



## Appeal Decision

Hearing held and site visit made on 17 October 2017

by **Brendan Lyons** BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> January 2018

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**Appeal Ref: APP/B3030/W/17/3169590**

**Land to the south of Bilsthorpe Road, Eakring, Nottinghamshire NG22 0DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Dr Chris and Louise Parsons against the decision of Newark & Sherwood District Council.
  - The application Ref 16/00819/FULM, dated 16 May 2016, was refused by notice dated 6 October 2016.
  - The development proposed is described as the erection of nine environmentally sustainable eco homes, publicly accessible wildlife area and associated development including landscaping, allotments, sustainable drainage reed bed and pond system, pv panels, cycle storage, electric car recharging facilities.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of nine environmentally sustainable eco homes, publicly accessible wildlife area and associated development including landscaping, allotments, sustainable drainage reed bed and pond system, pv panels, cycle storage, electric car recharging facilities at land to the south of Bilsthorpe Road, Eakring, Nottinghamshire NG22 0DG, in accordance with the terms of the application Ref 16/00819/FULM dated 16 May 2016, subject to the conditions set out in the schedule annexed to this decision.

### Procedural matters

2. It was confirmed at the Hearing that the above description of development, which is set out in the submitted Statement of Common Ground ('SoCG') and was used in the Council's decision notice and on the appeal form, should be taken in preference to the description included on the original planning application form.
3. At the opening of the Hearing, a signed and dated legal agreement was submitted. The agreement between the landowners, the Council and Eakring Parish Council forms a deed of planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). The merits of the obligation, which provides covenants on the intended local occupancy and future management of the proposed housing, are considered later in this decision.
4. Not long after the Hearing was closed, judgement was handed down by the High Court in the case of *Braintree District Council v Secretary of State for*

*Communities and Local Government & Others*<sup>1</sup>, which considered the interpretation of the term “isolated homes in the countryside” within paragraph 55 of the National Planning Policy Framework (‘NPPF’). The main parties to the appeal were given additional time to comment on the relevance of this judgment. The views expressed on both sides have been taken into account in reaching this decision.

## **Main Issues**

5. The main issue in the appeal is whether the site would provide a suitable location for the proposed development, having regard to national and local policy on the location of rural housing.

## **Reasons**

6. The appeal site, comprising some 3.8 hectares in area, forms part of a large arable field at the western outskirts of the rural village of Eakring. The site is bounded to the north by Bilsthorpe Road, which is a main approach to the village from the nearby A614 road, and to the south by agricultural land, which includes the large turbines of the Stonish Hill wind farm. To the east, the site is close to a complex of large agricultural buildings that serve the appellants’ farming operation and several small businesses. Part of those buildings and some cottages on the opposite side of Bilsthorpe Road lie within the Eakring Conservation Area. The site is crossed by two branches of public footpath, one of which leads to a local landmark, the Mompesson Cross.
7. Permission is now sought to erect nine houses arranged along one side of a short cul-de-sac road taken off the existing farm access. The houses are described as “eco homes” and are intended to have very low energy usage. They would be single storey, with slightly sloping green roofs, on which solar pv panels would be placed. The layout would be of two adjoining groups, one comprising two pairs of houses and the other a pair and a row of three. The houses would be faced by planted bunds, with the area between the bunds and the enhanced hedge boundary potentially to provide future allotments. The remainder of the site would be laid out as a meadow, but with a reed bed pond, bog area and woodland tree planting at the western end, and would be open to public access.

## *Local policy*

8. It is agreed that for the purposes of this appeal the development plan comprises the policies of the Newark & Sherwood Core Strategy (‘CS’), adopted in March 2011, and of the Allocations and Development Management Development Plan Document (‘ADMDDP’) adopted in July 2013. The Council has recently submitted for examination an Amended Core Strategy (‘ACS’), but only limited weight can be given to the emerging policies at this stage.
9. The development strategy of the CS seeks to focus most new housing in Newark, as the Sub-Regional Centre, and in lesser amounts in Service Centres and Principal Villages. A notional allowance of 200 units is identified for Other Villages in rural areas, one of which is Eakring.

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<sup>1</sup> Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin)

10. CS Policy SP3 deals with rural areas and sets criteria for development beyond Principal Villages, one of which is that new development should be within the main built-up areas of villages which have local services and access to larger centres. The policy states that development “away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting, such as agriculture and forestry”, and that any such proposals are to be covered by the policies of the ADMDPD.
11. In this case, there is no dispute that Eakring has a small range of services, in the form of a church, public house and village hall, and has reasonably good bus services to larger centres. In granting permission for a number of new housing proposals in the village, the Council has accepted that the village is a suitable location for some development.
12. Policy SP3 does not define settlement boundaries for Other Villages, so that the location of any particular site relative to the “main built-up area” becomes a matter of judgement in each case. The supporting text to the policy explains that the term “main built-up area” would normally refer to the buildings and land which form the core of the village, and would not include more dispersed “outlying development” nearer the village edges.
13. I agree with the Council that this distinction is evident in the case of Eakring. Development on the north side of Bilsthorpe Road becomes more dispersed towards the village edge. A recent appeal decision<sup>2</sup> concluded that Cherry View and Apple Cottage, which is opposite the appeal site access, lie outside the main built-up area. On the south side of the road, the appellants’ farm buildings and their belt of tree screening provide a clear buffer to the denser village core. In my assessment, the evidence of the historic existence of small cottages further to the west, said to have been built on common land at the roadside, is not significant to the judgement of the village’s current extent, which must be made on its form as found today.
14. I acknowledge that there is scope for different views in making this judgement. However, even if it were held that the main built-up area extended to the farm access, I consider that there is little ground for dispute that the appeal field marks a clear transition from the village to the surrounding agricultural land and that the appeal site thus forms part of the open countryside.
15. Control of development in the open countryside is delegated by CS Policy SP3 to ADMDPD Policy DM8, which reiterates the CS restriction on development “away from the main built-up areas of villages”. New dwellings which are not for specific rural workers are only to be permitted when they would be of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and would be sensitive to the defining characteristics of the local area.
16. Considerable evidence was tendered both in writing and at the Hearing on the environmental performance of the proposed houses, and the degree to which the proposed construction should be seen as innovative. In the face of conflicting expert opinion, it is difficult to reach definitive conclusions on these technical issues. The designers of the scheme have been able to draw on the experience of a nearby project at Hockerton, which I was able to visit after the

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<sup>2</sup> Appeal Ref APP/B3030/W/17/3168428

Hearing, supplemented by independent appraisal, while the Council's advisers were able to provide convincing evidence on the application of national and international standards, in particular "PassivHaus".

17. On the balance of the evidence, I consider it likely that the proposed dwellings would be effective in achieving their objective of very low running costs for their occupants. However, I find that the methods to be employed should be regarded as an evolution of previous technology, which itself forms part of a considerable body of experience in earth-sheltered and high thermal mass buildings. None of the measures put forward as special identifiers of the proposed construction appeared either alone or in combination to meet the high bar expected to satisfy the policy requirement for innovation.
18. Furthermore, the policy requires all proposals to demonstrate the highest standards of architecture. I recognise that an efficient response to functional issues can have a powerful inherent strength to form the basis of exceptional architecture, and that this is intended as a modest project and not as a flamboyant showpiece. Nevertheless, I consider that in order to achieve the highest standards of architecture a proposal must go well beyond functional considerations to result in a work that is also deeply satisfying at an aesthetic level. The appeal proposal's simple design and layout do not in my view come near to achieving the highest standards sought by the policy.
19. Because of its low profile and sheltering by bunds and planting, the proposal would be sensitive to the rural character of the site and would not harm its immediate setting. The anticipated view from the Mompesson Cross illustrates this. But the introduction of the proposed development would not represent a significant enhancement to the setting.
20. For these reasons, I find that the proposal would not meet the exceptions allowed for new dwellings in the countryside and would be contrary to ADMDPD Policy DM8.

#### *National policy*

21. The issue of consistency with national policy and guidance is among the most important material considerations. The CS was adopted prior to publication of the NPPF, so that in accordance with NPPF paragraph 215 the application of CS policies will be affected by their degree of consistency with NPPF policies. The independent review of the CS commissioned by the Council from the government-backed Planning Advisory Service ('PAS')<sup>3</sup> found the CS settlement hierarchy and spatial distribution of growth to be in conformity with the NPPF. I agree that the strategy of focussing most development in the most accessible settlements is broadly consistent.
22. With regard to CS Policy SP3, the review notes that NPPF paragraph 55 is less restrictive in the location of new housing, being based on support for the vitality of rural communities and allowing the possibility of housing in the countryside subject to special circumstances, whereas Policy SP3 seeks to direct new development to the main built-up areas of villages. However, this critique does not acknowledge that Policy SP3 does contemplate some development outside villages, but that proposals are to be addressed by the ADMDPD.

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<sup>3</sup> PAS: Plan Review –Newark and Sherwood District Council Adopted Core Strategy February 2015

23. The ADMDPD was adopted after publication of the NPPF, so its policies have been tested for consistency. The exceptions allowed by Policy DM8 for new dwellings in the countryside closely reflect those set out by NPPF paragraph 55. Despite the slight difference in wording (“away from... villages” rather than “isolated”), the policy’s effect of controlling development in the countryside can be taken as fully consistent. Although the Council now suggest that paragraph 55 was not a primary consideration in their decision, the reason for refusal of the planning application cites conflict both with paragraph 55 and with Policy DM8, without distinction between them.
24. In considering the application of paragraph 55, the recent High Court judgement referred to above has accepted the Secretary of State’s submission that the word “isolated” should be given its ordinary objective meaning of “far away from other places, buildings or people; remote”<sup>4</sup>. The judgement related to an appeal which had allowed an individual new dwelling on a site within the outskirts of a village that did not have a defined settlement boundary. The sole point at issue was whether “isolated homes” should mean “homes which were remote from services and facilities”<sup>5</sup>. The judgement concluded that this was too narrow an interpretation. A dwelling close to other homes in a dispersed village could contribute to the viability of rural communities, by the social effect of its proximity<sup>6</sup> and by the use of services in nearby larger villages<sup>7</sup>, and would therefore accord with paragraph 55 guidance.
25. The appellants in the present case seek to find parallels with the circumstances of the judgement case, drawing attention to the comparable range of services in Eakring and the similar or closer distance from larger centres. I acknowledge the Council’s point that the site in the High Court case was within the wider settlement, with dwellings to each side of it, whereas the current site is outside. However, the judgement places the emphasis on proximity and draws attention to the Planning Practice Guidance (‘PPG’) advising against restriction of housing development in some settlements and expansion of others<sup>8</sup>.
26. It is not disputed that the appeal site is within easy walking distance of the village pub and bus stops, and the church and hall are not much further. I agree that the appeal site is not therefore “far away” from these services, and in the light of the judgment cannot be regarded as “isolated”, notwithstanding the degree of visual separation from the built-up area of the village. The tests set for isolated dwellings by paragraph 55 would not apply and the proposal should be weighed for its contribution to the vitality of rural communities.
27. The PPG advises that a thriving rural community depends, in part, on retaining local services and community facilities, including public houses and places of worship, and that rural housing is essential to ensure viable use of these local facilities<sup>9</sup>. The appeal proposal would help to support viable use of the limited services in Eakring and the wider range available in nearby settlements.
28. The proposal would also offer housing for rent with occupancy restricted to those with a clear connection to Eakring and neighbouring parishes (other than

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<sup>4</sup> Paragraphs 7, 24

<sup>5</sup> Paragraph 7

<sup>6</sup> Paragraph 27

<sup>7</sup> Paragraph 28

<sup>8</sup> PPG paragraph ID 50-001-20140306

<sup>9</sup> PPG paragraph ID 50-001-20140306

the larger village of Bilsthorpe) for a minimum period of 15 years, and future sales would have an element of discount to assist affordability.

29. The application was not supported by a specific housing needs study, but relied on the evidence of the SHMA and previous district-wide studies of need and stock analysis. This was augmented by the response to the appellants' own local consultation, which was said to have revealed a number of expressions of interest in occupying the proposed houses. The Council argues that a rigorous parish-level housing needs study is required, and that the most recent such formal study, which was carried out in 2015, is still relevant. This showed 5 households in the village in need of new housing, including 3 seeking 2-bedroom or bungalow types. The Council point out that recent permissions granted within the village have gone some way to addressing that need.
30. Nevertheless, the SCG acknowledges that the proposal could help to contribute towards local need, which in this instance would encompass several parishes. Although lacking documented evidence, I accept that the availability of small units for rent would be attractive to younger people and some "downsizers", with the likely low energy costs a particular incentive to these groups, thereby increasing opportunity for such people to remain in the local area, and contribute to the social dimension of a sustainable community.
31. The proposal would also provide some publicly accessible open space at the transition between the village and the open countryside, with potential benefit to the whole community, in a setting with greater ecological diversity than the current intensively cultivated field. I accept the necessary access arrangements could be secured by means of a planning condition, as outlined by the appellants.
32. For the above reasons, and having regard to the High Court judgement, I find that the appeal proposal would contribute to the rural area's economic and social vitality. The proposal would accord with national policy as set out by NPPF paragraph 55.

#### *Other matters*

33. Referring to one of the core principles of the NPPF, the judgement sees national policy as striking a balance between recognition of the intrinsic character and beauty of the countryside, and the support for thriving rural communities. In this instance, the Council's objection to the site's incursion onto the countryside appears to be largely one of principle. There is no objection to the effect on landscape character and appearance. As earlier outlined, I agree that the low-profile design of the row of dwellings would sit relatively unobtrusively in the landscape, partly absorbed by the effect of earth sheltering and mounding, and potentially subject to further softening by the treatment of the site's southern boundary, which could be secured by a landscape condition. There would be no adverse effect on the character and appearance of the countryside.
34. The Council also accepts that the ecological value of the site would be enhanced from its current condition as an intensively cultivated field. I agree that the proposed additional hedge and woodland planting, pond and habitat creation would represent an ecological enhancement in accordance with national and local policy, notwithstanding the addition of some residential use. The provision and management of these measures can be secured by conditions.



35. A short length of the site frontage directly adjoins the Eakring Conservation Area. The character of the conservation area, as outlined by the Council, is as medieval settlement within open countryside, which retains its pattern of streets and some plot boundaries. As one edge of the countryside at the western approach to the village, the appeal site forms part of the area's setting that defines the contrast with the built-up village core. The main parties agree that the change from open field to residential and public access land would have an effect on the setting but that this would be mitigated by the proposed design and layout and by enhanced planting. I accept that the proposal would thus largely preserve the site's contribution to the area's heritage significance, so that there would be no appreciable harm to the character or appearance of the conservation area. Similarly, the screening of development and the maintenance of an open aspect would ensure no harm to the modest significance of Apple Cottage, which has been identified as a non-designated heritage asset.
36. The County Council made no objection to the application on rights of way grounds, but has now raised concern that the proposal would conflict with the use of existing public footpaths. I accept the Council's conclusion that any interference could be resolved following the grant of planning permission by a footpath diversion secured through appropriate legal process.

#### *Housing land supply*

37. The appellants argue that the Council cannot demonstrate a five-year supply of deliverable housing sites, so that in accordance with the guidance of NPPF paragraph 49 development plan policies relevant for the supply of housing should be considered out-of-date, and the 'tilted balance' outlined by NPPF paragraph 14 should apply to the assessment of the appeal.
38. The Council acknowledge that the housing requirement of 740 dwellings per annum ('dpa') set by the CS was a constrained figure dictated by former regional strategy. In the light of the subsequent NPPF approach that housing should be planned to meet the Objectively Assessed Need ('OAN') in each Housing Market Area ('HMA'), the Council now seeks to rely on a requirement derived from the OAN identified by a Strategic Housing Market Assessment ('SHMA') prepared for the Nottingham Outer HMA authorities in 2015. The SHMA's OAN for Newark & Sherwood is 454 dpa.
39. Applying this figure, the Council's most recent assessment of the housing land supply, as at 1 April 2017<sup>10</sup>, calculated a five-year requirement of 2878 dwellings, including a 20% buffer to reflect previous under-delivery, which would equate to 576 dpa. Against this the Council estimates a deliverable supply of 3567 units, or 6.2 years' supply.
40. The appellants do not offer their own estimate of the necessary five-year requirement or of the available supply of deliverable sites. Their challenge is based on the outcome of an appeal allowed in January 2016 for 48 dwellings at a site at the edge of Farnsfield<sup>11</sup>, which is a Principal Village in the CS settlement hierarchy. The Inspector in that appeal concluded that the CS figure was out of date and, while acknowledging the importance of the SHMA then about to be published, accepted the appellant's submission that the

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<sup>10</sup> Statement of Five Year Housing Land Supply (01.04.17) Published July 2017

<sup>11</sup> Appeal Ref APP/B3030/W/15/3006252

correct level of OAN lay in the range of 500-550 dpa rather than 454 dpa. At an OAN of 550 dpa and with some reductions to the Council's then predicted delivery, the Inspector concluded that the deliverable supply was between 4 and 5 years'.

41. In response to that appeal decision, both Nottinghamshire HMAs jointly produced a Position Statement<sup>12</sup> which sought to confirm the robustness of the SHMA figures by addressing the specific concerns that had led the Inspector to allow for a higher OAN. It is not clear if this evidence was before the Inspector who determined a later appeal to which the current appellants also refer, which allowed a proposed single house within an Other Village<sup>13</sup>, concluding that there were insufficient grounds to dispute the Farnsfield assessment of supply.
42. Two other appeals referred to by the appellants for sites in Coddington<sup>14</sup> did not reach conclusions on the supply position. However, in dismissing a more recent appeal for up to 30 dwellings at the edge of Blidworth<sup>15</sup>, which is a CS Principal Village, the Inspector accepted the Council's submission that there had been changes since the Farnsfield decision, in terms of the response outlined above, the progression of the CS review and the delivery of additional housing. As well as the April 2017 supply position, he took account of sensitivity tests which showed that the Council could achieve a 5.3 years' supply against a requirement of 500 dpa, and of 4.6 years' against a requirement of 550 dpa, but that the latter was mainly due to the increased shortfall arising from the higher requirement and could be addressed by a slightly increased windfall allowance. As these figures covered the upper range of the Farnsfield Inspector's concerns, he decided that it was reasonable from the evidence to conclude that the Council could demonstrate a five-year supply.
43. The Council has confirmed that the recently submitted ACS is based upon an OAN of 454 dpa. The Council accepts that full weight cannot be given to this figure until the new plan has successfully passed through the examination process. However, by reaching this stage the figure derives greater weight than it may have been allowed in earlier appeals. The evidence suggests that the SHMA figure remains the only fully evidenced OAN for the full HMA<sup>16</sup>, and gains some support from the lack of modification to its figures for the neighbouring Ashfield District at a recent examination.
44. The correct requirement will be determined as part of the ACS examination. In the interim, from the evidence before me, I endorse the conclusions of the Blidworth Inspector that the Council can clearly meet the SHMA OAN and that the sensitivity tests, which the Council confirm remain current, give sufficient confidence that the higher levels of OAN suggested by the Farnsfield decision could be met, albeit with minor reassignment of provision in the case of the highest figure. On that basis, and in the absence of any detailed evidence to the contrary, I conclude that the Council can demonstrate a five-year deliverable supply of housing land. Therefore, the relevant policies of the development plan are not out-of-date and the tilted balance set by NPPF paragraph 14 is not engaged. The appeal decision must be determined in

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<sup>12</sup> Nottingham Core HMA, Nottingham Outer HMA: Position Statement July 2016

<sup>13</sup> Appeal Ref APP/B3030/W/16/3158075

<sup>14</sup> Appeals Ref APP/B3030/W/16/3151592; APP/B3030/W/16/3168578

<sup>15</sup> Appeal Ref APP/B3030/W/17/3168018

<sup>16</sup> The Farnsfield appellants' estimation being based only on Newark & Sherwood District



accordance with the development plan unless other material considerations indicate otherwise.

### *Planning balance*

45. I have found that the proposal would conflict with ADMDPD Policy DM8, which seeks to regulate the limited degree of development in the countryside envisaged by CS Policy SP3. While these policies are not out of date by virtue of an inadequate supply of housing land, the CS policy's consistency with the NPPF was already flagged by the Council's own assessment, and their restrictive approach to development that is not in an isolated location must now be seen as at odds with the interpretation of national policy provided by the High Court judgement. As a result, the appeal proposal's conflict with development plan policy is a matter of greatly reduced weight.
46. The appeal proposal would offer particular benefits in terms of the houses' environmental performance and their support for the economic and social viability of the rural community, underpinned by their controlled occupancy, low running costs and restricted sales values, and by the creation of ecologically enhanced publicly accessible green space. I consider that these are matters of considerable weight, which cumulatively provide material considerations that support a conclusion other than in strict accordance with the development plan.
47. I recognise the Council's concern that significant encroachment into the countryside could result in an unsustainable pattern of development, contrary to the balance sought by the NPPF. But I am satisfied that this decision would not create a strong precedent in that respect, especially as the particular benefits of the current proposal are not likely to be frequently replicated. The merits of any future proposals would have to be assessed in the light of prevailing national and local policy at that time.

### **Conditions and obligation**

48. The Council's proposed conditions were debated and generally agreed at the Hearing. Subject to some amendments and amalgamation in order to enhance precision and enforceability, I consider the proposed conditions to be reasonable and necessary and to meet the tests set by the NPPF.
49. In addition to the standard commencement condition, a condition specifying the approved plans is needed to provide certainty of the permitted form of development. Conditions requiring approval of finished floor levels, external materials, hard and soft landscape treatments and their implementation, and the design and implementation of any boundary treatments are necessary to ensure the rural character and appearance of the area would be protected. Details of habitat creation and enhancement, including the provision of artificial roosting and nesting boxes, the protection of existing trees and nesting birds, and the provision and management of external lighting are all necessary to ensure that the ecological and biodiversity interest of the site would be protected and enhanced.
50. As outlined above, a condition is necessary to secure the provision and management of public access to the site, which would require a separate agreement. The same condition is necessary to secure other elements that would deliver the development's environmental credentials, including

allotments, sustainable drainage, pv panels, cycle storage and electric car charging facilities. Similarly, delivery of the environmental performance of the houses themselves needs to be ensured by a condition requiring an independent as-built assessment, and any necessary mitigation. While noting the Council's concern that the proposal would not be tailored to meet acknowledged independent standards, I find the condition proposed would provide a reasonable means of ensuring delivery.

51. Conditions are needed in the interests of safe access for vehicles and on foot to ensure provision of the shared access drive, vehicle and cycle parking and public footpaths after any necessary diversion as outlined above.
52. Owing to the site's sensitive location and the importance of retaining predicted environment and design standards, a condition is exceptionally justified to withdraw "permitted development" rights for specified classes of development that could significantly affect the appearance or performance of the completed buildings.
53. The occupancy and future management and sale of the houses are to be controlled by the submitted obligation. The Council is party to the S106 agreement that would secure these arrangements and raises no objection to this means of delivery, with the involvement of the Parish Council in a monitoring role. Effective delivery would be necessary to address the conflict with the development plan. With that, I consider that the agreement would meet the tests for planning obligations set by the CIL Regulations<sup>17</sup> and by the NPPF paragraph 204.

### **Conclusion**

54. For the reasons set out above, and having taken account of all matters raised in written submissions and at the Hearing, I conclude that the appeal should be allowed and planning permission granted subject to the above conditions and in the light of the completed obligation.

*Brendan Lyons*

INSPECTOR

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<sup>17</sup> Community Infrastructure Levy Regulations 2010, Reg 122(2)

## **Annex**

### **Appeal Ref: APP/B3030/W/17/3169590**

### **Land to the south of Bilsthorpe Road, Eakring, Nottinghamshire NG22 0DG**

#### **Schedule of conditions Nos. 1-16**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Site Location Plan (1:2500)  
EEB Site Plan 005  
EEH permissive access – 003  
EEH dwellings 1,2,3 001  
EEH dwellings 4,5 001  
EEH dwellings 6,7 001  
EEH dwellings 1,2,3,4,5 001  
EEH dwellings 6,7,8,9 001  
EEH site plan - just homes 003  
EEH site plan 003.
3. No development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. No development shall be commenced until a full schedule of the external materials to be used in the development (including the provision of samples upon request) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
5. No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
  - a) a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities as part of a scheme designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
  - b) existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
  - c) proposed finished ground levels or contours including details of the retaining wall;
  - d) hard surfacing materials;
  - e) minor artefacts and structures (for example, furniture, play equipment, refuse or other storage units, signs, lighting etc);

- f) proposed and existing functional services above and below ground (for example, drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc);
- g) retained historic landscape features and proposals for restoration, where relevant.

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be implemented prior to first occupation of the site.

- 6. No part of the development shall be brought into use until details of any boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment for any individual plot on site shall be implemented prior to the occupation of that dwelling and shall be retained thereafter.
- 7. No development shall be commenced until full details of a Habitat Creation and Enhancement Scheme (HCES) have been submitted to and approved in writing by the local planning authority. The HCES shall be based upon the recommendations contained within the Preliminary Ecology Appraisal by Ramm Sanderson dated March 2016 and shall include details of the enhancements to the hedgerows, details of the creation of the wetland area (including sectional drawings to show the depths and extent of excavation). These details shall also include:
  - a) purpose, aims and objectives of the scheme;
  - b) a review of the site's ecological potential and any constraints;
  - c) description of target habitats and range of species appropriate for the site;
  - d) selection of appropriate strategies for creating/restoring target habitats or introducing target species;
  - e) selection of specific techniques and practices for establishing vegetation;
  - f) sources of habitat materials (e.g. plant stock) or species individuals;
  - g) method statement for site preparation and establishment of target features;
  - h) extent and location of proposed works;
  - i) aftercare and long term management;
  - j) the personnel responsible for the work;
  - k) timing of the works;
  - l) monitoring;
  - m) disposal of wastes arising from the works.

All habitat creation and/or restoration works shall be carried out in accordance with the approved details and timetable unless otherwise agreed in writing by the local planning authority.

8. Prior to first occupation of any of the dwellings hereby approved a minimum of five bat roosting boxes (such as Schwegler 2F and/or 2FN or similar as may be agreed) and a minimum of five bird nest boxes (such as Woodcrete 1B bird nest boxes, each with a 32mm hole or similar as may be agreed) shall be installed on site with precise details of the locations and height of installations to be first approved in writing by the local planning authority. The approved artificial nest and roost boxes shall thereafter be retained for the lifetime of the development.
9. No hedgerow or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive).
10. No development shall be commenced until details of any external lighting have been submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution and measures to minimise the impacts on the ecological value of the site. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.
11. No development shall be commenced until a detailed scheme for the laying out (including where appropriate providing details of the design, quantum, and materials) and maintenance for the lifetime of the development of the following elements have been submitted to and approved in writing by the local planning authority:
  - a) The publicly accessible wildlife areas;
  - b) Allotments;
  - c) Sustainable drainage reed bed and pond system, including measures to ensure residents are fully informed of the correct management of waste water;
  - d) PV panels;
  - e) Cycle storage;
  - f) Electric car recharging facilities.

These elements shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained for the lifetime of the development.

12. Prior to first occupation of each dwelling hereby permitted, an independent assessor (whose appointment funded by the site developer must have previously been approved in writing by the local planning authority) shall complete an Assessment of the design standards of the buildings and an appraisal demonstrating how the detailed construction meets the predicted performance standards set out in the submitted Revised Technical Report Version 1.4 and the Energy & Sustainability Review by MES Solutions dated 14 February 2017, and the Assessment shall be approved in writing by the local planning authority.

Should that Assessment indicate that the dwellings would not meet the standards set out in the submitted documents, appropriate mitigation shall

be undertaken to ensure conformity with the standards. Prior to first occupation of each dwelling, or in accordance with an alternative timetable to be agreed in writing with the local planning authority, the developer shall then submit to the local planning authority a Final Assessment Report issued by the independent assessor indicating that the development would meet the performance standards.

13. No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles and should be retained as approved for the life of the development.

14. Prior to the occupation of any dwelling hereby permitted, the shared private driveway shall be laid out to a minimum width of 4.8m with turning facilities suitable to accommodate a refuse vehicle in accordance with a plan to be first submitted to and approved in writing by the local planning authority.

15. No development shall be commenced until details to confirm the treatment and continued legal status of public rights of way on the site have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented on site prior to first occupation of any dwelling and retained thereafter.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows;

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof;

Class C: Any other alteration to the roof of a dwellinghouse;

Class D: The erection or construction of a porch outside any external door of a dwellinghouse;

Class E: Development within the curtilage;

Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse;

Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse;

Class H: The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse;

Or Schedule 2, Part 2 of the Order in respect of:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class C: The painting of the exterior of any building.

Class F: The installation, alteration or replacement on a building of a closed circuit television camera to be used for security purposes;

Or Schedule 2, Part 14 of the Order in respect of:



- Class A: The installation, alteration or replacement of microgeneration;
- Class B: The installation, alteration or replacement of standalone solar for microgeneration within the curtilage of a dwelling house or block of flats;
- Class C: The installation, alteration or replacement of a microgeneration ground source heat pump within the curtilage of a dwellinghouse or block of flats;
- Class D: The installation, alteration or replacement of a microgeneration water source heat pump within the curtilage of a dwellinghouse or a block of flats;
- Class E: The installation, alteration or replacement of a flue, forming part of a microgeneration biomass heating system, on a dwellinghouse or a block of flats;
- Class F: The installation, alteration or replacement of a flue, forming part of a microgeneration combined heat and power system, on a dwellinghouse or a block of flats;

unless permission has first been granted by the local planning authority in the form of a separate planning permission.

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## **APPEARANCES**

### FOR THE APPELLANT:

Jon Pope	Director, GPS Planning and Design Ltd
Simon Tilley	Hockerton Housing Project Trading Ltd
Chris Jones	MES Building Solutions
Dr Chris Parsons	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Clare Walker	Senior Planner
Sukhjinder Chohan	Planning Officer
Debbie Dickinson	Policy Planner
Kevin Robinson	Planning Officer
Kit Knowles	Sustainability consultant, EcoSpheric
Lucy Formoy	Architect, Guy Taylor Associates

### INTERESTED PERSONS:

Linda Tift	Councillor, Newark & Sherwood District Council
Marisha Curry	Chairman, Eakring Parish Council
Len Haslam	Local resident

## **DOCUMENTS**

- 1 Section 106 Agreement dated 16 October 2017
- 2 Legal note: Terms of Section 106 Agreement
- 3 Appeal decision APP/B3030/W/17/3168578:  
Brownlows Hill, Coddington NG24 2QA
- 4 Appeal decision APP/B3030/W/16/3151592:  
The Plough, Main Street, Coddington NG24 2PN
- 5 Planning committee report, 6 December 2016, Application 16/01745/FUL:  
Land adjacent to Cherry View, Bilsthorpe Road, Eakring
- 6 Appeal decision APP/A3010/W/17/3172614:  
Land adjacent to the village hall and recreation ground at The Drive,  
Barnby Moor DN22 8QU
- 7 Legal note: Procedure for discharge of proposed planning condition 13 –  
Public access
- 8 Letter from Council dated 8 January 2018
- 9 Letter from GPS Planning and Design Ltd dated 8 January 2018

## **PLANS**

- A Location of site of appeal ref APP/B3030/W/17/3168428
- B Local Plan 1999 Inset Map 18: Settlement and conservation area  
boundaries for Eakring
- C Location of other sites in Eakring granted permission for housing