the Scout hut via the double gates bordering the scout grounds. The proposed development will remove this access, the access to the Scout hut and grounds is detailed in the lease (amended to the route detailed above) held by the scout group. We would like the proposed works to detail a revised vehicular access (Pedestrian access to continue via the main entrance to the front of the school) to the scout hut and this to be detailed in an addendum to the existing lease to ensure that there is vehicular access as granted in the original lease. Therefore We would like to propose two options:-

Option 1. Vehicular access via the access off Birkbeck, it is noted that under the original proposal (drawing No 5125545-COL-LA001) showed a dropped curb but this was not shown on drawing No 5125545-COL-LA001 revision C, if this is reinstated this access will give the

scout group access to the rear playground / scout hut grounds. Option 2. The scout grounds are off to Oxford Road, at present the boundary to Oxford Road is secured by a 'Palisade' fence. If the council were to approve and carry out the works to install vehicular access to the scout grounds this would maintain the vehicular access as per the lease. Please can the above be added to amended plans or made a condition of approval if the proposal is granted.

### **Amendment to Recommendation**

Wording of conditions 14 and 18 to be amended to read as follows:-

14. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the demolition and construction period. The statement shall provide for:-

- access to the site for construction traffic,
- the parking of vehicles of site operatives and visitors,
- maintaining safe pedestrian access to and around the school site at all times,
- maintaining safe pedestrian and vehicular access to the scout hut
- construction and demolition working hours
- loading and unloading of plant and materials including the timings of deliveries (not to conflict with school drop off and pick up times),
- storage of plant and materials used in constructing the development,
- the erection and maintenance of security hoarding,
- measures to control the emission of dust and dirt, noise and smell,
- wheel-cleaning facilities
- a scheme for recycling/disposing of waste resulting from demolition and construction works, and
- welfare of site operatives.

REASON: In the interests of amenity and road safety.

[Relevant Policies: BFBLP EN20 and EN25 and Core Strategy DPD CS23]

18. The extensions hereby permitted shall not be occupied until the off-site highway works shown on the following drawings:-

- drawings FS/0001, 0002 and 0003 - proposed external works (received 4 September 2014) have been completed.

REASON: In the interests of highway safety.

[Policies: BFBLP M4 and CSDPD CS23]

**ISSUE DATE 18.09.2014**

### **Correspondence received**

**A letter of objection has been received from a resident of Birkbeck Place:-**

**I am deeply concerned at the comment raised in the objection by 1st Owlsmoor Scouts and their suggestion that the Pedestrian only access to the school in Birkbeck Place should be used to provide vehicular access. Not only is the Pedestrian access on a bend, Birkbeck Place is a quiet, residential road which already suffers during school run times from the inconsiderate and sometimes dangerous parking by some parents. Furthermore, considering the position of Birkbeck Place within the Claremont Wood estate, this means that people will be driving through an estate to access the entrance which when you have a main entrance to the school in Cambridge Road, again makes no sense. Furthermore, I feel that 1st Owlsmoor Scouts, should have consulted with residents in Birkbeck Place prior to suggesting that our lives be disrupted by the suggestion of vehicular access. I would most strongly object to any changes being made to the current Pedestrian access in Birkbeck Place.**

**[Officer comment: given the likely frequency of use of the minibus it is not considered that the use of this access would give rise to unacceptable impacts on the living conditions of local residents. No objection is raised by the Highway Authority].**

## Amendment to Recommendation

It is considered that the detailed design of the proposed off-site works to the car park to rear of surgery and community centre require further consideration. Changes to the wording of conditions 02 and 18, and the imposition of a new condition (20), are recommended to address this:-

**02.** The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details:-

- 5125545/ATK/Z1/GF/DR/A/4010/P1 (received 18.09.2014) - site location plan
- 5125545/ATK/Z1/GF/DR/A/4140/P1 and 4150/P1 - proposed ground floor plan
- 5125545/ATK/Z1/GF/DR/A/4151/P1 - proposed roof plan
- 5125545/ATK/Z1/GF/DR/A/4160/P1 - proposed sections
- 5125545/ATK/Z1/GF/DR/A/4200/P1 and 4250/P1 - proposed elevations
- 5125545-COL-LA001/E - amended general arrangement externals
- FS/0001 (received 17.09.2014 - excluding works to car park to rear of surgery and community centre) - proposed external works
- FS/0002 (received 18.09.2014) - proposed external works
- FS/0003 (received 04.09.2014) - proposed external works.

**REASON:** To ensure that the development is carried out only as approved by the Local Planning Authority.

**18.** The extensions hereby permitted shall not be occupied until the off-site highway works shown on the following drawings:-

- FS/0001 (received 17.09.2014 - excluding works to car park to rear of surgery and community centre)
- FS/0002 (received 18.09.2014) - proposed external works.
- FS/0003 (received 04.09.2014) - proposed external works.

have been completed.

**REASON:** In the interests of highway safety and the accessibility of the development to pedestrians and cyclists.

[Policies: BFBLP M6 and CSDPD CS23]

**20.** No development shall take place until a scheme for works to the car park to rear of the surgery and community centre has been submitted to and approved in writing by the Local Planning Authority. The extensions hereby permitted shall not be occupied until the approved scheme has been implemented.

**REASON:** In the interests of highway safety and the accessibility of the development to pedestrians.

[Policies: BFBLP M6 and CSDPD CS23]

### Additional informative

**02.** The hard landscaping details required by condition 08 shall include proposals to widen the existing footpath to provide a vehicular route to the scout hut from Birkbeck Place.

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Item No: 7

14/00528/T

Land At Whitmoor Bog Swinley Road Ascot Berkshire

ISSUE DATE 16.09.2014

### Additional Information

Amendment to 5. REPRESENTATIONS RECEIVED

It should be noted that this application has attracted 3 objections and 1 observation and not 4 objections as originally reported.

The 3 objectors concerns are summarised as follows:

- Concerned that as the event becomes more popular over time the traffic will increase.
- The traffic survey information does not justify the removal of the restriction.
- Removal of the restriction will cause an increase in evening rush hour congestion, disrupting local traffic, increasing driver frustration and hence the risk of accidents.

The above matters are addressed in this report.

The one observation received raises the following:

- The application as submitted has a suffix 'FUL' this should be re-designated as 'T' for temporary permission.

This matter is addressed in a response to the Parish Council below.

### **Amendment to recommendation**

Amendment to condition 02

This condition has been revised to omit reference to section (ii) which is no longer required as this application removes this restriction. Condition to be reworded as follows:-

02. The development hereby approved shall take place only between the dates approved in condition 01 above and the site shall operate within the following time frames.

(a) The site shall be open to the public no earlier than 30 minutes prior to the following tour operating times

(i) Tour Times: Monday - Friday 10:00 hrs - 18:00 hrs

(ii) Tour Times: Saturday- Sunday 09:00 hrs - 18:00 hrs

(iii) No tours shall commence after 18:00 hrs and the site shall close at 22:00 hrs.

(b) No activity shall be permitted on the site between 22:00 hrs and 08:00 hrs

REASON: - To ensure the impact of this development does not adversely affect the local highway network.

[Relevant Plans and Policies: BFBLP M4, Core Strategy DPD CS23]

**ISSUE DATE: 18.09.2014**

### **Additional Representation**

**Concerns have arisen from a member of the public with regards to the timings of the traffic lights at the Foresters junction north of the site.**

**The Principal Engineer - Traffic Management & Road Safety has advised that historically, right turning traffic has found it difficult to get out of Swinley Road onto London Road. Vehicles waiting to turn right were in turn queuing back and preventing both the ahead and left turn manoeuvres from exiting Swinley Road. To combat this concern, the traffic signals at Priory Road were amended to make allowances for the potential increase in traffic demands from the Lapland attraction at this junction. The principle being that Priory Road is cut off early to allow vehicles to exit the Swinley Road approach unimpeded, i.e. all the other three arms are on red.**

**Changes were also made to the start of the sequence which has resulted in the signals on Swinley Road opening two seconds earlier than Priory Road. Both of these changes have had a positive effect on the flow of vehicles exiting the Swinley Road**

junction. Indeed, the benefits of these changes are felt during peak hour conditions and so have been left in operation.

Now that concerns have been raised over the signal timings, and specifically the changes made to introduce the early start on Swinley Road, we will reinvestigate this specific issue. We have got a CCTV camera at this junction which will allow us to view this junction running in both the morning and afternoon peaks. This will enable us to monitor the driver behaviour and form an opinion as to whether the above mentioned changes need to be further assessed or indeed removed. However, we will also need to keep in mind the benefit to capacity these changes currently provide.

As such it is not considered that the additional representation alters the recommendation on the main report.

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**Item No: 8**  
**14/00555/FUL**  
**45 Julius Hill Warfield Bracknell Berkshire RG42 3UN**

ISSUE DATE: 16.09.14

**Additional Information:**

Section 4 on Page 100 (The Proposal) should also include the following:

'It is noted that the dropped kerb would be extended across the front of the site to the north, to provide additional access. However as Julius Hill is not a classified road, permission is not required to extend the access in this location.'

**ISSUE DATE: 18.09.14**

**Additional Representation:**

An additional comment was received from the owners of No.47 Julius Hill which reiterated and expanded on their concerns with regard to visibility. These concerns are dealt with in the report. The objection also raises a concern that the garage could be converted into habitable accommodation in the future.

**[OFFICER COMMENT: Converting the garage to habitable accommodation would require planning permission, and an application for such development would be dealt with on its own merits.]**

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**Item No: 9**  
**14/00817/FUL**  
**Eco-Test MOT and Service Center New Forest Ride Bracknell Berkshire RG12 9FT**

ISSUE DATE: 18.9.2014

**Amendment to recommendation:**

**Additional conditions:**

**3. The excavation works for the proposed position of the fence posts which are located within the root protection area of existing trees on site shall be undertaken only by hand.**

**REASON: In order to safeguard tree roots and thereby safeguard trees considered worthy of retention in the interests of visual amenity of the area.**

**[Relevant Policies: BFBLP EN1 and EN20, CSDPD CS7]**

4. The development shall not be begun until a scheme depicting soft landscaping in front of the fence hereby approved has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a 3 year post planting maintenance schedule. All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved scheme, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development. As a minimum, the quality of all soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.

REASON: In the interests of good landscape design and the visual amenity of the area. [Relevant Policies:BFBLP EN2 and EN20, CSDPD CS7]

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**Item No: 10**

**14/00822/FUL**

**Station House Market Street Bracknell Berkshire RG12 1HX**

ISSUE DATE: 16.09.14

#### **Amendment to Recommendation**

Condition 2 should read:

The development hereby permitted shall be carried out only in accordance with the following approved plans received by the Local Planning Authority on 18th July and 12th August 2014:

153\_PLN\_01 (B)

153\_SKE\_140702\_01/A

153\_SKE\_140702\_02/A

153\_SKE\_140702\_03/A

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

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# Appeal Decision

Inquiry held on 4, 5 and 6 December 2012

Site visits made on 6, 7 and 13 December 2012

**by Jessica Graham BA(Hons) PgDipL**

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

**Decision date: 25 February 2013**

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**Appeal Ref: APP/R0335/A/12/2179560**

**Land south of Foxley Lane and east of Murrell Hill Lane, Binfield, Bracknell**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Croudace Strategic against Bracknell Forest Borough Council.
  - The application Ref 11/00682/OUT is dated 30 September 2011.
  - The development proposed is the erection of up to 67 houses and associated open space, landscaping and parking, with access off Foxley Lane.
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*This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 24 January 2013*

## Decision

1. The appeal is allowed and outline planning permission is granted for up to 67 houses and associated open space, landscaping and parking, with access off Foxley Lane, on land south of Foxley Lane and east of Murrell Hill Lane, Binfield, Bracknell in accordance with the terms of the application, Ref 11/00682/OUT, dated 30 September 2011, subject to the conditions set out in the schedule attached to this decision.

## Procedural matters

2. The planning application was submitted in outline, with details of access provided, but details of scale, layout, appearance and landscaping reserved for future consideration. My determination of the appeal proceeds on that basis.
3. In accordance with a timetable agreed at the inquiry, the appellant provided an executed S.106 Unilateral Undertaking. I have taken the existence of this legal deed into account, and discuss its content and implications below.

## Main issues

4. I consider the three main issues to be
  - (a) the effect that the proposed development would have upon the character and appearance of the area;
  - (b) the implications of the proposal in terms of highway safety; and
  - (c) whether adequate provision would be made for contributions necessary to offset the impact of the development on local services and infrastructure.

## Reasons

### *The policy context*

5. The appeal site lies adjacent to, but largely outside, the identified settlement boundary of Binfield. As such, its development for housing would conflict with a number of Development Plan policies aimed at protecting the character and quality of the countryside by preventing development outside settlement boundaries. However, that is not the end of the matter: s.38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
6. The *National Planning Policy Framework* ("the Framework"), published by the Government in March 2012, is one such material consideration. Paragraph 47 of the Framework explains that local planning authorities should identify a supply of specific deliverable sites, sufficient to provide five years worth of housing against their housing requirements, with an additional buffer of 20% where (as the Council accepts is the case here) there has been a record of persistent under delivery of housing.
7. The Council acknowledges that it cannot currently demonstrate a five-year supply of deliverable housing sites. There were various points of dispute between the appellant and the Council as to how the precise quantum of deliverable supply for the borough should be calculated, but the key point is that at best, the Council can only demonstrate sufficient deliverable sites to meet its housing requirement for 2.2 years.
8. As a step toward addressing this considerable shortfall in housing provision, the Council has produced a *Site Allocations Development Plan Document (SADPD)*, which among other things identifies specific sites assessed by the Council as suitable for future housing development. These include the current appeal site. The fact that the SADPD is currently subject to an Examination in Public, and has not yet been adopted, limits the weight that it carries in this appeal. However, I note that as agreed by the appellant and the Council in the *Bracknell Forest Five-Years Housing Land Supply Position: Statement of Common Ground*, even if the housing site allocations currently proposed in the emerging SADPD were added in to the calculation of existing deliverable housing sites, the Council's supply would still fall short of five years.
9. Since there is a shortfall against the five-year housing supply, Paragraph 49 of the Framework applies. It states that if a local planning authority cannot demonstrate a five-year supply of housing, relevant policies for the supply of housing should not be considered up-to-date. The Council takes the view that "relevant policies for the supply of housing" are only those policies which relate solely to the supply of housing, but that seems to me too restrictive an interpretation. In my judgment, any policies that seek to encourage the provision of housing in some circumstances, restrict it in others, or otherwise direct the amount or location of residential development, can reasonably be considered "relevant" to the supply of housing.
10. On that basis, to the extent that they seek to control the provision of housing, I find that Policies EN8 and H5 of the Bracknell Forest Borough Local Plan (2002) and Policies CS2 and CS9 of the Core Strategy Development Plan Document (2008) should be considered out of date.

*First main issue: character and appearance*

11. While policies relevant to the supply of housing are to be considered out of date in the absence of sufficient deliverable sites to meet the Council's five-year housing requirement, the impact of any proposed residential development on the character and appearance of the surrounding area nevertheless remains an important concern.
12. The appeal site is approximately 2.79ha of rough pasture land, bound to the east and north by the rear gardens of the houses along St Marks Road and Foxley Lane. The Inspector who determined an appeal in 2000 against the Council's refusal to grant permission for houses and associated infrastructure on this same appeal site (Ref: T/APP/R0335/A/99/1034221) described it as having an attractive and undeveloped appearance that contributes to the rural and open character of the surrounding area, and to the provision of a soft rural edge to this part of the village. I consider that a fair and accurate assessment.
13. In this current case, the appellant submitted an illustrative scheme for the proposed development of the site with up to 67 dwellings. The Council considers that scheme to represent a potentially acceptable layout for the appeal site, subject to resolution of its concerns about access, and the submission of further details at Reserved Matters stage. I share that view: the size and topography of the appeal site render it capable of accommodating up to 67 dwellings, with sufficient provision for landscaping and open space, and there is nothing to suggest that well-designed dwellings of suitable scale and appearance could not be achieved. A detailed landscaping scheme, reinforced by appropriate conditions, could also secure the retention and protection of important trees on the site such that the proposed development would accord with the aims of Policy EN1 of the Local Plan, which seeks to prevent their loss.
14. In terms of the impact that the proposal would have on the character and appearance of the area, then, the key concern is not that the appeal site would be unable to accommodate the proposed development, but rather that the proposal would result in the loss of a currently open and undeveloped field at the edge of the settlement. Building houses on this green space would fundamentally alter the appeal site, changing it from part of the countryside to part of the built-up area of Binfield. The illustrative scheme demonstrates that it would be possible, through the retention and reinforcement of existing vegetation, and the retention and management of open meadow space in the western part of the site, to ensure that the soft, rural character of this edge of the village would not be harmfully replaced with an abrupt built-up boundary of housing. Nevertheless, the harm occasioned by the loss of open countryside to residential development would conflict with the objectives of Policy EN20 of the Local Plan and Policies CS1 of the Core Strategy, which aim to retain beneficial landscape features and the quality of the countryside.

*Second main issue: highway safety*

15. I have before me two alternative schemes for the access to the proposed development. The Council's position is that the scheme detailed in drawing no. 11/0203/023G ("Access Scheme A") would be acceptable, but the scheme detailed in drawing no. 11/0203/10G ("Access Scheme B") would be unacceptable in terms of highway safety. The appellant's position is that Access Scheme B would be adequate in terms of highway safety whereas Access Scheme A would constitute an over-engineered access solution.

16. Both schemes would provide access from the section of Foxley Lane running between St Marks Road and Murrell Hill Lane. On the northern side of the carriageway, opposite the appeal site, there is a number of unrestricted parking bays. The evidence of local residents familiar with the area is that these spaces tend to be occupied by cars, albeit to varying extent, at most times of the day and night.
17. There is no reason to suppose that the new houses could not be provided with sufficient on-site parking, indeed details of parking provision would be the subject of assessment at Reserved Matters stage, so I do not share existing residents' concerns that the proposed development would necessarily increase existing levels of on-street parking on Foxley Lane. However, the current presence of parked cars in this area means that the stretch of road that passes the appeal site functions as a single-track carriageway, so that when vehicles travelling in opposite directions meet, one of them is obliged to wait to allow the other to pass. I note that accident records for the six years prior to July 2012 bear out the appellant's contention that this current situation is not inherently unsafe, but I also note that observations made by the Council and local residents indicate that vehicles meeting each other are sometimes obliged to stop or move over suddenly. There are signs at the side of the road that the verge is being overrun by vehicles.
18. The Council and the appellant agree that the proposed development would be likely to generate 40 vehicle movements during the morning peak hour, and 43 during the evening peak hour. A vehicle emerging from the appeal site would have restricted views of oncoming traffic from the east, due to the bend in the road. Having turned right out of the access, the ability to pass such traffic safely would depend either upon an opportunity for the emerging vehicle to pull into a gap amid the parked vehicles on the northern side of the carriageway, or upon the oncoming vehicle having observed the intentions of the emerging vehicle, and stopped to wait for it shortly after the bend in the road. I consider that in these circumstances, the very real risk of head-on meetings between vehicles unable to pass each other within the width of the existing carriageway could lead drivers to stop suddenly, reverse back toward the access, or mount the proposed pavement, all of which would have adverse implications for the safety of other road users.
19. Access Scheme B would not address these concerns. The carriageway would remain single-track, and the additional pedestrian and vehicular traffic likely to be generated by the proposed development would significantly increase the risk of conflict between road users. Access Scheme A, however, would prevent the risk of increased conflict by widening the carriageway in the vicinity of the appeal site, such that vehicles travelling in opposite directions would be able to pass within its width.
20. Concern was raised that if drivers were no longer obliged to stop and wait for each other, they would increase their speed. That may be so, but vehicles would still be driving past parked cars, in a built-up area, with a 30mph speed restriction. I see no reason to suppose that widening the existing carriageway in these conditions would necessarily have an adverse impact on highway safety. Concern was also raised that the proposed development would result in a large increase in the number of children walking to and from school along the roads in the vicinity of the appeal site. However, I note that the proposed new footway would link to existing pedestrian footways, and the situation on the

ground would not be markedly different from other residential areas in the Borough and beyond. The Highway Authority considers that Access Scheme A would be capable of safely accommodating the proposed development, and I have no reason to doubt that professional assessment.

21. I find that the arrangements detailed in Access Scheme A would accord with the aims of Policies M4 and H5 of the Local Plan and Policies CS23 and CS24 of the Core Strategy, which together seek to ensure that new development maintains and where possible improves the local road network and does not result in any inconvenience or danger on the public highway. The arrangements detailed in Access Scheme B would not accord with these policy objectives.
22. I therefore conclude that subject to the stipulation that the access be completed in accordance with Scheme A rather than Scheme B, a matter which can be addressed by condition, the proposed development would be acceptable in highway safety terms.

*Third main issue: mitigation of impacts on services and infrastructure*

23. The appellant has provided a planning obligation, in the form of a S.106 Unilateral Undertaking, to address concerns raised by the Council about the impact that the development would have upon local services and infrastructure.
24. The Undertaking includes a requirement to submit a scheme for the provision of 25% of the total number of dwellings as affordable housing. The Council has confirmed that the terms of the Undertaking meet its requirements in this regard, and it is apparent that such provision would accord with the requirements of Policy H8 of the Local Plan and Policies CS16 and CS17 of the Core Strategy. The Undertaking secures the ongoing future maintenance of the Drainage System and Open Space within the development, in accordance with guidance set out in the Council's Supplementary Planning Document (SPD) *Limiting the Impact of Development*. The Undertaking also makes provision for financial contributions toward the provision of alternative natural green space, necessary to prevent the adverse impact the activity of future occupiers of the dwellings would otherwise have upon the integrity of the nearby Thames Basin Heath Special Protection Area (SPA). In each of these respects I am satisfied that the provisions of the Undertaking accord with the statutory tests, set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010, as being necessary, directly related to the development, and fairly and reasonably related to it in scale and kind.
25. As regards the other financial contributions for which the Undertaking makes provision, the evidence of the Council is that there is a shortage of local primary educational facilities, such that the additional pupils likely to live in the proposed development could not be accommodated. On that basis I consider the proposed primary education contribution, which would be calculated by reference to the total number of dwellings to be constructed and the number of bedrooms they would contain, is necessary, and directly, fairly and reasonably related to the proposed development.
26. The position concerning the requested contributions toward built sports facilities and transport facilities is less clear-cut. The SPD explains that the transport contribution sought from new developments is based on addressing the shortfall between the estimated cost of implementing the Council's integrated transport programme, and the funding provided by the Government



through the Local Transport Plan process. The evidence of the Highway Authority was that traffic from the proposed developed would increase pressure on some junctions already likely to be operating at over-capacity in future years, and that the requested contribution could be used to part-fund improvements to these and other capacity or safety improvements. There is however no evidence available as to the costs of such works, or why they would be rendered necessary by this particular proposal. Similarly, the Council gave evidence at the hearing that Bracknell Leisure Centre is heavily used, such that existing residents find it difficult to make bookings, and a new multi-purpose facility is proposed. The demands of future occupiers of the proposed development would increase pressure on the existing facilities, but again there is no evidence as to the costs of the proposed new facility, or the extent to which it would be rendered necessary by this particular proposal.

27. The terms of CIL Regulation 122 indicate that contributions toward the provision of infrastructure ought to be restricted to the sums necessary to offset the impact of the particular development proposal at issue, rather than used to address shortfalls in government funding, or to finance services and improvements which, however welcome they might be to the community as a whole, are only tangentially related to the development in question. In the absence of clear evidence that improvements to the existing transport and leisure infrastructure are necessary to make the proposed development acceptable in planning terms, and that the contributions sought are fairly and reasonably related to the current proposal in scale and in kind, I am unable to conclude that they meet the requirements of CIL Regulation 122.
28. In summary, I find that all of the planning obligations contained in the S.106 Undertaking would meet the tests of CIL Regulation 122, with the exception of the "transport facilities contribution" and the "built sports facilities contribution". Accordingly, while these latter two obligations do not weigh in my consideration of the appeal, I am satisfied that the proposed development would provide adequate mitigation to offset its impact on local infrastructure and services.

#### *Other matters*

29. Local residents have raised concerns about the finished height of the proposed dwellings and the potential for overlooking existing residences, but these are matters which would be addressed at Reserved Matters stage; if the Council considered that the details then submitted would significantly harm the living conditions of neighbouring occupiers, it should refuse planning permission. Similarly, full details of landscaping would need to be provided for approval at Reserved Matters stage. Concerns about the disposal of surface water, and the measures to be taken to protect trees and wildlife, are understandable but can be adequately addressed by the imposition of conditions.
30. Paragraph 119 of the Framework advises that the presumption in favour of sustainable development (as set out in paragraph 14 of the Framework) does not apply where development requiring Appropriate Assessment ("AA") under the Birds or Habitats Directives is being considered, planned or determined. The appellant's undisputed interpretation of the Habitats Regulations 2010 (which follow and transpose the Habitats Directive into UK law), and relevant case law, is that an AA is only required where a scheme is likely to have a significant effect on the SPA: if the likelihood of a significant effect can be excluded, there is no requirement for an AA. In this current case, the Council

considered that a planning obligation (discussed at paragraph 24 above) to contribute to the Thames Basin Heath mitigation strategy would prevent any adverse impact on the integrity of the SPA. Since the likelihood of a significant effect could thus be screened out, no requirement for an AA arose, and so paragraph 119 of the Framework is not here applicable.

### *Conclusions*

31. It is right to note, as did the Inspector who determined an appeal concerning a nearby site at Roughgrove Copse (Ref APP/R0335/A/12/2168199), that there is no presumption in the Framework in favour of development that would not be sustainable. However, paragraph 14 of the Framework does provide clarification as to what is meant by the "presumption in favour of sustainable development" said to lie at its heart. It explains that where relevant policies of the Development Plan are out of date, the presumption in favour of sustainable development means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. In this case, by operation of paragraph 49 of the Framework, policies relevant to the supply of housing must be considered out-of-date because the Council is unable to demonstrate a five-year supply of housing. It is then necessary to weigh the adverse impacts of the proposal against the benefits.
33. The proposed development would have an adverse environmental impact in that it would alter the character of the appeal site, such that it would become part of the built-up area of Binfield rather than an open field at the edge of the settlement. This loss of part of the countryside would conflict with one of the Framework's 12 core principles: that the planning system should recognise the intrinsic character and beauty of the countryside. The harm that would be caused in this respect is limited to that occasioned by the loss of an open field to development, because the Council could (and should) refuse to grant planning permission at Reserved Matters stage if the proposed layout, design or scale of the buildings themselves, or any deficiencies in the proposed landscaping scheme, would have an adverse effect upon the character and appearance of the area.
34. On the other side of the balance, the proposed development would have significant social and economic benefits in terms of helping to address the very serious shortfall in the Borough's housing provision, and to provide much-needed affordable housing. This would accord with another of the Framework's 12 core principles: that the planning system should make every effort to meet the housing needs of an area.
35. In my judgment, the considerable benefits of providing both open-market and affordable housing, in circumstances where the Council does not have sufficient sites to meet (at best) even half of its five-year housing requirement, carries more weight than the limited environmental harm that the proposed development would cause. In the terms of paragraph 14 of the Framework, I find that the adverse impacts of granting permission for the proposed development would not significantly and demonstrably outweigh the benefits; rather, the recognised benefits would outweigh the identified harm.

36. I can understand why some local residents feel that this proposed development should have been put on hold until the process of producing the Site Allocations DPD for the Borough had reached its conclusion. But the Framework places great emphasis on the importance of both approving development that is sustainable without delay, and maintaining an adequate supply of housing land. I have set out above the reasons why I consider the presumption in favour of sustainable development should apply to this proposal, in accordance with paragraph 14 of the Framework. Given that the appeal site is included in the Site Allocations DPD, with a recommendation from the Council as being suitable for development, I am satisfied that granting outline permission for its development for up to 67 dwellings, in the context of the serious shortfall of housing across the Borough, will not prejudice that emerging DPD.

#### *Conditions*

37. The Council and the appellant helpfully provided an agreed list of conditions, and these were the subject of discussion at the inquiry. I have amended the construction or content of some suggested conditions, amalgamated others and altered their phraseology, following discussion or on the basis of the advice included in Circular 11/95 *The Use of Conditions in Planning Permissions*.
38. The application was submitted in outline with matters of scale, layout, appearance and landscaping reserved for future determination, so it is necessary to attach the standard conditions setting out the timetable for submission and approval of these reserved matters. I have also attached the standard condition requiring the development to be carried out in accordance with the details shown in the approved plans, which for the reasons set out above include the plan detailing Access Scheme A rather than the plan detailing Access Scheme B.
39. A number of the conditions agreed between the parties required the submission of further details which, while necessary, should in my view be provided at Reserved Matters stage, when they can be assessed in the light of the detailed layout and design features then put forward. These details include alterations to existing ground levels; finished floor levels; the location of fire hydrants; the visibility splays for roads within the site; the means of provision of vehicular, pedestrian, cycle and emergency access to each proposed dwelling; car parking provision and secure cycle parking facilities; on-site refuse storage for waste and recycling material; boundary treatments; a layout plan for underground services and external lighting; a Sustainability Statement in accordance with Core Strategy Policy 10; and an Energy Demand Assessment in accordance with Core Strategy Policy 12. I have therefore attached a single condition requiring all of these further details to be submitted at Reserved Matters stage. At that stage, further conditions may be imposed by the Council, if necessary, to specify trigger points for the delivery of the approved details and their future retention.
40. Rather than impose the two separate conditions requiring approval of various construction-related details, I have incorporated these within the model condition for approval of a Construction Method Statement, to protect the living conditions of existing nearby occupiers. Since access is not a reserved matter, and has informed the acceptability of this outline proposal, conditions requiring the construction and timing of the access arrangements in to the site are necessary. I have modified the condition concerning the Foxley Lane access bridging structure, to address concerns raised by the Council's Tree Service. I



have also attached the agreed condition requiring more detailed plans for the off-site highway works, and in the interests of highway safety I have attached conditions requiring the visibility splays at each site access to be kept clear, and preventing the installation of any gates at the Foxley Lane access.

41. In the absence of conclusive records as to the previous history and uses of the site, I agree that conditions are needed to ensure that any archaeological remains are adequately investigated, and any contamination adequately addressed. In order to prevent any increased flood risk and ensure adequate drainage provision I have attached the agreed conditions concerning the provision and maintenance of a sustainable drainage system, and a drainage strategy, incorporating some of the appellant's suggested amendments to allow provision for phasing.
42. To ensure that the biodiversity of the site is adequately protected, during construction and in the future, I have attached conditions requiring the Council's prior approval of detailed wildlife protection and management plans. I do not consider a separate condition dealing with nesting birds necessary, as disturbing them is prevented by existing legislation, and I have not included the suggested conditions concerning the timing and retention of soft landscaping, as this would be better addressed at reserved matters stage, when full details of the proposed planting are provided.
43. Given the important environmental value of conserving mature trees and vegetation on the site, and in the light of indications I have received that this has not been entirely straightforward in the past, I consider it necessary to attach conditions ensuring their protection during construction, and replacement should they die or be removed during a 5 year period following completion of the development. The Council suggested a further condition requiring details of alterations to levels within 5m of Root Protection Areas. However, I consider this unnecessary because details concerning levels are to be submitted with the Reserved Matters (required by condition 5), so it will be possible at that stage for the Council to check and address any implications for root protection.

*Determination*

44. For the reasons set out above I determine that the appeal should be allowed, and planning permission should be granted subject to the conditions set out in the attached schedule.

*Jessica Graham*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr G Williams, of counsel instructed by the Solicitor to the Council

He called:

Ms N Hird BSc MSc RTPI	Principal Planning Officer
Mr J Turner BEng(Hons) MCIHT	Principal Engineer
Ms K Parsons LLB MSc	Senior Planning Officer

### FOR THE APPELLANT:

Mr C Boyle, of counsel instructed by Broadway Malyan

He called:

Mr A Cox BSc(Hons) MA CMLI	Director, Broadway Malyan Landscape
Mr S Giles BEng(Hons) IEng FIHE MICE MCIHT CMILT	Director, Gateway TSP
Mr B Vashi BA(Hons) MA MRTPI	Associate Director, Broadway Malyan

### INTERESTED PERSONS:

Mr D James	Local resident
Mr M Schofield	Local resident
Ms M Foster	On behalf of Binfield Village Protection Society

## **DOCUMENTS AND PLANS SUBMITTED AT THE INQUIRY**

- 1 Updated version of Appendix C to Mr Vashi's proof of evidence
- 2 Replacement copy of CD 20
- 3 Replacement copy of CD 38
- 4 Copy of e-mail correspondence between Council and appellant, with attachments
- 5 Sheet detailing accident codes
- 6 Supplementary proof of evidence of Ms Hird
- 7 Opening submissions on behalf of the Council
- 8 Statement of Common Ground in respect of transport matters, with copies of drg. no. 11/0203/010 Rev F and drg. no. 11/0203/023 Rev G
- 9 Copy of representations made by Mr James
- 10 Copy of representations made by Mr Schofield, with copy of letter from the Council's Director of Environment and Leisure dated 12 March 2008
- 11 Draft S.106 Undertaking (tracked changes version)
- 12 Draft S.106 Undertaking (clean copy)
- 13 Copy of attachment to Transport SOCG
- 14 Council's comments on the draft S.106 Undertaking
- 15 Copy of representations made by the Binfield Village Protection Society, including letter and photographs
- 16 Schedule of agreed conditions
- 17 Updated version of S.106 Undertaking
- 18 Copy of drg. no. 11/0203/010 Rev G
- 19 Notes of the Council's response to the appellant's application for costs
- 20 Final submissions on behalf of the Council
- 21 Closing submissions on behalf of the appellant

## **DOCUMENT SUBMITTED AFTER THE INQUIRY CLOSED**

(in accordance with a timetable agreed at the inquiry)

- 22 Executed S.106 Undertaking

## SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans, in so far as those plans relate to matters not reserved for future determination:  
Drawing no. (01) 001 Revision A  
Drawing no. 11/0203/023 Revision G  
Drawing no. 11/0203/011 Revision B  
Drawing no. 27683 (02)001 Revision A  
Drawing no. 27683 (02)002 Revision A
- 5) The details to be submitted in accordance with condition no. 1 above shall include alterations to existing ground levels; finished floor levels; the location of fire hydrants; the visibility splays for roads within the site; the means of provision of vehicular, pedestrian, cycle and emergency access to each proposed dwelling; car parking provision and secure cycle parking facilities; on-site refuse storage for waste and recycling material; boundary treatments; a layout plan for underground services and external lighting; a Sustainability Statement in accordance with Core Strategy Policy 10; and an Energy Demand Assessment in accordance with Core Strategy Policy 12.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development
  - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - wheel washing facilities
  - measures to control the emission of dust and dirt, noise, smell and surface water run-off during construction

- a scheme for recycling/disposing of waste resulting from demolition and construction works
  - hours of working
  - temporary portacabins and welfare for site operatives.
- 7) No development (other than the construction of the access) shall take place until the access road from Foxley Lane has been constructed in accordance with details to be submitted to and approved in writing by the local planning authority. Such details must be designed so as to minimise any adverse impact on tree roots, and shall include
- a plan at 1:200 scale, showing the trunk positions and branch spreads of retained trees in the vicinity of the access;
  - construction profile drawing(s);
  - an engineering construction method statement; and
  - an implementation method statement including the timing and/or phasing of works.
- 8) No dwelling shall be occupied until the access to Murrell Hill Lane has been constructed in accordance with details to be submitted to and approved in writing by the local planning authority. Such details shall include measures to prevent vehicular use of the access other than in an emergency.
- 9) The development hereby permitted shall not commence until a scheme has been submitted to and approved in writing by the local planning authority for off-site highway works comprising the following:
- The highway works to Foxley Lane shown in principle on approved drawing no. 11/0203/023 Revision G
  - The highway works to Murrell Hill Lane shown in principle on drawing no. 11/0203/11 Revision B
  - The street lighting improvements to Foxley Lane between the access to the site and the Roebuck estate

These works shall be completed in accordance with the approved details prior to the first occupation of any of the dwellings hereby permitted.

- 10) The visibility splays for the Foxley Lane and Murrell Hill Lane accesses shall, once those accesses have been constructed, be kept free from all obstructions to visibility over a height of 0.6m measured from the surface of the carriageway.
- 11) No gates shall be installed at the vehicular access to the site from Foxley Lane.
- 12) No development, works of demolition or ground preparation shall take place within the site until a programme of archaeological work (which may comprise more than one phase of work) has been implemented in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the local planning authority.
- 13) No development shall take place until the following provisions have been complied with:

- 1) A contaminated land Phase I report (Desk Top Study) has been carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the management of Land Contamination CLR 11". The Desk Top Study shall be submitted to the local planning authority for their approval.
- 2) Following the written approval of the Desk Top Study by the local planning authority, a Phase II report (Site investigation) shall, if required, be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The method and extent of this site investigation shall be agreed with the local planning authority prior to commencement of the work and shall thereafter proceed in strict accordance with the measures approved.
- 3) Following completion of the Desk Top Study and Site investigation, a remediation scheme to deal with any contaminants identified must be submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable, monitoring proposals and a remediation verification methodology. The approved remedial scheme must be carried out before the development commences.
- 4) Where remediation is required, the development shall not commence until the investigator has provided a report confirming that all remediation measures have been carried out fully in accordance with the approved remediation scheme. The report shall also include results of the verification programme of post-remediation sampling and monitoring in order to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
- 5) Development shall not commence until a Site Completion Report has been submitted to, and approved in writing by, the local planning authority. The report must detail the conclusions, actions taken and verification methodology at each stage of the works and shall include a sampling and analysis programme to confirm the adequacy of decontamination. An appropriately qualified person shall oversee the implementation of all remediation.

Should any unforeseen contamination be encountered during the development, the local planning authority shall be informed immediately. No further development shall take place until any further investigation/remedial/protective works, including a timetable for implementation, have been approved by the local planning authority in writing. Any such works shall be completed in accordance with the approved details.

If no contamination is encountered during the development, a letter confirming this fact shall be submitted to the local planning authority upon completion of the development.

- 14) The development hereby permitted shall not commence until details of the design, implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:
- a) Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
  - b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
  - c) Flood water exceedance routes, both on and off site;
  - d) A timetable for implementation; and
  - e) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The approved drainage scheme shall thereafter be implemented, retained, managed and maintained in accordance with the approved details.

- 15) The development hereby permitted shall not commence until a drainage strategy detailing on- and off-site drainage works has been submitted to and approved in writing by the local planning authority. Such strategy may include the phasing of works. No discharge of foul or surface water from the site shall be accepted into the public system until the relevant phase of the drainage works set out in the approved strategy has been completed. The drainage strategy shall include a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by a statutory undertaker, management and maintenance by a Resident's Management Company or any other arrangements to secure the ongoing operation of the drainage strategy. The strategy shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the strategy shall be retained, managed and maintained in accordance with the approved details.
- 16) No development, works of demolition or ground preparation shall take place until a Wildlife Protection Plan for development has been submitted to and approved in writing by the local planning authority. The Wildlife Protection Plan shall include
- an appropriately scaled plan showing where construction activities will be restricted and protective measures implemented;



- a timetable setting out details of the protective measures to be implemented at each phase of construction, including protective fencing for the meadow area, the installation of bird and bat boxes, and measures to protect retained habitats from pollution;
- provision for a badger survey and sensitive site clearance for reptiles; and
- identification of the person(s) responsible for compliance with legal consents, planning conditions, installation of protective measures, inspection and maintenance.

The development shall only be carried out in accordance with the approved Wildlife Protection Plan.

- 17) No development, works of demolition or ground preparation shall take place until a Habitat Restoration and Creation Management Plan has been submitted to and approved in writing by the local planning authority. This Plan shall include

- description and evaluation of the features to be managed;
- description of target habitats and species;
- ecological potential and constraints on the site;
- aims and objectives of management;
- appropriate management options including location and method statements;
- prescriptions for management actions;
- preparation of a work schedule indicating the timing of works;
- personnel responsible for the implementation of the Plan;
- measures for monitoring; and
- remedial measures that would be triggered by specified findings of monitoring measures.

The development shall only be carried out in accordance with the approved Habitat Restoration and Creation Management Plan.

- 18) No development, works of demolition or ground preparation shall take place until a detailed scheme for the protection of existing trees, hedgerows and groups of mature shrubs to be retained, in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction – Recommendations" (or any subsequent revision) has been submitted to and approved in writing by the local planning authority. Protection measures shall be phased as necessary to take account of, and provide protection during, all site clearance works, construction works and landscaping works. Details shall include the following:

- 1) accurate trunk positions and canopy spreads of all existing trees within the site and on adjoining land adjacent to the development, identifying those to be retained and those to be removed;
- 2) positions and spreads of existing hedgerows and groups of mature shrubs, identifying those to be retained and those to be removed;
- 3) minimum "Root Protection Areas" of all the trees identified as to be retained on the site and on adjoining land adjacent to the



- development, calculated in accordance with BS 5837 recommendations;
- 4) details of the specification and position of fencing and/or protective barriers (and of any other measures to be taken) for the protection of any retained tree from damage before or during the course of site clearance, construction and landscaping works;
  - 5) proposed ground protection measures; and
  - 6) a programme for the supervision and monitoring of all the arboricultural protection measures.
- 19) The protection measures approved in accordance with condition no. 18 above shall be erected in the approved locations prior to the commencement of any demolition, site clearance or construction works, and shall be maintained fully intact and (in the case of fencing) upright in the approved locations at all times, until the completion of all building operations on site. Where phased protection measures have been approved, no works shall commence on the next phase of the development until all protective barriers, and other protective measures, have been repositioned for that phase in full accordance with the approved details. No activity of any description shall occur at any time within the protected areas. No fire shall be lit within 20 metres of the trunks of any retained trees or the centre line of any retained hedgerow. No signs, cables, fixtures or fittings of any description, other than bat or bird boxes as detailed in condition no. 16 above, shall be attached to any part of any retained tree.
- 20) No existing tree, hedgerow or group of shrubs identified for retention in the details submitted in accordance with condition no. 17 above shall be cut down, uprooted or destroyed without the prior written consent of the local planning authority. If any tree, hedgerow or shrub identified for retention is subsequently removed, uprooted, destroyed, dies or becomes diseased during the course of development or within a period of 5 years from completion of the development, a replacement tree, hedgerow or shrub of the same species and size shall be planted in the same place.

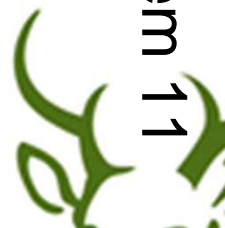
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# GOVERNMENT CONSULTATION ON FURTHER PLANNING REFORMS

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**Vincent Haines**  
**Head of Development Management**

Agenda Item 11



July 2014, the Government published the document Technical Information on Planning.

Substantial consultation on additional reforms to the planning covers a wide range of topics. The consultation divides the reforms into sections:

Neighbourhood planning

Permitted development rights

Planning conditions

Planning applications

Environmental impact assessments

Nationally significant infrastructure projects.

The consultation extends to 98 pages and includes 76 questions.

The deadline for responses is 26 September 2014.

presentation focuses on the three aspects of the consultation pertinent to the remit of this Committee:

- Extending Permitted Development Rights
- Planning Conditions
- Planning Applications

Representation on the neighbourhood planning aspect of the consultation was given to the Local Plan Members Working Group in September 2014.

The purpose of this presentation is to invite a discussion on the issues and inform the Council's response to this consultation.

## **n for proposed changes**

Proposals which are being consulted on under this part of the consultation relate to further relaxations of the controls contained in the General Permitted Development Order.

The stated purpose of these changes are to further simplify the planning system, reduce bureaucracy and developer costs.

## **of proposed relaxation**

This consultation sets out 13 areas for relaxations of planning controls. In some areas, the changes remove some developments from any need for planning permission and in other areas it extends prior

## **position**

permitted development rights allow for certain changes of use within Class B1 buildings up to 500 square metres. A separate permitted development right allows for a change of use from office (B1(a)) to dwelling houses (C3).

## **position under the consultation**

The Government are proposing a new permitted development right to allow light industrial buildings (B1(c)), storage and distribution buildings (B8), which were in that use at the time of the 2014 Budget, to change use to residential.

These changes would require a prior approval application which would require the local planning authority to consider flooding, transport, contamination and noise. Under the Prior Approval regime it is not possible for the principle of the change being proposed to be considered.

The Government are also considering whether it would be beneficial to allow the prior approval to be able to take account of the impact of a residential use being introduced into an existing industrial/employment area.

## position under the consultation.

a new permitted development right to allow some sui generis uses to be converted to residential (C3) use, namely launderettes, amusement arcades/centres, casinos and nightclubs will be introduced;

These changes of use will require a prior approval submission which will not only consider transport and highways impacts, contamination risks and flooding risks;

It is proposed to permit external modifications that are sufficient to allow the conversion to residential use and consideration is being given to the design and external appearance of the building in the matter to be assessed under the prior approval;

Also consideration is being given to whether the amount of floor space that can be converted to residential use should be limited.

Under the Prior Approval regime it is not possible for the principle of the changes to be introduced.



## **Current position**

Development rights for change of use from offices (B1(a)) and business premises (C3) were introduced for a period of three years from 30 May 2016. This meant prior approval applications are treated as permitted development applications so the principle of the change of use is not to be considered.

## **Proposed position under the consultation**

Prior approval will continue to consider the impact of the proposed development in relation to highways and transport, flooding and noise.

It is proposed that prior approval will now consider the potential for significant loss of the most strategically important office accommodation.

The period for completion for developments with prior approval to be granted is from 30 May 2016 to 30 May 2019.

## **t position**

2013 a Prior Approval arrangement for extensions to dwellings was introduced for a 3 year temporary period. If adjoining neighbours objected to a proposed extension the local authority then had to consider whether the impact on the amenity of the neighbours was acceptable before granting prior approval. The prior approval had to be determined within 42 days. If not determined in that time then the extension could proceed, these extensions attracted no fee.

## **ed position**

These permitted development rights permanent.

## ed Changes

orporation of the majority of financial and professional services currently found in A2 into a revised wider A1 use class.

mitted development rights will change to enable the change of the wider retail (A1) class from betting shops and pay day loans, restaurants and cafés (A3), drinking establishments (A4), and takeaways (A5).

existing permitted development right to allow the change of A1 and A2 to a flexible use for a period of two years will remain the right to allow for up to two flats above a shop, and the change of use from A1 to residential (C3).

move the existing permitted development rights to the now narrower A2 use class

proposal is to introduce a new permitted development right for the change of use from A1 and A2 use classes, and some sui generis uses such as restaurants and cafés (A3). The right will:

apply to any premises in A1 or A2 use and apply to laundrettes, amusement arcades/centres, casinos and nightclubs;

have a size threshold of 150 square metres so as to focus on larger premises;

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have a prior approval in the form of a neighbour notification scheme, which will allow those immediately adjacent to the premises (next to, above and at the rear) to make representations to the local planning authority in respect of the impact of the proposed change of use on local amenity, covering issues such as noise, odour, traffic and hours of opening. The local planning authority will not be able to consider such matters under prior approval when the premises are used for the proposed use if the neighbours object.

This proposed relaxation uses which are currently A1 or A2, cafes, amusement arcades/centres and nightclubs will be able to assemble and leisure (D2); without the need for a planning application.<sup>35</sup> However, prior approval will be required respect of transport, parking, and noise which would allow the local planning authority to consider the impacts of the change of use on local amenity.

al

s will be able to erect ancillary buildings within the curtilage premises, including their car parks subject to the following conditions:

the buildings should not exceed four metres in height and cumulative gross floor space of up to 20 square metres;

the buildings cannot be erected within two metres of a boundary of the curtilage of the shop;

if the building is erected between the shop front and a highway the distance from the new building to the boundary must be more than five metres;

there will be a prior approval to consider the design, siting and external appearance of any new structure.

# Mezzanine floors

Current regulations allow most retailers to build an internal mezzanine floor in their premises up to 200 square metres without needing a planning application. It is proposed to increase the maximum area that retailers can build a mezzanine floor and views are sought on what size would be appropriate.

Proposed to introduce a new permitted development right to allow commercial filming and the associated physical development on local authority land. The new permitted development right will grant permission for:

Location filming inside existing buildings and outside on single plots of up to one hectare, which can be split between buildings and open land, and the construction and removal of associated sets. The right will be for a maximum period of nine months in any rolling 12-month period and will include a requirement to obtain prior approval.



Government proposes to introduce a new permitted development right to support the installation of photovoltaic (solar PV) on non-domestic buildings with a capacity of up to 20 megawatt (20y times the current capacity) without the need for a planning application. This right would:

apply to all non-domestic buildings, as with the existing permitted development rights for installation of solar panels.

Prior approval would consider the siting and design of solar panels in order to minimise the impact of glare on neighbouring properties overlooking properties from the larger array of solar panels.

apply only to the roof of non-domestic buildings.

permitted development rights for businesses introduced in 2013, increasing the size limits allowed for extensions to financial and professional services, offices, warehouses and industrial premises are to be made permanent and the time to complete an extension using the existing permitted development rights by May 2016 will be removed.

Relaxations are also proposed for waste management facilities (relaxation L) and sewerage works (relaxation

## for proposed changes


ers and Government are concerned that planning permissions  
ly contain overly restrictive and unnecessary conditions with  
given to the additional costs and delays this brings.

## ed change

overnment proposes tackling this by:


ntroducing 'deemed discharge' for certain types of conditions  
where the LPA does not make a timely decision.

LPAs will be required to justify any pre-commencement cond  
his is beyond the current reason for the condition.




**the local planning authority has not given notice to the applicant of their decision on the application and at least six weeks has passed from the day after the application was received by the authority**

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**the applicant has served notice on the local planning authority that after the expiry of a further two weeks (or such other longer period as may be specified) that the consent, agreement or approval required by the condition will be deemed to have been given by the local planning authority and the local planning authority has not responded within the timeframe set out in the notice**



# for proposed changes

Government believes that the existing duty for statutory consultees to provide a 'substantive response' to an LPA even when they have no comment to make results in 'unnecessary bureaucracy for local authorities and reduces the efficiency and effectiveness of the planning process'.

<sup>43</sup> Consultation proposes several relaxations on requirements for LPA consultation with Natural England, Highways Agency and English Heritage.

A particular change would remove the need for local authorities to consult the Secretary of State for Listed Building Consent to undertake works to listed buildings, other than where demolition is proposed and consent is made by English Heritage or National Amenity Societies.

By all local authority applications for Listed Building Consent

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