



Appeal Decision

Inquiry Held on 13 September 2023

Accompanied site visit made on 13 September 2023

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06/11/2023

Appeal Ref: APP/V2255/W/23/3318509

Land west of Church Road, Tonge, Sittingbourne.

- 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 Trenport East Hall Park Ltd against Swale Borough Council.
 - The application Ref: 22/502834/EIOUT, is dated 31 May 2022.
 - The development proposed is the erection of up to 380 homes (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping.
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Preliminary Matters

1. This application is submitted in outline, with all matters reserved for future determination except the means of access to the site.
2. The Council did not determine the application within the requisite period, resulting in the Appellant deciding to appeal. However, in the period leading up to the inquiry the Council resolved that had it retained jurisdiction it would have permitted the development. But having instigated the appeal the determination of the proposal remains with the Secretary of State, through myself as the appointed Inspector. The Appellant and the Council are in agreement that the proposal would accord with the development plan and have provided a Statement of Common Ground confirming this agreement.
3. Because the Council does not take issue with the proposed development the inquiry was completed in a single day. However, I heard from remaining objectors at the inquiry and from witnesses for the Appellant. I also carried out unaccompanied site visits on the afternoon of 12 September, and at various times on 13 and 14 September, in addition to the accompanied site visit.

Decision

4. The appeal is allowed and planning permission is granted for the erection of up to 380 homes (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping at land west of Church Road, Tonge, Sittingbourne in accordance with the terms of the application, Ref: 2/502834/EIOUT, dated 31 May 2022, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

Main Issue

5. There are a number of issues raised in relation to this proposal by remaining objectors, but that which is of most concern relates to the impact of the proposed development on highway capacity and safety. It is that issue which formed the principal basis of the evidence at the inquiry. Other matters raised I address later in this decision.

Background

6. The appeal site is located on land which is identified in Local Plan (LP)¹ Policy MU2. This is a mixed use allocation which identifies land in the south-east part of the site for approximately 106 dwellings. Clearly the present proposal exceeds that notional amount and I deal with that later. The employment element of the mixed use allocation has already been delivered. The diagram which accompanies the policy makes reference to taking account of the routing of the Sittingbourne Northern Relief Road (NRR) and to the need to safeguard the setting of heritage assets.
7. The NRR is dealt with in LP Policy AS1. Amongst other things this envisages the final alignment of the route being most likely determined through a local plan review. The appeal proposal takes account of the need to accommodate the NRR in the future. That said there is no current commitment to complete this final section of the NRR and there remains a doubt as to whether it will be completed. At present the NRR, known as Swale Way, ends at the roundabout where access to the appeal site would start.
8. There is acknowledgement that the Council is unable to demonstrate the provision of a 5 year supply of deliverable housing land. Hence the Local Plan policies are deemed to be out of date. But that does not mean that they carry no weight. The most important policy for this appeal, MU2, retains significant weight as it is proposed to carry it forward in the future. There is nothing set out in paragraph 11d)i of the National Planning Policy Framework (NPPF) which prevents the engagement of the 'tilted' balance and hence, following paragraph 11d)ii planning permission should be granted unless any adverse impact of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Reasons

Highway Capacity and Safety

9. There is acknowledgment that traffic in Sittingbourne is, on occasion, congested. The transport assessment and subsequent technical information deals with the additional traffic which would be likely to be generated by the proposed development. I have noted that trip rates used in the assessment process are significantly higher than would be expected in reality. I have also taken into account that improvements to the NRR/A249 junction are expected to improve the current baseline situation prior to any property proposed being occupied.
10. The traffic leaving the site in the morning peak (until and unless the NRR link is completed) would, of necessity, leave along the NRR in a north-westerly direction. Thereafter there are a number of options for traffic dispersion.

¹ Bearing Fruits 2031 – The Swale Borough Local Plan 2017

Some of that traffic would head for Sittingbourne town centre, some would head for the A2 to move eastwards, whilst other vehicles would continue along the NRR towards the A249. In all cases the routes pass through or alongside business and industrial areas.

11. The fact that traffic would disperse along different routes is important. Although there can be no absolute certainty of the different routes drivers would take, the **assessments provided in the Appellant's evidence seem** reasonable to me. They are also accepted by the County Council acting as local highway authority. Hence the extra traffic from the proposed development which is likely to be added to any particular route or network of streets is diluted by this dispersion.
12. Before, during and after the inquiry I experienced the various facets of the local network first hand. The congestion which was brought to my attention by local people was clearly evident. The route towards the A2 via Castle Road, Dolphin Road and Church Road, Sittingbourne is not pleasant. It involves travelling through a narrow width restricted point and along streets heavily parked before reaching the A2 at the junction at Murston Road. Alternatively drivers can use Tonge Road and Lomas Road. Lomas Road is very narrow and it is difficult for vehicles to pass in a number of places. These unattractive routes illustrate clearly why the final link of the NRR would be likely to be of real benefit in being able to avoid the current difficulties.
13. Drivers seeking to reach the town centre would be likely to use Castle Road and Eurolink Way before turning left at Crown Quay Lane or continuing along Eurolink Way to Milton Road. This is a congested part of the network at times, in my view largely because of the restrictions caused by the need to pass under the railway shortly before the junction with **St Michael's Road**. That causes traffic to back up to the Crown Quay Lane roundabout. As a result travelling to the town centre can be subject to delay. The difficulties of using the local network was amply explained at the Inquiry and in the written representations before me.
14. However, whilst taking into consideration the fact that the numbers of vehicles using these routes causes delay and congestion, with subsequent difficulty and frustration for local people, the real question to be addressed is how much extra delay and congestion the traffic from the appeal proposals would generate.
15. Along the NRR the additional traffic added to the network would, as expected, be greatest close to the appeal site. The proportion reduces with distance as traffic is siphoned off to other locations. Hence the prediction of added traffic volume at the Eurolink Way/Crown Quay Lane roundabout is about 1% in morning and afternoon peaks. At this junction any extra delay caused by the proposal would be imperceptible. There would be a greater propensity for delay at other junctions modelled (such as the NRR/Ridham Avenue junction) but of a modest nature. I recognise that it is possible that the change in flows at Tonge Road would be greater, but the absolute numbers even in the worst case scenario suggested are no more than modest.
16. Drawing these matters together it is clear that the locality suffers from some degree of traffic congestion leading to delay and inconvenience. This is not uncommon in urban areas. In this case it would be eased by the completion of the NRR/A249 improvements, and by the completion of the NRR should that

take place. Notwithstanding this matter, and noting that the proposed development here would provide significantly more dwellings than envisaged in the LP allocation, I am satisfied that it has been demonstrated that the number of dwellings proposed would not increase traffic to an unacceptable degree. The increase would be modest at worst and would not reach the threshold set out in paragraph 111 of the NPPF for refusing the proposal on these grounds.

17. I am also satisfied that the accident data for the locality does not support the suggestion that this is an inherently dangerous location, or that the proposed development would add unacceptably to risks on the highway in the wider area.
18. The proposal also includes for 6 of the proposed dwellings being located in the south-east corner of the site. These dwellings would have access provided from Church Road, Tonge. The proposal would not allow any other vehicles (other than emergency vehicles) to use this access. Although the lanes close to this access are narrow I do not consider that there would be any material impact on congestion or safety from its use as proposed.
19. Given that this south-eastern access would allow for pedestrians to walk to Church Road, Tonge, there has been concern expressed that residents of the proposed dwellings would choose to park there and walk to their homes within the site. It is suggested that this would avoid the need to use congested roads to enable parking at their own property. Such parking cannot be ruled out, but it would be an unlikely scenario in my judgement. In particular there would be security and, potentially, insurance problems if parking remotely. And in any event this remote parking would only be likely to be attractive to a small minority of residents. Furthermore it would, if necessary, be possible to introduce parking restrictions to control such activity. This is not a matter which weighs against the proposal.

Other Matters

Location

20. There has been a good deal of criticism of the location of the proposed development site in relation to local facilities and amenities. It is suggested that residents of the development would be reliant principally on private motor vehicles and that other modes of transport are, and would remain, unattractive. I can well understand that perception based on the current situation.
21. Currently the nearest bus stops are on Oak Road, which is a significant distance from the appeal site. I note that the former bus gate connecting to the adjacent development (Heron Fields) is no longer in use because of difficulties encountered in the past. However, part of the proposal before me involves the reinstatement of the bus gate with more modern technology such that previous problems should not reoccur. This would be secured through legal agreement, which I deal with later, and would allow a local bus service to be provided within the appeal site.
22. I accept that local schools are also some distance away, but feasible walking routes exist for the primary school, and I saw them in use during my site visits. Shops are severely lacking in the immediate locality, but part of the proposal would include the potential for a convenience store, and I am informed that

negotiations are well advanced for an operator of that store. This would benefit the residents of the appeal site and Heron Fields alike. Cycling opportunities exist in the locality, and in my judgement it would be entirely possible to cycle to nearby employment sites, the town centre, or Sittingbourne railway station along a mixture of roads and cycle paths which would provide safe passage.

23. The lack of infrastructure locally, such as schools, medical facilities and the like is a cause for concern amongst local people. To a great extent that would be addressed by the legal agreement submitted. It is to be expected that the contributions agreed would lead to a significant and beneficial improvement in the provision of local infrastructure.
24. Taking this matter in the round, and in light of the commitments made through the S06 legal agreement, it is my view that the site is locationally suitable for the proposed use. It must be remembered also that the site is part of a larger allocation which was deemed to be sustainable during the preparation of the LP. The benefits which would flow from the legal obligation associated with this larger quantum of housing is likely to result in the site being more sustainable as a location for development.

Heritage

25. The appeal site has a number of heritage assets nearby. One of the closest is the Grade I listed St Giles Church, Tonge. This lies to the east, across Church Road, Tonge. There is acknowledgement that the setting of the church would be affected by the proposal. I observed the church in its surroundings, and note that the setting includes some modern housing to the north and a water pumping station to the south. Furthermore there is extensive vegetation cover around the church such that its setting is tightly defined. It is not experienced to any significant degree in long distance views. I therefore agree that the impact of the proposal on the setting of the church would be at the lower end of the less than substantial spectrum.
26. Similarly the impact on the setting of other heritage assets, such as the Grade II listed buildings to the north-west, and the Tonge Conservation Area, would be at a similar low level. Hence the impact on heritage assets would not of itself preclude the development as proposed.

Landscape

27. The appeal site is well enclosed by vegetation and there is little perception of it from surrounding roads. It is most notable when seen from the public right of way which crosses the site. But even then tree and hedgerow belts mean visibility into the countryside is limited. Two parcels of the site are, or have recently been, used for arable purposes. The south-west parcel is relatively unkempt. Overall the character is that of urban fringe, being heavily influenced by the golf centre to the north, housing to the west and employment land to the north-west. It has no great landscape quality, albeit that I realise local people appreciate it as a green area in close proximity to their homes.
28. That would, of course, change with the proposed development. But the parameter plans submitted indicate that a great deal of the site would be retained as open land, suitably landscaped. There would be a net gain in biodiversity and I accept the intention to provide landscape enhancements and

public access in accordance with Policy MU2. In my judgement the proposal would not be materially harmful to the character of the landscape and has the potential to improve its appearance by careful and appropriate landscaping.

Quantum of Development

29. A number of representations have centred on the fact that the quantum of development proposed is significantly higher than envisaged by LP Policy MU2. But the policy does not set a limit to numbers of dwellings. In a situation where the Council has a shortfall of housing land supply there is in the policy nothing to prevent extra dwellings being located here. The proposal before me allows for the safeguarding of the potential routes for the completion of the NRR, and it therefore accords with the policy as a whole.
30. This matter is closely allied to the concerns expressed in relation to the loss of countryside and the potential for the coalescence of Sittingbourne and Tonge. Again, however, the land is part of an allocated site and has been accepted as a focus for some development. Although this application is made in outline it seems to me that any future reserved matters applications would be capable of preserving a physical gap between settlements. There would also be likely to be greater public access to areas of countryside following development. The proposed development does not, in principle, conflict with the objectives of Policy MU2.

Appropriate assessment

31. The site lies close to the Swale Special Protection Area (SPA) a European designated site afforded protection under the Habitats Regulations². It is also a Site of Special Scientific Interest (SSSI). As decision maker it is my duty to carry out an appropriate assessment in order to consider the impact of the proposal on that area. Information provided during the appeal proceedings make it apparent that it would not be possible to provide on site mitigation for the potential impacts of dog walking and cat predation. Hence the proposal has the potential to affect the features of interest of the SPA. It is stipulated by Natural England that within 6km of the SPA (as here) mitigation can be provided by securing financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Managing and Monitoring (SAMM) Strategy. This would ensure that the development would not have an adverse effect on the integrity of the SPA. The S106 obligation (which I deal with below) makes provision for the necessary contributions to the SAMM. As such I am satisfied that the scheme can be adequately mitigated and that the proposed development would not have an adverse effect on the integrity of the SPA.

S106 Obligation

32. A S106 Planning Agreement has been entered into by the Appellant, Kent County Council and Swale Borough Council. The agreement has a number of obligations which I set out briefly below:
- Monitoring contributions;
 - The provision of affordable housing beyond LP requirements;
 - Contributions to the SAMM (as noted above);
 - Air quality improvement contributions;
 - Contributions to bus service and bus gate improvements;

² Conservation of Habitats and Species Regulations

- Healthcare and social care provision contributions;
 - Contributions to refuse bins and waste disposal facilities;
 - Contributions towards secondary education provision and land purchase for a new school;
 - Contributions towards community learning library provision and youth services;
 - Contributions to improvements to the local and strategic highway network, and the public right of way across the site;
 - The provision of travel vouchers for new residents;
 - Contributions to sports facilities.
33. This is a comprehensive suite of benefits which accord with the requirements of the LP and other policy documents. I am satisfied that each is necessary to make the development acceptable in planning terms, is directly related to the development and is fair and reasonable. This accords with the Community Infrastructure Regulations.
34. However, one offered contribution seems to me to be unrelated to the development. That is the offered contribution towards the repair of St Giles Church. Although the setting of the church would be affected in a minor way this does not seem to me to equate to a situation in which repairs to the church fabric are necessary to make the development acceptable in planning terms. Although it is an admirable objective to repair a Grade I listed building I cannot therefore agree that that particular contribution within the S106 Agreement meets the tests of the Regulations. I therefore cannot take that part of the Agreement into account in reaching my decision. That conclusion would not, of course, preclude the eventual developer from making voluntary contributions to a fund to repair the church.

Planning Balance

35. As can be seen above, I have found that the proposed development would not cause unacceptable harm to highway capacity or safety. It would accord with Policy MU2 of the LP. There are no other policies brought to my attention with which the proposal would be in conflict. Although out of date by virtue of the lack of a 5 year housing land supply Policy MU2 still carries significant weight. I therefore agree with the Appellant and the Council that the proposal, subject to the provisions of the S106 Agreement and necessary conditions (which I deal with below) accords with the development plan as a whole and should be permitted.

Conditions

36. The Appellant and the Council helpfully provided an agreed list of conditions which would be appropriate in the event of the development being permitted. In relation to the submission of reserved matters it is reasonable and necessary to include non-standard time limits in order to allow for the consideration of the future of the NRR. A further raft of conditions is necessary to clarify the details of the permission and the detail required at reserved matters stage in order to ensure that the development brought forward is of satisfactory standard and also takes account of the NRR.
37. Conditions requiring details of environmental and landscape management, construction details and management, working practices and hours, and biodiversity improvements are necessary in order to protect and improve local

amenities and avoid unacceptable impact on residential living conditions. For similar reasons it is also necessary to impose conditions relating to drainage and external lighting. In order to ensure that safe and convenient access is provided conditions are necessary which relate to vehicular, cycle and pedestrian access (including improvement to the public right of way across the site) adequate parking and cycle storage, and the provision of safety measures. The provision of the proposed bus gate and bus access/bus stops is required and a condition to bring this about is necessary, in order to encourage the use of public transport. It is necessary to impose a condition requiring an archaeological scheme of investigation to ensure that any remains are properly recorded. In order to ensure no unacceptable future risk conditions dealing with potential contamination are also necessary. A condition requiring the installation of infrastructure to allow high-speed fibre optic connections is necessary and follows the policy set out in the NPPF.

Overall Conclusion

38. The proposed development would accord with the development plan as a whole and would not result in unacceptable harm. It would provide a range of benefits, including open market and affordable housing in a situation where there is an acknowledged lack of supply. For the reasons given above I conclude that the appeal should be allowed.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of five years from the date of the grant of outline planning permission in the cases of phases one and two, or ten years in the case of phases three and four; or three years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. Application for approval of reserved matters (layout, scale, appearance and landscaping) by phase, referred to in Condition (1) above must be made not later than the expiration of the period set out below. The phases referred to being those set out in approved Phasing Parameter Plan Ref: 21.042.0115.P2 26th September 2022, beginning with the date of the grant of outline planning permission.
 - Phase One and Two: Three Years
 - Phase Three and Four: Eight YearsThe development of each phase shall be carried out as approved.
3. a) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for layout referred to in the condition the following shall be submitted to and approved by the local planning

authority: finished site levels, proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture

b) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for appearance referred to in the condition the following shall be submitted to and approved by the local planning authority: finished site levels: the palette of building materials and elevational designs.

c) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for scale referred to in the condition the following shall be submitted to and approved by the local planning authority: heights above ordnance datum including completion of finished levels.

d) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for landscaping referred to in the condition the following shall be submitted to and approved by the local planning authority: details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting, or ten years for the structural planting along the southern and eastern boundaries, shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority

4. The reserved matters details design shall be in general conformity with the design code submitted as part and the application and in general accordance with the parameters as set out in the following approved parameter plans:
 - **Site Location Plan Ref: 21.042.011.P1**
 - **Land Use Parameter Plan Ref: 21.042.0110.P1**
 - **Phasing Parameter Plan Ref: 21.042.0115.P2**
 - **Density Parameter Plan Ref: 21.042.0111.P1**
 - **Heights Parameter Plan Ref: 21.042.0112.P1**
 - **Open Space Parameter Plan Ref: 21.042.0113.P1**
 - **Road Hierarchy and Access Plan Ref: 21.042.0114.P2**
 - **Road Hierarchy and Access Plan Ref: 21.042.0134.P2**
5. The reserved matters for layout submitted pursuant to condition (2) above shall include details of the provision of vehicle parking and secure covered cycle parking facilities. The development shall be carried out in accordance with the approved details.
6. No development shall take place in the areas shown as Phases 3 and 4 on the hereby approved Phasing Parameter Plan (Drawing Reference: 21.042.0115.P2) whilst safeguarding for the Sittingbourne Northern Relief Road (Policy AS1) remains in an adopted Local Plan for the area unless a

decision is made on the route which would exempt either Phases 3 or 4 from safeguarding, or 10 years has passed from the grant of planning permission.

7. Notwithstanding Phasing Parameter Plan (Ref: 21.042.0115.P2) if planning permission is granted for the Sittingbourne Northern Relief Road then in the event that the routing is within land shown as phase 3 or phase 4 then no development shall take place within that area of land shown as phase 3 or phase 4.
8. No dwellings other than those specifically permitted with access from Church Road, Tonge shall take access from that road. No vehicular access link, other than for emergency vehicles, shall be provided to allow a vehicular connection between Swale Way and Church Road, Tonge.
9. Prior to commencement of any works on any phase other than the extension of Swale Way and prior to any other clearance works, with the first reserved matters application, a detailed ecological mitigation strategy (EMS), based on the outline EMS provided in the Environmental Statement Volume 4 Appendix C3 shall be submitted to, and approved in writing by, the local planning authority. The strategy shall be implemented as approved.
10. Prior to the commencement of any development on any part of the site other than the extension of Swale Way, a landscape management plan for the **whole of the remaining parts of the MU2 site within the applicant's ownership** shall be submitted to and approved in writing by the local planning authority. This shall show the improvements to biodiversity, landscape and to public access to this land as required by adopted local plan policy MU2. The landscape management plan shall be implemented as approved.
11. Prior to the commencement of works on any phase, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The LEMP shall include details of legal and funding mechanisms by which the long term implementation of the plan will be secured and shall include the following:
 - Description and evaluation of features to be managed;
 - Ecological trends and constraints on site that might influence management;
 - Aims and objectives of management;
 - Management prescriptions for achieving aims and objectives;
 - A work schedule, including an annual work plan capable of being rolled forward over a 5 year period;
 - Details of the body or organisation responsible for implementation of the plan and the legal and funding mechanisms to secure delivery;
 - Ongoing monitoring and remedial measures.The LEMP shall be implemented as approved and retained thereafter.
12. Development on any phase shall not commence until there has been a biodiversity gain plan submitted to and approved in writing by the local planning authority for that phase. The biodiversity gain plan must demonstrate how the proposal will contribute to the development achieving

a post development biodiversity value with be a minimum of 10% higher than site pre-development biodiversity value. The calculation shall be in accordance with biodiversity metric 3.1 and based on the biodiversity net gain calculations submitted to Kent County Council Ecology and the local planning authority on the 26th of October 2022. The post development biodiversity value may include off-site biodiversity gain under the control of the applicant and purchased biodiversity credits. This gain plan shall be implemented as approved and shall thereafter **be** maintained for a minimum period of 30 years in line with the biodiversity gain plan.

13. Development shall not begin until the layout reserved matters details submitted as required by Condition 2 are approved for that phase, with a detailed sustainable surface water drainage scheme for the site submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment & Outline Surface Water Drainage Strategy prepared by RSK dated May 2022. The development hereby permitted shall be carried out in accordance with the approved drainage scheme and shall not be occupied until a verification report showing the details of the implementation of the scheme has been submitted to and approved in writing by the local planning authority.
14. No development shall commence on any phase until the developer has submitted a scheme detailing and quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The scheme shall be submitted to and approved in writing by the local planning authority and shall be implemented as approved. The developer should have regard to the DEFRA guidance from the document Low Emissions Strategy - using the planning system to reduce transport emissions - January 2010.
15. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work on those parts of the site which have not been subject of brickearth extraction, in accordance with a written specification and timetable which has been submitted to and approved in writing by the local planning authority.
16. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The construction of the development shall then be carried out in accordance with the approved CEMP and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) The code shall include:
 - Hours of working and timing of deliveries;
 - An indicative programme for carrying out the works;
 - Measures to minimise the production of dust on the site;
 - Measures to minimise noise (including vibration) generated by the construction process;
 - Design and provision of site hoardings;
 - Management of traffic visiting the site(s) including temporary parking or holding areas;
 - Provision of off-road parking for all site operatives;

- Measures to prevent the transfer of mud and extraneous material onto the public highway;
- Routing of HGV construction and delivery vehicles to/from site, including the maximum number of vehicles per day;
- Measures to manage the production of waste and to maximise the re-use of materials;
- Measures to avoid the potential for pollution of groundwater and surface water;
- Provision of wheel washing facilities;
- Temporary traffic management/signage;
- The location and design of site office(s) and storage compounds;
- The location of temporary vehicle access points to the site during the construction works.

17. None of the hereby approved units shall be occupied prior to the completion of the extension of Swale Way to the residential access to the site.

18. Prior to occupation of any of the units in phase 4 details of the emergency services/pedestrian/cycling only gate between phase 4 and the Heron Fields estate to the West shall be submitted to and approved in writing by the local planning authority, and these approved details shall be implemented.

19. No units of phase 2 shall be occupied until a scheme of improvement for the public right of way crossing the site, including associated landscaping, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

20. Prior to occupation of any of the units in phase 3 details of the emergency services/pedestrian/cycling only gate between phase 3 and the units south east of this gate accessing onto Church Road shall be submitted to and approved in writing by the local planning authority, and these details shall be implemented as approved.

21. No dwellings shall be occupied until details of an induction bus gate onto the Great East Hall Way/Oak Road bus road and of bus access onto the internal loop road with bus bays and stop facilities have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and thereafter retained.

22. No dwellings shall be occupied in phases 3 or 4 of the development hereby permitted until a scheme for the introduction of a pedestrian crossing on Tonge Road has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

23. Prior to first occupation of any unit on a phase by phase basis details shall be submitted and approved in writing by the local planning authority for the installation of fixed telecommunication infrastructure and high-speed fibre optic (minimal internal speed of 1000mbps) connections to multi point destinations to all buildings including residential, commercial and community. The infrastructure shall be installed in accordance with the approved details during the construction of the development.

24. Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall have been completed:
- (a) Footways and/or footpaths, with the exception of the wearing course;
 - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures.
25. Prior to the occupation of any dwelling in each phase of the development details of all external lighting in public areas of that phase shall be submitted to and approved in writing by the local planning authority, and the details shall be implemented as approved.
26. The development hereby permitted shall not commence until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the local planning authority:
- A site investigation based on the phase 1 study included in the Environmental Impact Assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment carried out. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action;
 - A closure report is submitted upon completion of the works. The closure report shall include full verification details of remediation undertaken. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

The scheme shall be implemented as approved.

27. If during construction/demolition works evidence of potential contamination is encountered, works shall cease on the area of contamination and that area shall be fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the local planning authority and the remediation has been completed as approved. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:
- any sampling and remediation works conducted and quality assurance certificates to demonstrate that the works have been carried out in full in accordance with the approved methodology;
 - post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report

together with the necessary documentation detailing what waste materials have been removed from the site;

- if no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

28. At least 5 of the hereby permitted dwellings shall be provided to Part M4(3) standard. The remaining homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).

29. Prior to the first use or occupation of the any part of the development within phases 3 and 4 as hereby permitted, the buildings shall have been constructed or modified to provide sound insulation against externally generated noise from the Sittingbourne Northern Relief Road and/or the **Chatham Main Line to standards in the Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020)** in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The affected buildings shall be constructed and retained as approved thereafter.

30. Construction working on the site to be identified in the CEMP shall not take place outside of the following hours:

- Monday to Friday 0730 to 1800
- Saturday 0800 to 1300

There shall be no construction work on Sundays or Bank Holidays.

31. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:

- Monday to Friday 0900-1700 hours.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Westmoreland Smith Counsel

No witnesses were called

FOR THE APPELLANT:

Mr J Strachan **King's Counsel**

He called:

Mr R Brass BSc(Hons) Partner, Knight Frank
DipTP MRTPI

Mr J Bancroft BSc(Hons) Director, Vectos (South) Limited
MSc MBA MIHT

INTERESTED PERSONS:

Mrs G Beer	Parish Councillor, Tonge Parish Council
Mr P Townson	Chairman, Teynham Parish Council – attended via videolink
Mr J Hall	Borough Councillor, Swale BC
Mr S Best	Local Resident

DOCUMENTS submitted at the inquiry (and subsequently by agreement)

- 1 Opening Statement for the Appellant
- 2 Opening Statement for the Council
- 3 Documents from Mrs Beer
- 4 Documents from Mr Hall
- 5 Draft S106 Obligation
- 6 CIL compliance statement
- 7 Revised and agreed suggested conditions
- 8 Written statement from Teynham Parish Council
- 9 Closing remarks on behalf of the Appellant
- 10 Certified S106 Agreement