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Your Ref: 11/00368/FUL

Our Ref: APP/K2420/A/12/2174133/NWF

Date: 20 July 2012

Dear Mr Wood

**Town and Country Planning Act 1990**
**Appeal by Taylor Wimpey UK Ltd**
**Site at Land Off Nutts Lane, Hinckley, LE10 0DA**

I enclose for your information a hard copy of the appellant's statement on the above appeal. Normally, no further comments, from any party, will now be considered.

Yours sincerely

Deb Smith, Case Officer
Planning Division

211L(H&I)

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INVESTOR IN PEOPLE
POSITIVE ABOUT DISABLED PEOPLE

Appeal Reference:
APP/K2420A/12/2174133/NWF

# Land Adjacent To Greyhound Stadium, Nutts Lane, Hinckley

STATEMENT OF CASE

On behalf of Taylor Wimpey UK Ltd

July 2012

BARTON WILLMORE

Planning · Design · Delivery

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78**

**TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**

**APPEAL AGAINST THE REFUSAL OF PLANNING PERMISSION FOR:**

**ERECTION OF 84 DWELLINGS INCORPORATING ACCESS, PUBLIC OPEN SPACE, BALANCING POND, PUMPING STATION AND ASSOCIATED EARTHWORKS, LANSCAPING, CAR PARKING AND OTHER ANCILLARY WORKS.**

**LAND ADJACENT TO GREYHOUND STADIUM, NUTTS LANE, HINCKLEY**

# STATEMENT OF CASE

**FOR**

**TAYLOR WIMPEY UK LTD**

HBBC Planning Application No. 11/00368/FUL
Planning Inspectorate No. APP/K2420/A/12/2174133/NWF

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Ref: 20922/A5/P2/SF/sjz

Date: 16th July 2012

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# 1.0 INTRODUCTION

1.1 Barton Willmore LLP act on behalf of the Appellant, Taylor Wimpey UK Ltd, in respect of land off Nutts Lane, Hinckley (the 'Appeal Scheme').

1.2 The Appellant will describe the appeal scheme which comprises a full application for planning permission for residential development for 84 dwellings incorporating access, public open space, balancing pond, pumping station and associated earthworks, landscaping, car parking and other ancillary works.

1.3 An application for full planning permission was submitted to Hinckley and Bosworth Borough Council (hereafter referred to as 'the Council') on 19th May 2011. The application was refused by the Council on the 7th February 2012. The Appellant will refer to the one reason for refusal as set out in Decision Notice dated 9th February 2012.

1.4 Following refusal of the application, an appeal was lodged in April 2012 and given a start date of the 9th May 2012.

1.5 The Appellant will explain in detail that the scheme accords with current planning guidance in proposing residential development in a suitable and sustainable location and that there is an appropriate safe pedestrian route and crossing over Nutts Lane and the canal bridge. Further submissions may be necessary in respect of the status and weight to be attached to the Regional Strategy, the now cancelled PPG13, which was referenced in the reason for refusal and the National Planning Policy Framework.

1.6 This statement sets out the case that the Appellant intends to put forward at the Public Inquiry and the documents that the Appellant intends to refer to in Evidence. The Appellant reserves the right to add to the matters contained in this statement and to the list of documents set out.

# 2.0 THE APPEAL SITE AND SURROUNDINGS

## The Site

2.1 The Nutts Lane site extends to 2.6 hectares (6.4 acres) and is located on the south-western edge of Hinckley, a predominately residential area located approximately 2 kilometres from Hinckley Town Centre. The site lies to the west of Nutts Lane, approximately 500 metres north of its junction with the A5 (Watling Street), 300 metres south of its junction with the Coventry Road (B4666) and immediately to the south of the Ashby de la Zouch Canal.

2.2 Nutts Lane connects the A5 and the Coventry Road. It is a two lane single carriageway road with an approximate width of 6.5m, except for the approaches to and including Nutts Lane canal bridge, which is a single lane carriageway. There is a footway upon one side of the carriageway, which alternates from the eastern to western sides. Nutts Lane is a classified un-numbered road. The speed limit is 30 mph and is street lit. The canal bridge is located to the immediate north–east of the site.

2.3 The site is roughly rectangular in shape and comprises an open grass field, surrounded by sporadic hedgerows along its boundaries with a small number of relatively poor quality trees. The site benefits from an existing single, informal 3.7 metre wide vehicular access to Nutts Lane.

2.4 The site is bounded on all four sides by development; to the north by Ashby de la Zouch Canal with residential development beyond (Waterside Park); to the east by Nutts Lane with the Nutts Lane Industrial Estate located beyond; to the south by the former greyhound stadium, currently under construction for 84 dwellings; and to the west by the relatively recent Crest Nicholson residential development, known as the Waterside Park Estate. The site adjoins the Ashby Canal Conservation Area along its northern boundary. The Ashby Canal Conservation Area Appraisal advises that all future development sites along the canal should maintain a 30 metre margin to ensure the canal's semi rural appearance.

## The Site's Surroundings

2.5 A few small convenience stores are located within 600 metres walking distance of the site on Coventry Road. The existing local facilities include a post office, convenience

shop, newsagent and a take-away restaurant. The nearest doctor's surgery is Hollycroft Medical Centre, on Clifton Way, approximately 2 kilometres away. The site is located within 1 kilometre of two primary schools (Westfield Infant School and Westfield Junior School), and approximately 3 kilometres from John Cleveland College (Secondary School and Sixth Form College). The majority of these facilities are located to the north of Nutts Lane, therefore pedestrian and cycle linkages are currently restricted to crossing the Nutts Lane canal bridge, with no alternative convenient route to Hinckley town centre or local facilities.

2.6 Hinckley has a good network of bus routes and bus stops. There are bus stops located on Coventry Road, within 400 metres of the site which will be safely accessible on foot, providing access to a regular service to and from Hinckley town centre, and Nuneaton. Bus services 48, 57, 76 and 158 run through Hinckley and provide connections to Nuneaton, Leicester and Coventry with journey times of approximately 30 minutes.

2.7 Hinckley railway station is located approximately 2 kilometres from the site on Station Road. The main railway company which operates this station is Cross Country, which runs direct hourly services from Hinckley to Birmingham New Street in 40 minutes and to Leicester in 20 minutes. Local rail journeys to Nuneaton and Narborough leave hourly and take less than 15 minutes.

# 3.0 PLANNING HISTORY

3.1 The Appellant will explain in detail the relevant planning history of the site, which is briefly summarised below:

**Development Plan History**

3.2 The Hinckley Area Local Plan (1991) designated the appeal site and land adjoining to the north and west (now developed by George Wimpey and Crest Nicholson respectively) as open countryside. During the review of the plan the appeal site and land adjoining were presented at the Local Plan Inquiry as omission sites for housing, and the Local Plan Inspector recommended that the sites be allocated for residential development. Whilst Council Officers proposed to accept the Inspector's recommendations and proposed to allocate the sites, Members did not agree with the Inspector's conclusions, and the sites were left within the open countryside designation in the adopted Hinckley and Bosworth Borough Local Plan (2001).

3.3 The site has more recently been identified as a preferred option for future residential development in the Council's emerging Site Allocations and Generic Development Control Policies Development Plan Document (February 2009) (site reference: HIN03). A Submission version is not expected until December 2012 at the earliest. The Hinckley and Bosworth Core Strategy was adopted in December 2009 and allocates a minimum of 1,120 dwellings in Hinckley.

**Planning Application History**

3.4 There have been three previous planning applications which relate to the appeal site. All three were for residential development and were submitted in outline (with means of access). The first two applications were submitted by Bryant Homes Limited with the most recent by Taylor Woodrow in 2006. All three were refused by the Council.

3.5 Planning Application reference 99/00514/OUT was refused on 13 October 1999 for the following reasons:

(i) The site lies in open countryside, contrary to policies HA /RES 9 and RES 6 of the adopted Hinckley Area Plan, and Strategic Policy 4 of the Leicestershire Structure Plan;

(ii) In the absence of any information to the contrary, the Council considered that the proposals would have a detrimental impact on the local highway network;

(iii) In the absence of any information to the contrary, the Council considered that the proposals would result in unsatisfactory living accommodation by reason of poor air quality and drainage;

(iv) In the absence of any information to the contrary, the Council considered that the proposals would result in the potential loss of important archaeological remains; and

(v) In the absence of any information to the contrary, the Council considered that the proposals would be likely to have an adverse impact on the A5.

3.6 Planning application 00/01214/OUT was refused on 8 November 2001:

(i) The site lies within the open countryside, contrary to policy NE5 of the adopted Hinckley and Bosworth Local Plan, Strategic Policy 4 of the Leicestershire Structure Plan, and Strategic Policy 9 of the adopted draft Leicestershire Structure Plan; and

(ii) In the absence of any information to the contrary, the Council considered that the proposals would result in unsatisfactory living environment by reason of inadequate drainage.

3.7 Planning application 06/00786/OUT was refused on 14th July 2006:

(i) The site lies within the open countryside, contrary to policy NE5 and BE1 of the adopted Hinckley and Bosworth Local Plan, Strategic Policy 8 of the Leicestershire, Leicester and Rutland Structure Plan, and Policies 2 and 20 of the Regional Spatial Strategy for the East Midlands (RSS8);

(ii) In the absence of any information, the Council considered the proposals had failed to demonstrate that an appropriate and safe vehicular access would be provided on the proposed development and that sufficient improvement works will be provided for Nutts Lane, to the detriment of highway safety;

(iii) In the absence of any information, the Council considered the proposals were unlikely to result in an unsatisfactory living environment for the occupiers of the

proposed development by reason of noise, arising from the activities of existing businesses in close proximity to the site;

(iv) In the absence of any information, the Council considered the proposals provided a lack of any financial contributions to address the increase in pressure placed on the play and open space facilities, education facilities, library facilities, health care facilities and civic amenity of the local area.

An appeal was lodged in respect of the 2006 refusal, and an Inquiry held (appeal ref: APP/K2420/A/06/2032373). Reasons for Refusal (ii) and (iv), relating to access and contributions to community facilities respectively, were agreed and withdrawn before the Inquiry.

3.8 In his decision letter dated 14th May 2007 the Appeal Inspector considered the main issues of the appeal to be:

(i) whether, having regard to prevailing policy and housing land supply, there are material considerations that would be sufficient to outweigh the general presumption against development in the countryside;

(ii) The impact of the proposed development on the character and appearance of the surrounding area; and;

(iii) Whether adequate living conditions could be created for the occupiers of the proposed dwellings, with particular reference to noise from nearby commercial activities.

3.9 In relation to the first issue, the Inspector considered that, at the time, there was not a shortage of housing land or any evidence of need. Importantly however, he noted paragraph 72 of PPS3 and the Government's objective of achieving a 'step change' in housing delivery, concluding that depending on local circumstances, over provision of housing is not necessarily to be discouraged (paragraph 14 of the decision letter). In addition, the Inspector considered that the site is in a reasonably sustainable location and one that would not create an excessive need for private car travel (paragraph 16), and that the site could be developed to provide a suitable mix of dwelling types and tenure in line with PPS3 objectives (paragraph 17).

3.10 The Inspector had regard to the advantages that may accrue from such development at the time, however on balance he did not consider those benefits to be of sufficient

weight to justify allowing the proposal in the current development plan policy context (paragraph 28). Moreover, he considered that it may be that, because of the possible need for an urban expansion of Hinckley, the site will at some time be allocated for housing in a future LDF document (paragraph 28). [Since then, the Council have an adopted Core Strategy, which supports growth at Hinckley and the application site is identified as a preferred option for future residential development in the emerging Site Allocations DPD (February 2009) (site reference HIN03)].

3.11 In respect of the second issue, the Inspector concluded that the site cannot be considered as 'open countryside'. However he considered that there was a lessening of urban influence moving southwards along Nutts Lane from Coventry Road (paragraph 21), and that the site is seen as part of a transitional area between the town and the true open countryside in the Green Belt some way south of the A5 (paragraph 22). At the time of this appeal, the planning application for residential development on the adjacent former greyhound stadium site had not been submitted or granted. Crest Nicholson are currently building this permission out. Furthermore, the Site Allocations and Generic Development Control Policies DPD (February 2009) concludes that development of the Waterside Park Estate to the immediate west of the Nutts Lane site, has effectively expanded the urban area of Hinckley, and as such 'development of the Nutts Lane site would therefore effectively constitute infill development'. We reflected these comments in our consideration of density and layout as detailed within the submitted Design and Access Statement. The Officer's Report to Planning Committee for the recently refused application concludes that the site is now largely bound by built development and recognises even at the time of the appeal, the site could not be considered as 'open countryside'.

3.12 In relation to the third issue, the Inspector noted that noise issues could be addressed in the design of the proposed dwellings and in the layout of that part of the development nearest to the noise source. In addition, it was accepted that adequate internal living conditions could be provided and, provided that any agreed mitigation measures were carried out, the Inspector concluded that there would be no conflict with Local Plan Policy BE1. Noise was addressed as part of the recently submitted layout and no objections were received on noise grounds. No reason for refusal is given on the basis of noise.

3.13 Whilst the Inspector dismissed the appeal, the Inspector's principal reason for doing so related to a lack of local need for housing. The housing land supply has changed since 2007, and the Council acknowledge they have a 4.7 years supply (October 2011).

# 4.0 THE APPEAL SCHEME

4.1 A planning application for the development of the Nutts Lane site was submitted to Hinckley and Bosworth Council on the 10th May 2011 under the following description of development:

> **"Erection of 84 dwellings incorporating access, public open space, balancing pond, pumping station and associated earthworks, landscaping, car parking and other ancillary works"**

4.2 The application was accompanied by a full suite of supporting documents as set out below:

- Design and Access Statement;
- Planning Statement;
- Statement of Community Engagement;
- Transport Assessment and Travel Plan;
- Flood Risk Assessment;
- Drainage Assessment;
- Noise Assessment;
- Air Quality Assessment;
- Phase 1 Ecology Survey;
- Desktop Archaeological Survey;
- Arboricultural Survey; and
- Landscape and Visual Appraisal

4.3 The application was submitted on the basis that the Council could not demonstrate a five year supply of housing land (4.02 years as at 1st October 2010, a shortfall of 477 dwellings). Therefore, as a site identified by the Council as a preferred option for future residential development in the Council's emerging Site Allocations and Generic Development Control Policies DPD (February 2009), the Nutts Lane site should be brought forward for development. The five year housing land supply position has changed since October 2010 to 4.75 years, as at October 2011 according to the LPA's calculations.

4.4 With regards to the planning application, no objections were received from the following:-

- Highways Agency
- Directorate of Chief Executive (Archaeology)
- Head of Corporate and Scrutiny Services (Green Spaces)
- The Borough Council's Arboricultural Consultant.

4.5 No objection subject to conditions/recommendations was received from the following:-

- Director of Environment and Transport (Highways)
- Ashby Canal Association
- The Inland Waterways Association
- British Waterways
- Environment Agency
- Severn Trent Water Limited
- Leicestershire Constabulary Crime Reduction Officer
- Directorate of Chief Executive, LCC (Ecology)
- Head of Business Development and Street Scene Services (Waste Minimisation)
- Head of Community Services (Land Drainage)
- Head of Community Services (Pollution).

4.6 Despite safety improvements being proposed a petition containing 11 addresses objected to the fact that LCC as Highways Authority recommended approval.

4.7 The application was recommended for approval and was presented first to Planning Committee on the 19th July 2011 but was deferred following a request by Crest Nicolson that they had not been given sufficient notice of the application by Hinckley and Bosworth Borough Council. The application was then due to be determined at Planning Committee on 13th December 2011. Members resolved to defer the application pending receipt of further information on highway matters (despite no objection being received from Highways in this respect). The application was deferred by Members with the request for LCC Highways to support the Borough Council in improving pedestrian access across the canal bridge. A Safety Audit and a Highway Improvement drawing were prepared and submitted by WSP in respect of highway matters. A further response was prepared by Leicestershire County Highways Department in support of the site and this was also submitted to Members.

4.8 The application was taken back to Planning Committee on the 7th February 2012. Members refused the application for one reason set out on the Decision Notice, which related to highway matters.

4.9 The single reason for refusal indicates that:

> **"In the opinion of the Local Planning Authority the impact of the development would lead to an increase in pedestrian movements which with the lack of provision of an appropriate safe pedestrian route and crossing, together with the narrow width of the canal bridge and the lack of a proper footway across the bridge would be to the detriment of pedestrian safety. As such the proposal is contrary to Saved Policy T5 of the Hinckley and Bosworth Local Plan and to central government guidance contained within Planning Policy Guidance 13 (PPG13) Transport."**

4.10 Accordingly the reasons for refusal for the proposed pedestrian facilities allege:

(i) the impact of the development would lead to an increase in pedestrian movements;

(ii) there is a lack of provision of an appropriate safe pedestrian route and crossing of Nutts Lane canal bridge and across Nutts Lane;

(iii) there is a lack of a proper footway across the bridge; and

(iv) there are no other material considerations which outweigh the above.

# 5.0 PLANNING POLICY CONTEXT

5.1 The Development Plan comprises:

- The East Midlands Regional Plan (March 2009)
- The Hinckley and Bosworth Local Plan (2001 - saved policies)
- The adopted Hinckley and Bosworth Core Strategy (December 2009)

5.2 The weight to be accorded to the policies contained within the Regional Strategy will require further consideration in light of emerging statements in respect of current Government policy, in particular the recently published National Planning Policy Framework (NPPF).

5.3 A full schedule of planning policy documents is enclosed at Section 8.0.

# 6.0 APPELLANT'S CASE

6.1 The single reason for refusal does not allege that the site is in an unsustainable location, nor that Hinckley itself is not suitable for development. It is not suggested that the development as a whole would harm the openness of the countryside or that benefits would not accrue from the development of this site. It is simply the engineering works required to create a safe pedestrian access where the alleged harm lies. The Appellant will consider the following key matters in relation to these policies.

**Highways**

6.2 The Council, consider the impact of the development would lead to an increase in pedestrian movements which with the lack of provision of an appropriate safe pedestrian route and crossing, together with the narrow width of the canal bridge and lack of a proper footway across the bridge, this would be to the detriment of pedestrian safety. As such, the Council consider the proposal is contrary to Saved Policy T5 of the Hinckley and Bosworth Local Plan and PPG13.

6.3 The Appellant will demonstrate that NPPF has now replaced PPG13, and as such removed this element of the refusal, nevertheless the planning application originally proposed widening to the existing hardened verge and a pedestrian bridge crossing facility with 'all red' traffic phase to the existing traffic light signals to enable pedestrians to cross the canal bridge, which was supported by Leicestershire County Council (LCC) Highway Authority.

6.4 Evidence will be provided to demonstrate that having regard to the speeds of vehicles on this section of highway, the existing level of pedestrians crossing the bridge and the absence of any personal injury accidents in the last 5 years, plus the current year to date, and taking into consideration the above improvements, including the proposed controlled pedestrian phase, it would not be possible to sustain a reason for refusal on the grounds of an increase in dangers to pedestrians.

6.5 The Appellant will demonstrate that the pedestrian crossing phase would overcome the issue of a lack of a proper footway and would comply with LCCs 6C's Design Guide. Evidence will be provided that following a review of Manual for Streets 2 and the DfTs Guidance on Inclusive Mobility, there are no constraints that would prevent the proposed pedestrian crossing being a viable solution. It is therefore considered the planning application submitted is in accordance with Policy T5 and the recently

published National Planning Policy Framework which replaced PPG13 on 27th March 2012.

**Other Issues**

6.6 The Appellant will demonstrate that other issues raised by third parties have been addressed through the planning application and the Officer's Planning Committee Report.

# 7.0 CONCLUSIONS

7.1 The Appellant considers that there is a demonstrable need for the proposed development in this location and that the proposed improvements to pedestrian facilities on Nutts Lane canal bridge would not be a detriment to pedestrian safety.

7.2 The Appellant considers that the appeal proposals would provide a safe pedestrian crossing on Nutts Lane canal bridge and a high quality, sustainable residential development which positively contributes to the development of the local community. The appeal site is located adjacent to existing residential development, is close to existing local facilities and incorporates the provision for on-site affordable housing, and landscaping to be provided within the site. The Nutts Lane Canal Bridge Footway Widening Drawing submitted with the application shows the development would incorporate good safe pedestrian crossing along Nutts Lane.

7.3 The Appellant therefore considers that the appeal proposals are in accordance with the Development Plan and national planning policy guidance and respectfully requests that the Inspector allows the appeal and grants planning permission for the proposed scheme.

7.4 It is anticipated that an agreed set of planning conditions will be incorporated into the Statement of Common Ground.

# 8.0 DOCUMENT LIST

(i) Planning Application Documents

(ii) Safety Audit and Nutts Land Canal Bridge Footway Widening Drawing (GA-003 Revision L)

(iii) Relevant Correspondence

(iv) National Planning Guidance

- National Planning Policy Framework (NPPF)
- PPG13 (Transport)
- Guidance on Transport Assessment (Dft) (2007)

(v) East Midlands Regional Plan (March 2009)

(vi) The Hinckley & Bosworth Local Plan (February 2001) (saved policies)

(vii) Hinckley & Bosworth adopted Core Strategy (December 2009)

(viii) Leicestershire County Council – The 6Cs Design Guide (November 2011)

(ix) Local Development Framework

- Annual Monitoring Report (2010)
- Annual Monitoring Report (2011)
- Site Allocations & Generic Development Control Policies DPD – Consultation Draft Preferred Options Report (February 2009)
- Strategic Housing Land Availability Assessment (2011)

(x) Other Documents

- 2008 Based Household Projections

8.1 The Appellant reserves the right to add to the above list of documents through the course of the Inquiry.