



Appeal Decision

Site visit made on 9 December 2020

by Alison Partington BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2021

Appeal Ref: APP/R1038/W/20/3259758

Land South of Hallfieldgate Lane, Shirland, DE55 6AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Trustees of Ted Speed and Pauline Speed Hallfield Trust against the decision of North East Derbyshire District Council.
 - The application Ref 19/00335/OL, dated 22 March 2019, was refused by notice dated 31 July 2020.
 - The development proposed is up to 90 new residential units and site access.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 90 dwellings and site access at land south of Hallfieldgate Lane, Shirland, DE55 6AA in accordance with the terms of the application, Ref 19/00335/OL, dated 22 March 2019, subject to the conditions set out in Annex A.

Procedural Matters

2. The application was amended prior to its determination by the Council. The revised scheme reduced the maximum number of houses on the site from 120 to 90 as described in the banner heading above.
3. The application was submitted in outline with access only to be determined at this stage. I have determined the appeal on this basis, treating the plans that show a potential site layout and site sections as illustrative.

Main Issues

4. The main issues in the appeal are the effect of the development on:
 - the landscape character and appearance of the area; and
 - the setting of Hallfield Gate Conservation Area.

Reasons

Planning Policy Context

5. The appeal site comprises a number of agricultural fields currently used for pasture. It lies outside, albeit adjacent to the Settlement Development Limits for Shirland as defined by the *North East Derbyshire Local Plan (adopted November 2005)* (LP) and so is defined as being in the countryside.
6. Policies GS1, GS6 and H3 of the LP seeks to restrict the majority of residential development outside the Settlement Development Limits. The appeal scheme

would not fall into any of the exceptions outlined in these three policies. As such, the proposal would be contrary to them.

7. However, it is accepted by the main parties that these three policies are not in full conformity with the *National Planning Policy Framework* (the Framework). In addition, whilst it is agreed that both LP Policies NE1 and BE1, referred to in the reasons for refusal, are consistent with the Framework, it is disputed whether Policy BE11 of the LP is. There is also disagreement over which policies are the most important policies for determining the appeal. These are all matters which I will address later.
8. The Council are currently in the process of producing the *North East Derbyshire Local Plan 2014 – 2034* (the ELP). This emerging plan is currently coming towards the end of the examination stage with the consultation on the main modifications currently taking place. The reason for refusal referred to 4 policies within the ELP: SS9 (Development in the Countryside); SDC3 (Landscape Character); SDC12 (High Quality Design and Place Making); and SDC5 (Development within Conservation Areas).
9. The appeal site was promoted for development in the earlier stages of the ELP but is not allocated for development in it. Shirland is designated as a Level 2 village in the ELP which is a settlement considered to have a good level of accessibility to jobs, public transport and services. Policy LC1 of the ELP allocates 2 sites for housing in the village. On the basis of what has been delivered to date, the remaining yield anticipated on the allocated sites and windfalls, it is anticipated 193 new dwellings would be provided in the village over the plan period to 2034.
10. The ELP does not propose any changes to the Settlement Development Limits in this part of the village and nor do the main modifications. So, the appeal site would remain located within the open countryside for planning policy purposes when the ELP is adopted.
11. It is disputed by the parties how much weight should be given to the policies in the emerging plan, and in this respect I was referred to a recent appeal decision¹ for an outline application for housing development on the edge of Holmewood where the Inspector concluded that only limited weight should be given to policies in the ELP.
12. However, since that appeal was determined the main modifications have been published and are undergoing a consultation process. Of the 4 policies referred to by the Council in the reasons for refusal one (SDC5) is not subject to any main modifications. Whilst the other 3 policies are, the changes proposed relate to improving the clarity of the policy and ensuring consistency with other parts of the plan. As such, the main thrust of each of the policies remains unaltered. Whilst the outcome of the consultation process is not known, and it is not for me to pre-judge the outcome of the examination process in the context of a section 78 appeal, the level of uncertainty regarding the ELP has reduced since the aforementioned appeal. As such I consider moderate weight can be given to the ELP policies referred to in the reasons for refusal.

¹ Appeal reference APP/R1038/W/20/3251224

Landscape character and appearance

13. The proposal is supported by a Landscape and Visual Appraisal with a further Landscape and Visual Statement being produced at appeal stage. The Council also produced their own Landscape and Visual Statement at appeal stage. These both provide an assessment of the predicted effects on the landscape character and visual amenity. Whilst in places these come to similar conclusions, in other areas they differ, so I have utilised these, as well as my own observations, to come to my conclusions.

a) Landscape and visual baseline

14. The appeal site consists of 2 fields together with parts of 2 other fields immediately to the south of the village of Shirland. The undulating fields are currently under pasture and are enclosed by hedgerows with occasional boundary trees.
15. Properties along Hallfieldgate Lane form the northern boundary of the site. The houses vary considerably in type and design and their boundaries with the site comprise a mixture of walls, fences and vegetation. In other directions the site is bound by undulating fields and a golf course. A network of public footpaths cross this area.
16. A short distance to the west lies Hallfield Hall and its grounds and outbuildings that have been converted to residential and office uses. The grounds contain a large number of mature trees and form a distinctive feature in the landscape. This collection of buildings is separated from the other properties on the southern side of Hallfieldgate Lane by a field and the large side garden of No 43. A row of mature trees is found along the roadside boundary of this field. In an otherwise built up road frontage this gap gives the opportunity for views into the countryside that surrounds the village.
17. The appeal site forms part of the 'Nottingham Derbyshire and Yorkshire Coalfield' National Character Area and in the *Landscape Character of Derbyshire (2014)* is located within the 'Coalfield Village Farmlands'. The site displays some of the key characteristics of this area such as having a gently undulating landform, being used for pastoral farming and having scattered hedgerow trees. Whilst these make a positive contribution to the character of the countryside, these features are not particularly rare.
18. Neither the site nor the wider area are covered by any national or local landscape designations. The Council's evidence is that the field boundaries on the site are historic and their small and irregular nature fits their classification as part of "Small irregular fields" within the Historic Landscape Character Assessment. However, I note that this is the most common classification in the county covering 20% of the area so it is not particularly scarce or unusual.
19. The undulating topography means the landscape is generally intimate and views contained, but in places more panoramic views are possible, particularly looking west from Belper Road where the land drops away sharply. Whilst views of the site are possible, particularly from the footpath network, the undulating nature of the landscape, together with intervening trees and other vegetation, means these come and go. Moreover, in these views the site is seen in the context of the built form of the village which at present, along Hallfieldgate Lane, forms quite a stark edge between village and countryside.

b) Landscape value, susceptibility and sensitivity

20. The open undulating fields, enclosed by hedges with some attractive boundary trees, and the opportunity for views into the countryside are features that clearly give value to the site. Together with the surrounding fields the site forms part of the attractive agricultural setting to Shirland, which can be appreciated from the footpath network. Nevertheless, I agree with the appellant that this scenic quality is negatively impacted by the existing harsh settlement edge and the artificial and manicured appearance of the adjacent golf course. In addition, whilst the site contains landscape features that are characteristic of the area none of these are particularly rare, nor are the features exceptional examples.
21. In the light of this I consider that the landscape has medium value. Both main parties agree that the susceptibility of the landscape to accommodate change without undue consequences for maintaining the baseline situation is medium. Nothing I saw leads me to a different conclusion in this regard. As the sensitivity of the landscape to change is based on its value and susceptibility, both of which I consider to be medium, this too is medium.

c) Landscape and Visual Effects

22. The landscape evidence from both parties included a number of representative viewpoints which I visited as part of my site visit.
23. The proposal on what is currently open fields would clearly permanently alter the character of the site itself and the development would be visible most noticeably from certain points on the footpath network. Nevertheless, whilst the layout is a reserved matter, the illustrative plans show the majority of housing would be located to the rear of the existing housing on Hallfieldgate Lane and so would relate well to the existing settlement.
24. Moreover, the boundary trees along Hallfieldgate Lane, that make an important contribution to the visual amenity of the lane would be unaffected by the development and it also is proposed to enhance the existing hedgerows along here. Although reduced in size, it is proposed that a gap would be maintained between the collection of buildings around Hallfield Hall and the development. As such, views into the countryside would still be possible from Hallfieldgate Lane.
25. Whilst the layout and landscaping are not being determined at this stage, the illustrative plans also show the incorporation of the existing field boundary hedgerows into the layout. Significant areas dedicated to open space, green infrastructure and habitat creation are also shown. Although this would not have the same character as the existing landscape it would help to soften the appearance of the scheme. The location of a key area of open space along the existing hedgerow line to the rear of the side garden of No 43 would enable views across into the countryside from Lilac Way.
26. Planting within the development and along the boundaries would also soften the appearance of the development and would have the potential to provide a better transition between the village and the countryside than currently exists. Whilst this planting would take time to mature, in the long term it would help assimilate the development into the landscape as well as providing the potential for biodiversity enhancement.

27. The extent of the visibility would vary with the seasons, but due to the topography of the area, and the existing and proposed vegetation both on the site and in the wider landscape, long distance views would not be possible. Some short to medium range views are possible from the local footpath network, which appeared to be well-used, and also from Hallfieldgate Lane, but in these views the proposed housing would be seen in the context of the existing built form of the village. The proposed planting would help to soften these views.
28. The tower of St Leonard's Church is a landmark feature in the area. From various points on the nearby public footpath network the appeal site forms part of the foreground of the tower. However, in such views, the tower is already seen in the context of the housing surrounding it including the 20th century housing along Hallfieldgate Lane. As such, the proposal would not significantly alter these views.
29. The greatest impact would be on footpath No 33 that goes from Pit Lane through the golf course and passes close to the site. Even at its closest points the views would be filtered by the existing and proposed vegetation, and the adverse impact the development would have would only be for a limited stretch of this footpath. Given this I consider the visual impact on users of the footpath network would be moderate at worst and minor on the more distant routes.
30. The properties along the south of Hallfieldgate Lane would directly overlook the development. Additionally, some of the houses along the northern side have views across the site, although these are filtered by vegetation. When complete views of the development would be possible from these nearby houses, but these would be softened by the proposed planting which will mature over time reducing views. As a result, I consider the impact on nearby residents would be moderate.
31. Views of the site from the road network are minimal and so the visual impact on road users would be negligible.
32. Whilst the collection of housing around the junction of Hallfieldgate Lane and Belper Road, once formed a small hamlet separate from Shirland, the 20th century development along the lane, which is continuous along the northern side, means the two are now joined, despite the gap that exists on the southern side between No 43 and the buildings surrounding Hallfield Hall.
33. The illustrative plan show only a limited amount of housing within this gap, as the majority would be to the rear of the existing dwellings. The land to the west of the access would remain as an open field and the trees along the boundary would be retained. As such, there would not be a significant change in the character of the lane at this point and as mentioned above, views into the countryside would be maintained.

d) Landscape character and appearance conclusions

34. The proposal would lead to the permanent loss of the open countryside. However, due to the limited visibility of the site this impact would be localised, and the development would relate well to the existing settlement. Good opportunities exist for mitigation through the provision of open space and planting within and around the site. Both main parties conclude that at completion the development would result in a moderate overall landscape

effect. This is a conclusion with which I agree. The main visual impacts would be restricted to nearby residents and users of a small part of the local footpath network. This too would result in moderate harm. As the planting matures over time, I consider that both the landscape and visual impacts would reduce to minor.

35. Overall, whilst the proposal would not result in the loss of any distinctive landscape features, it would have a moderate adverse impact on the landscape character and appearance of the area. Thus it would be contrary to Policy NE1 of the LP which indicates that proposals should conserve and/or enhance the varied and distinctive landscape character of the area and should not result in the loss of distinctive features that contribute towards and add value to the landscape character of the area. It would also conflict with Policy GS6 of the LP which requires new developments in the countryside are in keeping with the character of the countryside and policy BE1 which requires development to respect the character and appearance of the area.
36. In addition, the proposal would be contrary to Policies SS9, SDC3 and SDC12 of the ELP which require that developments should respect and respond to the character, quality, distinctiveness or sensitivity of the landscape.

Setting of the Conservation Area

37. To the west of the appeal site, separated by a field, is Hallfield Gate Conservation Area. The focus of the conservation area is the collection of historic buildings located around the junction of Belper Road and Hallfieldgate Lane, which originally formed part of a hamlet separate from Shirland. These buildings include Hallfield Hall which is locally listed and Yew Tree Farm to the north which is a Grade II Listed Building. The conservation area comprises 3 distinct areas: the hall, its landscaped grounds and its associated outbuildings to the east; Yew Tree Farm and the housing development around it; and the buildings to the west of Belper Road.
38. The significance of the conservation area as a separate hamlet can be seen best from the south and particularly the west, where the change in land levels allow views of the elevated location of the hamlet and the hall. From the east the 20th century development along Hallfieldgate Lane make this attribute much less discernible.
39. Although Hallfield Hall is one of the most notable buildings in the conservation area, visibility of it is limited. Its entrance gates and the boundary wall are attractive features that make a positive contribution to the conservation area. However, the location of these is such that they would be unaffected by the proposal.
40. The conservation area is surrounded on three sides by undeveloped land which forms part of the agricultural setting of both the conservation area and Shirland. Whilst the appeal site forms part of this open land it does not directly abut the conservation area and it relates more to the settlement of Shirland than it does to the hamlet. The proposal would retain an open field to the immediate east of the conservation area and at its closest point would be 50m from it. As such, I am satisfied that the contribution the open fields make to the rural setting and the significance of the conservation area would be maintained and the proposal would not harm views into or out of the conservation area.

41. In addition, the trees fronting Hallfieldgate Lane would all be retained. Thus, despite the changes needed to the existing access for the development, the character of this part of the lane, and views into the conservation area from it, would not alter significantly, and the contribution the trees make to the setting of the conservation area would be unaffected.
42. Whilst parts of the hall can be seen from the appeal site, views are restricted by the intervening vegetation and outbuildings. The proposal would not have any impact on the hall and its grounds, or on any significant views of it. In addition, the three distinct areas of the conservation area would remain legible and unaffected by the proposal. As such, the proposal would not have a detrimental impact on the architectural significance of the conservation area.
43. All in all, I consider the proposal would preserve the setting of Hallfield Gate Conservation Area. Accordingly, there would be no conflict with Policies GS1 and BE11 of the LP or Policy SDC5 of the ELP which seek to ensure developments preserve or enhance the character and appearance of conservation areas and their settings.

Other Matters

44. It is agreed by the main parties that the proposed development would not harm the setting of either St Leonard's Church in Shirland, a Grade II* Listed Building, or Yew Tree Farm, due to the intervening topography, distance and lack of inter-visibility. This is a conclusion with which I agree.

Highway issues

45. Concern has been raised by the Parish Council and third parties over traffic generation and various highway and pedestrian safety issues. However, I note that, subject to conditions, the County Council who are the local highway authority have not raised objections to the scheme.
46. The plans indicate that the proposed access would have adequate visibility splays and a 2m wide footway. Thus, I am satisfied that a safe and suitable access to the site can be provided for both vehicles and pedestrians.
47. Whilst the provision of 90 houses would create more traffic along Hallfieldgate Lane, there is no substantive evidence to show that this would have a severe impact on the local highway network which is the test set out in the Framework. Nor would it have an adverse impact on pedestrian safety. I note the comments regarding Pit Lane and its suitability as a route for taking children to school. However, this is not the main pedestrian access to and from the site and the route parents use to take their children to school is not something that could be controlled.
48. Whilst layout is not being determined, I see no reason why adequate parking could not be provided within the site and thus the proposal would not exacerbate any pre-existing on-street parking issues that may exist in the vicinity.

Local infrastructure

49. It has been suggested that local facilities such as doctors and schools are already full. As set out below a Unilateral Undertaking has been provided which

provides a financial contribution related to the additional educational provision the development would create.

50. In terms of medical facilities or other infrastructure, I have not been given any detailed evidence which quantifies the extent of any local shortage, capacity issues or the need for new facilities. I note that there are other housing developments either already taking place in the village or proposed. However, its designation as a Level 2 village indicates that the Council considers that Shirland has a good level of accessibility to jobs, public transport and services. As such, there is no justification to withhold consent for this reason.

Living conditions

51. The layout and design of the scheme are not to be determined at this stage. Therefore, it is at the reserved matters stage that issues affecting the living conditions of adjacent residents such as privacy and noise would be considered. Nonetheless, the illustrative plan shows that adequate separation distances could be provided between existing and proposed houses. The impact of the construction phase would be temporary, but conditions could be used to control matters such as construction hours and dust. The need for fencing to the golf course and light pollution are matters that could also be dealt with when the detailed design and layout of the scheme are determined.

Land stability

52. The area has a history of coal mining, but the Coal Authority have raised no objections to the proposal subject to a condition requiring further site investigations. This information would be able to feed into the design of the layout and so from the information before me I do not see this as a reason to withhold planning permission.

Drainage

53. I note the concerns raised regarding the impact on drainage in the area. However, subject to conditions the statutory consultees have raised no objection to the proposal and consider the site can be adequately drained. I see no reason to disagree with this conclusion.

Biodiversity

54. The impact of the proposal on wildlife has been raised by local residents. Whilst the proposal would result in the development of open fields the illustrative plans indicate significant areas of open space and improved planting. These are matters that would be considered when the landscaping and layout are determined but I am satisfied that the proposal has the potential to enhance the biodiversity of the site.

Whether the tilted balance is engaged

55. There is no dispute that the Council can demonstrate a 5 year housing land supply, with the latest position showing a 8.3 year supply based on the objectively assessed local housing need or 6.32 years if using the more ambitious target in the ELP. Whilst this does not result in the tilted balance being engaged, paragraph 11 d) of the Framework indicates that the tilted balance is also engaged if the policies which are most important for determining the application are out-of-date.

56. Both parties have drawn my attention to a number of recent appeal decisions² where this matter has been considered. The Inspectors in these appeals have reached different conclusions on whether policies are out of date or not, what policies were the “most important” and whether the tilted balance was engaged. Whilst I have had regard to these, I have come to my own conclusion on the basis of the evidence before me and the specific circumstances of this appeal.
57. The two main issues in this case are the proposal’s impact on the landscape and heritage assets. Therefore, Policy NE1 of the LP which deals with landscape character is clearly a most important policy. However, Policy GS6 which deals with new development in the countryside has a criterion that any such development should be in keeping with the character of the countryside and so is also a most important policy. Policy BE1 sets out general design principles which includes the need to respect the character and appearance of the area, and the need for appropriate landscaping for developments located on the edge of a settlement which is the case here. Whilst this is a relevant policy, given it is not specifically related to landscape character, and landscaping is a reserved matter, I consider it is not one of the most important policies in determining the appeal. LP Policy H3 deals with housing and exceptions and so is not a most important policy either.
58. In terms of the impact on the conservation area, LP Policy BE11 deals with developments within and adjoining a conservation area. Whilst the site is not directly adjoining the conservation area, it is within its setting so I consider this is still a most important policy, as is Policy GS1 which requires that developments protect and conserve the quality of natural and cultural assets and their settings in the borough.
59. Even though I concluded above that moderate weight can be given to the policies in the ELP, as policies in an emerging but, as yet, unadopted plan I do not consider that any of them constitute the most important policies in determining the appeal.
60. In the light of this, I consider that LP Policies NE1, GS6, BE11 and GS1 are the most important policies in this case.
61. It is agreed by the main parties that Policy NE1 is broadly consistent with the Framework and not out of date and I agree. Policy GS6 sets out when development is allowed in the countryside. This is more restrictive than the Framework and so not wholly consistent with it and thus it is out of date. Policy BE11 does not include the balancing exercise set out in the Framework, but otherwise is broadly in conformity with it. I do not consider it essential that a policy includes the balancing exercise to be consistent with the Framework. To this end I note that Policy SDC5 in the ELP, which will replace BE11 when the ELP is adopted, does not include a balancing mechanism either. The Inspector examining the plan has not suggested modifications to this policy, so clearly does not consider that this is essential to make the plan sound. As such, I consider BE11 is not out of date. As it only allows development outside settlement boundaries in exceptional circumstances and requires the development of brownfield land before greenfield land, Policy GS1 is not in conformity with the Framework and so is out of date.

² Appeal references APP/R1038/W/17/3182428, APP/R1038/W/18/3216245, APP/R1038/W/19/3240407 and APP/R1038/W/20/3251224

62. Thus, of the four policies I consider to be the most important in this appeal, I have found that NE1 and BE11 are not out of date but GS1 and GS6 are. Policy NE1 and BE11 both address the main issues in the appeal, although as noted above the appeal site is not actually in or adjoining a conservation area which is what is specifically covered in BE11. GS1 and GS6 are more generic policies and identify that the site is in the open countryside as it is outside the defined settlement boundaries as well as dealing with landscape matters. It is due to the fact that the site is in the open countryside that Policy NE1 is relevant. Thus, although quite finely balanced, on this basis I consider that overall the basket of policies that are the most important policies in determining the appeal are out of date and the tilted balance is engaged.

Planning Benefits

63. Both the construction phase and spend by future occupiers would benefit the local economy. Although outside the development limits, the site is close enough to be able to access services within the village itself. As a Level 2 village the settlement is considered to have a good level of accessibility to jobs, public transport and services. Whilst other new housing is also planned for the settlement, I have not been provided with any substantive evidence that local services or facilities would be unable to cope with an increased level of housing delivery. Thus, I give moderate weight to these economic benefits.

64. The proposal would attract New Homes Bonus and increase Council Tax revenue. However, as Section 70 of the Town and Country Planning Act 1990 does not refer to either of these as "local finance considerations", I give very little weight to this.

65. The proposal would deliver up to 90 new houses. Although the Council can comfortably demonstrate a 5 year housing land supply, given the Framework's aim to significantly boost the supply of housing I consider this benefit to have moderate weight. In addition, and in line with the Council's requirements, 20% of the housing provided would be affordable housing. As the evidence indicates that between 2014-19 the delivery of affordable housing has fallen short of the 172 units per annum requirement, I give this significant weight.

66. The illustrative plans show a biodiversity enhancement corridor and areas of open space as well as new and enhanced hedgerow and tree planting. However, as the scope and scale of these are not being determined at this stage, I give little weight to these benefits.

Unilateral Undertaking

67. A signed and completed Unilateral Undertaking has been submitted by the appellant. This would secure the provision of 20% affordable housing on the site and controls the type of affordable housing units to be provided and the occupancy of the units. It also makes provision for a contribution towards primary and secondary education that reflects the need for additional educational provision the development would create. In addition, it provides a financial contribution for enlarging the parking spaces on the opposite side of Hallfieldgate Lane that would be affected by the alterations to the access.

68. The Council have provided a detailed Compliance Statement that sets out how the Unilateral Undertaking would meet the relevant tests in paragraph 56 of

the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

69. From the evidence before me I am satisfied that all of the obligations in the Unilateral Undertaking are necessary, directly related to the development and fairly related in scale and kind. As such, it accords with the statutory tests.

Planning Balance and Conclusion

70. As outlined above, I have concluded that as the policies which are most important for determining the application are out of date the “tilted balance” outlined in paragraph 11 d) ii of the Framework is engaged. This means that planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits.
71. The appeal site is located outside the settlement boundaries for Shirland as defined in both the current and the emerging Local Plan. It is thus, in policy terms in the open countryside and contrary to LP Policies GS1, GS6 and H3. I give this significant weight.
72. In addition, I have concluded that the development would have a moderate adverse impact on the landscape character of the area. However, the provision of open space and planting within and around the site would be able to mitigate some of this impact, particularly over time as the planting matures. As such, I give this harm moderate weight and the development would be contrary to LP Policies NE1 and GS1.
73. Whilst I consider only moderate weight can be given to policies in the ELP, the proposal would be contrary to Policies SS9, SDC3 and SDC5. However, these and Policy H3 do not form part of the basket of ‘most important’ policies.
74. I have found that the proposal would preserve the setting of the conservation area and the nearby Listed Buildings. However, an absence of harm with regard to heritage matters is a neutral factor.
75. I have outlined the benefits above and concluded that moderate weight is to be given to both the economic benefits and the benefits arising from the provision of open market housing, and significant weight to the contribution to affordable housing.
76. Overall, I consider that the harm arising from the conflict with policies and to the landscape would not significantly and demonstrably outweigh the benefits of the proposal. I therefore conclude that the appeal should be allowed.

Conditions

77. In addition to the standard implementation and reserved matters conditions, to provide certainty it is necessary to define the plans with which the scheme should accord, and to control the maximum number of houses that can be built.
78. In the interests of the character and appearance of the area conditions are necessary to set out matters that should be covered in the landscaping and the appearance reserved matters submissions, and to ensure the protection of the trees that are to be retained on the site. For nature conservation reasons conditions are necessary to ensure biodiversity enhancements are carried out as part of the development and to protect nesting birds.

79. To ensure the satisfactory drainage of the site conditions are required to control foul and surface water drainage of the site during construction and when developed.
80. A condition requiring the submission of a construction management plan is necessary to protect the living conditions of residents and for highway safety. As this can control hours of operation a separate condition on this is not necessary. Also for highway safety, conditions are necessary relating to the provision of the access for both construction traffic and the completed development as well as setting out details that need to be provided as part of the layout reserved matters application. To promote sustainable means of transport a condition is needed to ensure the submission of a Travel Plan.
81. Given the findings of the Phase 1 Contamination Assessment and the sensitive nature of the end use, it is appropriate to have conditions to ensure further investigations are carried out, and to outline measures of how any contamination would be dealt with.
82. A condition requiring a scheme of investigation is necessary to ensure the recording of any archaeological remains. As the construction phase is cited as an economic benefit of the scheme a condition to maximise training and employment during this stage is necessary.
83. Conditions relating to play areas, site levels, boundary treatments, materials, public art, and the design of internal access roads all relate to matters that are reserved for future consideration, so I consider that it is neither necessary, nor appropriate, to apply them at this stage. In the interests of precision, clarity, and enforceability, the wording of some of the Council's suggested conditions have been altered.

Alison Partington

INSPECTOR

Annex A

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 takes place 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 take place 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: Site Location Plan Drawing No 07/1657/LP Rev N; and Proposed Site Access Drawing No JD119 – Figure 3.1 Rev C.
5. No more than 90 dwellings shall be built on the site.
6. The details to be submitted to, and approved in writing by, the local planning authority as part of the landscaping reserved matters shall include a scheme for the delivery and future management and maintenance of all on-site open space, including a Landscape Management Plan and a timetable for implementation relative to the completion of the dwellings hereby approved. The approved scheme of open space shall be implemented in full in accordance with the approved timetable, and shall be managed and maintained in accordance with the approved scheme thereafter.
7. The details to be submitted to, and approved in writing by, the local planning authority as part of the appearance reserved matters shall include a scheme for mitigating climate change through sustainable design and construction of the dwellings. The dwellings shall be constructed in accordance with the approved climate change scheme.
8. No development shall take place until a detailed Tree Protection Plan, showing the positions, species and crown spread of trees to be retained within, and adjacent to, the application site together with measures for their protection for the duration of the works, has been submitted to, and approved in writing by, the local planning authority. The means of protection shall be installed in accordance with the approved scheme before any works commence on site and shall be retained in position until all the building works hereby approved have been completed. The area within the fenced/protected area shall not be used for storage or the parking of machinery or vehicles and the ground levels shall not be altered.
9. No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist and the survey report shall first have been submitted to, and approved in writing by, the local planning authority. If nesting birds are present, the report shall include details for an appropriate exclusion zone which will be implemented prior to the commencement of vegetation clearance and which shall remain in place until the chicks have fledged. No works shall be undertaken within the exclusion zone(s) whilst nesting birds are present.

10. No development above ground level shall take place until a Biodiversity Enhancement Plan has been submitted to, and approved in writing by, the local planning authority to achieve a net gain in biodiversity. The plan shall provide for (although shall not necessarily be limited to) the following measures and their ongoing management and maintenance all with timescales:
- Integrated bat boxes in 25% of dwellings clearly shown on a plan (positions/specification/numbers);
 - Bird boxes (including swift boxes) in 25% of dwellings clearly shown on a plan (positions/specification/numbers);
 - Insect bricks in 10% of dwellings clearly shown on a plan (positions/specification/numbers);
 - Measures to maintain connectivity for hedgehogs clearly shown on a plan (fencing gaps 130mm x 130mm and/or railings and/or hedgerows); and
 - Summary of ecologically beneficial landscaping (full details to be shown in Landscape Plans).

Thereafter the measures shall be implemented, managed and maintained in accordance with the details and timescales as approved.

11. No development shall take place until drainage details for the disposal of foul sewage and a timetable for implementation have been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in full and in accordance with the approved details and timetable and shall be retained as such thereafter.
12. No development shall take place until a detailed design and associated management and maintenance plan, with timescale(s), for the surface water drainage for the site, (including highways surface water) has been submitted to, and approved in writing by, the local planning authority. This shall be in accordance with the principles outlined within:
- a. Land at Hallfieldgate Lane, Shirland, Derbyshire Flood Risk Assessment, (March 2019 by Armstrong Stokes & Clayton Ltd) and also including any subsequent amendments or updates to this document as approved by the Flood Risk Management Team; and
 - b. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The approved surface water drainage system shall be implemented in accordance with the approved detailed design prior to occupation of any dwelling and shall be retained, managed and maintained thereafter in accordance with the details and timescales approved.

13. No development shall take place until a detailed assessment has been provided to, and approved in writing by, the local planning authority to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph reference ID: 7-080-20150323 of the Planning Practice Guidance.
14. No development shall take place until a scheme has been submitted to, and approved in writing by, the local planning authority giving details for how surface water run-off from the site will be avoided during the construction phase. The details may include arrangements for collection, balancing and/or settlement systems for these flows. The approved system shall be implemented and operating before the commencement of any works which would lead to increased surface water run-off from the site during the construction phase.

15. No development shall take place until a construction management plan or construction method statement has been submitted to, and approved in writing by, the local planning authority. The approved plan/method statement shall be implemented prior to the commencement of any works and adhered to throughout the construction period. The statement shall provide for:
 - the parking of vehicles for site operatives and visitors;
 - routes for construction traffic, including abnormal loads/cranes etc;
 - hours of operation;
 - methods for the prevention of debris being carried onto the highway;
 - pedestrian and cyclist protection; and
 - any proposed temporary traffic restrictions.
16. No development shall take place until a temporary access for construction purposes has been provided to Hallfieldgate Lane, generally in accordance with Drawing No JD119 – Figure 3.1 Rev C and provided with visibility splays measuring 2.4m x 54.0m to the east and 2.4m x 47.0m to the west. The area in advance of the sightlines shall remain free from any obstructions to visibility over 1.0m high, relative to the nearside carriageway channel level, for the time over which the temporary access is in use. The temporary access shall be retained for the duration of the construction phase or until such time as it is replaced by the permanent access.
17. No development above ground level shall take place until a detailed scheme of highway improvement works for the provision of a new estate street junction formed to Hallfieldgate Lane has been submitted to, and approved in writing by, the local planning authority. The scheme shall provide for: a minimum 5.5m carriageway, 2.0m footway and 1.0m margin; a maximum gradient of 1:30 for the first 15.0m and 1:20 beyond; visibility splays measuring 2.4m x 54.0m to the east and 2.4m x 47.0m to the west; and shall include highway works for the realignment of the carriageway, bus stop provision, relocation of existing parking bays and tactile crossing adjacent to the site, in accordance with submitted drawing JD119 Figure 3.1 Rev C, together with a programme for the implementation and completion of the works. The highway works shall be implemented in accordance with the details and programme as approved. The visibility splays shall thereafter be maintained free from obstruction over 1.0m high relative to the nearside carriageway channel level.
18. Within 28 days of the permanent access being constructed and brought into use any works comprised in the temporary access to Hallfieldgate Lane, not incorporated into the permanent access, shall be removed and the highway shall be reinstated in accordance with a scheme that shall first have been submitted to, and approved in writing by, the local planning authority.
19. The details to be submitted with the layout reserved matters shall include details of:
 - The design and layout of internal roads which shall accord with the guidance contained in the “Manual for Streets” and Derbyshire County Council’s residential design guide;
 - arrangements for the parking and manoeuvring of residents and visitors’ vehicles, together with secure cycle parking;
 - suitable turning arrangements to enable service and delivery vehicles to turn; and
 - arrangements for bin storage and collection.The development shall take place in accordance with the approved details.

20. Prior to the first occupation of any dwelling a Travel Plan shall have been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall set out proposals (including a timetable), to promote travel by sustainable modes, and shall be implemented in accordance with the timetable set out therein. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the Travel Plan being approved, to the local planning authority for approval for a period of five years from the first occupation of the development.
21. No development shall take place until further works deemed necessary in the DAB Geotechnics Ltd report 'Phase 1 Contamination Assessment Proposed Residential Development of Land to the South of Hallfieldgate Lane Shirland (Ref: DABGeot/17005/Final; dated 4th March 2019)' have been undertaken by a competent person in accordance with good practice guidance for the investigation and assessment of land contamination; and a report of that investigation and assessment has been submitted to, and approved in writing by, the local planning authority.

Where the site investigation identifies unacceptable levels of contamination, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment and a timetable for implementation has been submitted to, and approved in writing by, the local planning authority. The scheme shall have regard to CLR 11 and other relevant current guidance and shall include a timetable for implementation. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The scheme shall be implemented in accordance with the details and timetable as approved. At least 14 days' written notice shall be given to the local planning authority prior to commencing works in connection with the remediation scheme and no dwellings shall be occupied until the approved remediation works have been carried out in full in compliance with the approved methodology and good practice guidance.

22. If during the construction associated with the development hereby approved any suspected areas of contamination are discovered, then all works shall be suspended until the nature and extent of the contamination is assessed and a report has been submitted to, and approved in writing by, the local planning authority. The local planning authority shall be notified as soon as is reasonably practicable following the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in the Phase I report (DAB Geotechnics Ltd 'Phase 1 Contamination Assessment Proposed Residential Development of Land to the South of Hallfieldgate Lane Shirland (Ref: DABGeot/17005/Final; dated 4th March 2019)) submitted with the application and through the process described in condition 21 above. Upon completion of the remediation works a validation report prepared by a competent person shall be submitted to, and approved in writing by, the local planning authority before any particular dwelling is occupied. The validation report(s) shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and

in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

23. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to, and approved in writing by, the local planning authority, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
- 1) The programme and methodology of site investigation and recording;
 - 2) The programme for post investigation assessment;
 - 3) Provision to be made for analysis of the site investigation and recording;
 - 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - 5) Provision to be made for archive deposition of the analysis and records of the site investigation; and
 - 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Archaeological Written Scheme of Investigation.

No dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Archaeological Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

24. No development shall take place until a scheme to enhance and maximise employment and training opportunities during the construction stage of the development, including a timetable for implementation, has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall then be implemented in full and in accordance with the approved details and timetable.