The Planning Inspectorate

Appeal Decision

Inquiry held on 14-16 June 2011
Site visit made on 16 June 2011

by Louise Crosby MA MRTPI

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

Decision date: 22 July 2011

Appeal Ref: APP/K2420/A/10/2142660
Land adjacent to Hinckley Golf Club, Leicester Road, Hinckley, Leicestershire, LE10 1LR

- 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 Flude Family Settlement 2004 against the decision of Hinckley & Bosworth Borough Council.
- The application Ref: 10/00661/OUT, dated 20 August 2010, was refused by notice dated 29 November 2010.
- The development proposed is an outline application for residential development with details of access.

Decision

1. The appeal is allowed and planning permission is granted for an outline application for residential development with details of access on land adjacent to Hinckley Golf Club, Leicester Road, Hinckley, Leicestershire, LE10 1LR in accordance with the terms of the application, Ref: 10/00661/OUT, dated 20 August 2010, subject to the conditions in the attached schedule.

Preliminary matters

2. It was agreed at the Inquiry that policy NE5 of the LP[1] (referred to in the Council's 2nd reason for refusal) does not apply in this case. I have no reason to disagree.

3. The submitted planning application form does not contain a site address and so I have used the address on the appeal form in my banner heading above.

4. The planning application was submitted in outline with all matters reserved, except for the access. Nevertheless, it was accompanied by a 'masterplan' showing the location of the public open space (on the most elevated part of the site), the road network and general areas of landscaping including where the existing hedgerows would be retained. It gives a general idea of how the dwellings would be laid out and the distance from existing houses. The submitted Design and Access Statement advises that the proposal would provide up to 232 dwellings. The appellant has agreed to the imposition of a planning condition requiring the reserved matters application to accord with the submitted 'masterplan', should planning permission be granted. I shall deal with the appeal on this basis.

[1] Adopted Hinckley and Bosworth Local Plan

5. The appellant and the Council have completed a S106 Agreement to take effect should planning permission be granted for the appeal. Among other matters, this Agreement provides arrangements for 20% of the proposed dwellings on the site to be delivered as affordable units; contributions towards the primary care trust; civic amenity facilities; library facilities; primary education; the contribution/provision of footpath works; public transport measures (bus stop works, bus passes, travel packs and raised kerb works); public open space; and the County Council's monitoring costs. The Council accept that this Agreement overcomes reasons for refusal 1 and 3 in the Council's decision notice. The merits of this Agreement are dealt with below.

Main Issue

6. The main issue is whether in light of the development plan, PPS3 and other material considerations, in particular the effect of the development on the character and appearance of the surrounding area (including the Green Wedge) there is a pressing need to release the site in terms of housing land supply.

Reasons

Background and site context

7. It is common ground that the appeal site comprises around 8 ha of undulating agricultural land. The site is outside, but adjoins the defined settlement boundary for Hinckley and is located within an area defined within the development plan as Green Wedge. It is agreed that the Council are unable to demonstrate a 5 year supply of deliverable housing land.

8. The site fronts the busy Leicester Road. On the opposite side, facing the site, and also to the west is existing housing. To the south of the site is John Cleveland College and abutting it to the east is Hinckley Golf Club. I saw when I visited the site that it currently contains arable crops. It is bounded in most places by mature landscaping and is sub-divided by traditional hedgerows.

Housing land supply

9. The East Midlands Regional Plan (EMRP) requires 9000 homes to be built in Hinckley and Bosworth between 2006 and 2026. While it is the intention of the Government to revoke Regional Spatial Strategies, in due course, the target of 9000 homes was carried forward into the CS[2]. In 2009 the CS was found to be sound and subsequently adopted and so it now forms part of the development plan to be considered here. It is not the Council's case that the housing targets should be changed. The EMRP designates Hinckley as a sub-regional centre, where the majority of the development should be focused. This is carried forward into CS policy 1 which, among other things, states that the Council will allocate land for a minimum of 1129 new dwellings in Hinckley.

10. CS policy 6 sets out the acceptable uses of land within the Hinckley Green Wedge. These include agriculture (the current use), but not housing (the proposed use). Nevertheless, the preceding explanatory text (para 4.28) says that a review of the boundary of the Green Wedge will take place through the Site Allocations and Generic Development Control Policies Development Plan Document (DPD). A DPD Consultation Draft Preferred Options Report was published in February 2009. This set out the proposed site allocations for

[2] Hinckley and Bosworth Borough Council Core Strategy – adopted December 2009

Hinckley and discounted the release of land for housing within the Green Wedge as it considered that there were more suitable sites available within Hinckley. However, I have concerns about whether this is realistic and note that the area that was considered for removal from the Green Wedge (Option 2) was much larger than the appeal site. Moreover, no formal review of the Green Wedge was undertaken and it seems that none is timetabled at present. Informal reviews have been undertaken by the Council's planning officer and the appellant. I shall deal with these below.

11. The Council officer's report to planning committee, in respect of the proposal before me, says that "the provision of alternative housing sites within Hinckley to meet the Core Strategy objectives and to secure a 5 year housing supply is poor and the draft Site Allocations DPD does not propose enough preferred option sites to meet the minimum requirements of the Core Strategy". This fact was accepted by the Council at the Inquiry.

12. The Council's most recent housing land supply statistics (1 April 2011) show that at best they have a housing supply within the Borough of 3 years and 7 months (3.56 years). When the planning application, the subject of this appeal, was considered by the Council in November 2010 they were able to demonstrate a housing land supply of 4 years and 4 months (4.37 years). By February this year that had fallen to 3.92 years and to 3.6-3.7 years by March. This shows a continuous downward trend over a very short period of time and the Council now have well below the required 5 year supply (as set out in PPS3[3]) and a level materially below that considered in recent appeals, which I shall return to later. Indeed para 71 of PPS3 advises that where Local Planning Authorities cannot demonstrate an up to date 5 year supply of deliverable sites they should consider favourably planning applications for housing.

13. The matter of housing land supply was considered by an Inspector in his Final Report on the Examination into the Hinckley and Bosworth Core Strategy dated November 2009. He acknowledged that the trajectory before him showed shortfall in housing delivery in the years 2006-2008, 2009/10 and in 2012-2017. He noted however, that the shortfalls would be made good in the years post 2017/18 when major development in the sustainable urban extensions (SUEs) come on stream fully, and the trajectory showed a surplus of dwellings by the end of the plan period.

14. At the time that the Inspector was considering the CS, the Site Allocations and Generic Development Control Policies Development Plan Document was due for Examination in Public in 2010. An up to date Gant chart produced by the Council shows that it is now timetabled for 'drafting of Submission Document' from October 2011 until July 2012, with Examination in Public not likely until mid 2013 and then adoption towards the end of 2013. This is 3 years beyond that anticipated by the Inspector when considering the housing land supply situation in 2009.

15. The adoption of the Area Action Plan (AAP) for the SUEs is currently running around a year behind the schedule considered by the CS Inspector. Moreover, the SUEs first require the production of an Infrastructure Plan and evidence was presented to the Inquiry to demonstrate that this process is also lagging behind. There seems to be uncertainty about the decommissioning of a Waste Water Treatment Works, which if not carried out would result in a reduced

[3] Planning Policy Statement 3: Housing

developable area within the SUE because of odour nuisance. The appellant estimates that even if traffic modelling and infrastructure requirements are completed in sufficient time to enable the relevant parties to submit their planning application as soon as the AAP Inspector's report is received, it is unlikely that there would be any dwelling completions prior to 1 April 2014. This does not seem to me to be an unreasonable assumption and possibly even a little optimistic.

16. This would be two years after the first dwellings are shown to be completed in the Council's April 2011 Housing Trajectory, which shows that 54 dwellings would be completed in 2012/2013, 122 in 2013/2014 and 238 in 2014/2015. The low numbers in the early years take account of the need for infrastructure works. Therefore it is likely that the row of figures will all shift, pushing more development into the later years. As such, there is a strong chance that the SUEs will not deliver the projected 4150 dwellings in the plan period up to 2026. Although at this stage in the plan period this is not critical, given the basis upon which the CS was found to be sound, but when weighed with the continually falling housing land supply and in particular the anticipated problems with the deliverability of the SUEs in the short term, it starts to become far more worrying.

17. Not only are housing delivery rates falling, but the programme which the CS Inspector relied on to rectify the acknowledged shortfall has slipped significantly. While it was always anticipated that there would be a shortfall of housing land in the early years of the plan, this period of short fall looks to continue well beyond that originally anticipated.

18. Paragraph 4.12 of the CS sets out the Council's contingency strategy should the SUEs fail to deliver the housing requirements outlined in the CS or if there are any small-scale shortfalls in the housing provision identified through the Annual Monitoring Report. It says that the latter will be addressed by a review of sustainable sites identified in the Council's Strategic Housing Land Availability Assessment (SHLAA), which are not prioritised through the Site Allocations and Generic Development Control Policies Development Plan Document. Given the inevitable delay in delivering the SUEs and the falling housing supply, it appears to me that the proposal before me is the kind of remedy envisaged by the CS contingency strategy. Importantly, this site was identified through the SHLAA as being achievable, available and deliverable.

19. Three recent (2011) appeal decisions considered housing land supply issues in Hinckley and Bosworth Borough and found the lack of housing to not be an overriding reason to permit further development. However, there have been a number of material changes in circumstance since then. Firstly, when considering the 1st[4] of these 3 appeals the Council could demonstrate a much greater supply of housing land compared to now. The 2nd[5] case related to a site which forms part of one of the SUEs. The Inspector found, among other things, that the piecemeal development of the SUE would undermine the wider policy objectives such as the integrity of the infrastructure proposals for the SUE. In the 3rd[6] case, the Inspector concluded that although the Council had a dearth of housing sites, in the longer term this could be made good, as envisaged in the CS. However, on reading this decision it seems that the

[4] Ref: APP/K2420/A/10/2130103
[5] Ref: APP/K2420/A/10/2136529
[6] Ref: APP/K2420/A/10/2138596

Inspector had not been made aware of the likely delays in delivering the SUEs or indeed the '2nd' appeal decision I have referred to. Secondly, the shortfall has increased dramatically over a short space of time (months) since those cases were determined. Also, importantly, the 3 appeal sites in question are within areas defined in the development plan as lower order settlements.

20. I agree that the correct mechanism for allocating land is through the DPD and that allowing sites to come forward in a more ad hoc manner is not ideal. However, on the basis of the evidence before me in relation to the programme for delivering the SUEs and the continually falling housing land supply it seems to me there is a pressing need to remedy the situation. This proposal would address the specific housing land supply issues in Hinckley, and could remedy the slippage in the Borough-wide HLS. Critically the appeal site is in a sustainable location where the development plan envisages most development should take place. Moreover, it is of a size that would provide a number of wider community benefits such as public open space, affordable housing (in an area where the Council says there is high demand) and footpath improvements.

21. As such, the proposal would accord with CS policy 1 and the clear objectives of PPS3 in relation to housing land supply.

The effect of the development on the character and appearance of the surrounding area (including the Green Wedge)

22. Leicester and Leicestershire Green Wedge Review Joint Methodology (July 2010) sets out the process for reviewing Green Wedges. It advises that the size of the Green Wedge will be the minimum to fulfil all of the following functions: to prevent the merging of settlements; guide development form; provide a 'green lung' into urban areas; and act as a recreational resource. A review has been carried out by the appellant following the methodology set out in this document, with the exception of the final section which requires consultation with a list of key stakeholders.

23. The appellants' review concludes that the release of the appeal site for residential development would have no detrimental effect upon this Green Wedge since it is an insignificant component of the overall Green Wedge and plays no material role in any of the defined functions. I note that the Council's planning officer came to a similar conclusion in his report to the planning committee, having carried out a similar review.

24. The Hinckley, Barwell and Earl Shilton Green Wedge, as a whole, prevents the coalescence of these settlements. However, I agree that the development of this site would not reduce the current minimum distance between Hinckley and the other two settlements. Indeed the Council conceded at the Inquiry that the land is not part of the minimum land necessary to fulfil all of the principles of the Green Wedge, either on its own or as part of the wider Green Wedge. While I saw that parts of the Green Wedge contain formal recreational facilities, the appeal site does not. It currently contains crops and is not accessible to the public. Therefore it does not fulfil the functions of providing a 'green lung', or a recreational resource. By contrast large parts of this Green Wedge do fulfil these roles including the adjacent golf course, sports grounds, Sheepy Wood and Burbage Common. These are accessible to the public. Moreover, if the appeal were allowed an area of public open space would be provided within the site.

25. The SHLAA - Review 2010 considered the suitability of the appeal site for residential development against a pro-forma. Some other sites within this Green Wedge were considered unsuitable for housing because they would result in an unacceptable encroachment into the open countryside, which prevents urban coalescence. However, officers carrying out the review concluded in relation to the appeal site that it was suitable, available and achievable and that "it would provide a natural extension to the settlement boundary, the location of Hinckley Golf Club already acts as a green space between Hinckley and Barwell".

26. I would agree, particularly since the site is surrounded by defensible boundaries including Leicester Road, existing housing, John Cleveland College and Hinckley Golf Club. This is not the case at the other side of Leicester Road, adjacent to houses on Sutton Close. In addition, the proposal would extend housing out along Leicester Road to only a marginal degree, given the position of dwellings on the opposite side of the road. As such, the loss of this section of the Green Wedge would not diminish its ability to guide development form.

27. A list of consultees who were notified of the planning application was provided at the Inquiry and this shows that some of the key stakeholders that would be consulted as part of a Green Wedge review by the Council were consulted on the planning application and raised no objection. It is unlikely that some of those not consulted would have objected, but it is difficult to say with certainty that this would have applied to all of them. I am aware that the findings of the Council officer's review were set out in the report to planning committee, which is a public document. Nevertheless, I have accorded the review less weight than if all of the stakeholders had been consulted in a formal manner.

28. The proposal would result in changes to the physical appearance of the site. Nevertheless, the scheme would not be perceived as an extension to open land beyond Hinckley because in reality I saw when I visited the site that Hinckley Golf Club defines the start of built development here. As such, this development could be viewed as 'infilling' between existing built development. When walking along nearby footpaths the presence of development on the appeal site would be apparent, but provided the site is designed to take account of the differing levels on the site (as shown on the masterplan) and a well designed landscaping scheme is provided, this could be adequately mitigated. Views of the development would be extremely limited from open space further away, such as Burbage Common, because of the distance and the presence of extensive mature landscaping.

29. On balance I find that the loss of this part of the Green Wedge would be acceptable and would not necessarily result in pressure to release other parts of it, which are materially different. As such, a well designed housing scheme here, in accordance with the submitted masterplan, would not harm the character and appearance of the surrounding area, including the Green Wedge. Consequently, the proposal would accord with the objectives of CS policy 6.

Other matters

30. Regarding local concerns about loss of privacy, I saw when I visited the site that the majority of existing dwellings adjacent to the site would be screened by very mature landscaping. The newer development would be more exposed, but some of this would be adjacent to the play area and gardens. Moreover, these details would be dealt with at the reserved matters stage. On the basis

of the submitted masterplan the protection of the privacy of existing and new residents would be achievable. The submitted Design and Access Statement advises that the average net density for the residential area would be around 40 dwellings per hectare. This is not unduly high for an urban area like Hinckley.

31. An ecological survey was submitted with the planning application and this made certain recommendations to ensure the protection of ecology within the appeal site. These could be secured through a planning condition.

32. I am aware of local concerns about highway safety. I saw when I visited the site that recent road safety improvements have been made along Leicester Road and I understand that these have had a marked improvement on highway safety. I note that the Council's highway department have raised no objections to the proposal and on the basis of their detailed consultation response and the appellants' transport assessment I would agree. I am aware that the local area suffers from time to time with surface water drainage problems. While generally this is dealt with by Building Regulation legislation, in this case because of local concerns and the recommendation of the Environment Agency a condition could be imposed requiring the submission of a suitable drainage scheme for the site.

33. While the development of housing here would result in a general increase in noise from domestic activity and traffic within the site, that would be noticeable to nearby residents or those on the adjacent footpaths, it would not be unduly harmful. Moreover, any noise and disturbance during construction could be mitigated by use of a planning condition at the reserved matters stage to control working hours. The appeal site is adjacent to Hinckley Golf Club and part of the site is close to the Course. Consequently, there is a risk of golf balls straying into the appeal site. Having visited the site I am not convinced that this would be a regular occurrence, particularly given the presence of mature landscaping along this boundary and my observations at the site visit.

34. Regarding the S106 Agreement, I am aware that a number of provisions which were requested by various organisations at the planning application stage were considered by officers of the Council to not be compliant with the Community Infrastructure Levy Regulations 2010 (CIL). At the Inquiry detailed justification for these contributions was provided. Leicestershire County Council's adopted document entitled 'The Statement of Requirements for Developer Contributions in Leicestershire' sets out details of the type of contributions that will be sought in connection with certain planning applications. This was last reviewed in 2007 and therefore prior to the introduction of CIL.

35. I consider that on the basis of the detailed evidence provided by the Council, the provisions in relation to affordable housing, footpath improvement works, public transport, library facilities, primary care trust, civic amenity, public open space, the provision of bus stops and raised kerb works and the education contribution are necessary, relevant to planning, directly related to the development and would fairly and reasonably relate in scale and kind to the development. As such, they meet the tests of Circular 5/05 and also those set out in CIL Regulation 122.

36. However, on the basis of the information before me I consider the travel pack contribution and bus passes are unnecessary to make the development acceptable and therefore they would be contrary to the tests set out in Circular

05/2005 and CIL Regulation 122. Regarding the Council's monitoring costs, although I am aware that in the past such clauses have often been accepted, I am mindful that Circular 05/2005 does not offer any obvious support for this practice. Paragraph B19 refers simply to charges for preparing and completing the obligation itself and paragraph B19 indicates that the costs of subsequent maintenance and other recurrent expenditure on assets intended for wider public use should normally be borne by the authority in which it is vested. As such, this in my view would not accord with the tests set out above.

37. I have had regard to the S106 Agreement as a material consideration, but it does not add weight in favour of the proposal as it is merely ensures that the proposal complies with relevant adopted policies of the Council and the County Council.

Conclusions

38. Drawing together my findings, the proposal would not harm the character and appearance of the surrounding area (including the Green Wedge) and so given the Council's lack of a demonstrable 5 year supply of housing land I find that there is a pressing need to release this sustainable site for housing in Hinckley. In reaching these conclusions I have attached significant weight to the advice in the written Ministerial Statement, 'Planning for Growth', which promotes sustainable economic growth and the need to maintain a flexible and responsive supply of land for key sectors, including housing.

39. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

40. The standard condition in relation to the timescale for the submission of reserved matters has been reduced slightly since the basis of the appellants' case is in relation to the lack of housing coming forward in the Borough. The standard approval of reserved matters detail condition has been expanded to take account of the sensitive nature of the appeal site. I have imposed a condition to ensure the development, so far it is approved at this outline stage, is carried out in accordance with the approved plans for the avoidance of doubt and in the interested of proper planning.

41. A number of conditions are necessary for highway safety reasons. Conditions in respect of ecology and archaeology are necessary on the basis of the relevant submitted technical data. I have imposed the Council's suggested condition in relation to the Code for Sustainable Homes since this accords with CS policy 24. I am not persuaded that the code could not be met on this site. The Council's suggested condition in relation to walls, planting and fences on the highway boundary is not necessary as this is covered in the condition in relation to visibility splays. I have substituted the Council's suggested drainage condition with a model condition, as agreed at the Inquiry.

Louise Crosby

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Timothy Leader of Counsel	Instructed by Adam Bottomley, Hinckley and Bosworth Borough Council
He called	
Christopher Timothy BSc (Hons) Dip TP MRTPI	CT Planning

FOR THE APPELLANT:

Mr Ian Dove QC	Instructed by John Edmond, Marrons Solicitors
He called	
Phil Rech BA (Hons), B.Phil	FPCR
Simon Tucker BSc (Hons) MCIHT	DTA Transportation
Felicity Jane Gardner BA (Hons) MRTPI	SSR Planning

INTERESTED PERSONS:

Cllr K Nichols	Local Councillor
Cllr Roberts	Local Councillor
Cllr D Bill	Local Councillor
County Cllr D Wright	County Councillor
J Bannister	Local Resident
A Dodson	As above
J Kirby	As above
J Bailey	As above

DOCUMENTS

1 Copy of letter of notification of the Inquiry
2 Mr Dove's opening submissions
3 Plan Ref 913-15
4 Mr Leader's opening submissions
5 Extract of Core Strategy (Pages 23 & 24)
6 SHLAA extract (AS Ref 304)
7 East Midlands Regional Plan Extract (Pages 141-142)
8 SHLAA extract (AS Ref 301-304)
9 Gant chart in relation to the Council's LDF
10 Site allocations DPD Consultation Draft – Feb 2009
11 Core Strategy Inspector's Report (pages 14-26)
12 Housing Land Supply figures at April 2011

13 James Bailey's written Submissions
14 Evidence to support S106 Agreement contributions
15 Draft S106 Agreement
16 April 2011 Housing Trajectory Method Paper
17 Primary Care Trust Representations in relation to request for a developer contribution
18 List of bodies consulted on the planning application
19 Assessment of latest 5year housing supply statistics
20 Copy of whole the of the Core Strategy
21 Supplementary proof in relation to S106 Agreement monitoring
22 costs
CIL justification in relation to highway works and developer
23 contributions
Copy of recent Government statement in relation to Sustainable
24 Development
25 Council's Closing Submissions
Appellants' Closing Submissions

Schedule of conditions

1) 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 and the development shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.

2) Approval of the following details (hereinafter called "the reserved matters") shall be obtained in writing from the Local Planning Authority before any development begins and the development shall be carried out as approved:-

   i) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development;

   ii) The scale of each building proposed in relation to its surroundings;

   iii) The appearance of the development including the aspects of a building or place that determine the visual impression it makes and;

   iv) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

3) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan dated 11 May 2010, illustrative masterplan Ref:3372/P/02 and drawing no 9131-15, but only in respect of those matters not reserved for later approval.

4) Notwithstanding the details submitted, no development shall commence until such time as details of the proposed ghost island right turn junction to the site from Leicester Road have been submitted to and agreed in writing with the Local Planning Authority. Before the occupation of the 1st dwelling hereby approved the approved junction shall be provided in accordance with the approved details.

5) Notwithstanding the details submitted, no development shall commence until such time as details of the proposed emergency access to the site from Leicester Road have been submitted to and agreed in writing with the Local Planning Authority. Prior to the occupation of the 151st dwelling the approved access shall be provided in accordance with the approved details and maintained thereafter.

6) No development shall commence until details of a pedestrian footway continuous with the site frontage along Leicester Road has been submitted to and approved in writing by the Local Planning Authority. The approved footway shall then be constructed and made available for first use prior to the occupation of the 1st dwelling hereby approved.

7) For the period of the construction of the development hereby approved, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned before entering the highway.

8) Prior to occupation of the 1st dwelling visibility splays shall be provided at the junction of the access with Leicester Road in accordance with drawing

no 9131-15. The visibility splays shall be kept free of any obstruction over a height of 0.9 metres above ground level.

9) The development shall only proceed in strict accordance with the mitigation measures set out in the submitted ecological appraisal dated October 2009.

10) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

    i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

    ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

11) No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

12) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.