



# Appeal Decision

Inquiry held on 08 to 11 and 23 February 2005

Site visit made on 23 February 2005

by **R D Hiscox** MA(Oxon) DipTP MRICS MRTPI

an Inspector appointed by the First Secretary of State

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Date

**06 APR 2005**

**Appeal Ref: APP/E3905/A/04/1149734**

**Former Spitalcroft allotments, London Road, Devizes.**

- 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 Robert Hitchins Limited against the decision of Kennet District Council.
- The application Ref K/046191/0, dated 27 August 2003, was refused by notice dated 27 November 2003.
- The development proposed is the construction of houses and apartments, including associated siteworks and houseworks for residential purposes.

**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.**

## Procedural Matters

- 1 The application is for outline permission with all matters of detail reserved for subsequent consideration.

## Main Issues

- 2 The main matter at issue between the Council and the appellant in this case concerns interpretation of housing policy, and whether or not allowing this proposal would interfere with proper planning for the provision of additional housing in Devizes and the balance between new housing and employment opportunities. A further matter at issue between the appellant and the Council is whether or not the proposal makes adequate arrangements for the delivery of affordable housing. In addition there are matters at issue between the appellant and an action group organised by local residents, Save our Spitalcroft Community Action Group (SOS), concerning in particular the impact upon traffic and local highways conditions, and the adequacy of the proposed replacement allotment site at Windsor Drive, with particular regard to soil quality and its location. Other matters of concern are the loss of the open space in the town and impact upon nature conservation interests.

## Planning Policy

- 3 The development plan includes the Wiltshire Structure Plan 2011, adopted in January 2001, and the Kennet Local Plan 2011, adopted in April 2004.
- 4 Policy DP3 in the structure plan indicates that provision should be made in Kennet District for some 7000 additional dwellings between 1991 and 2011, which is reflected in Policy HC1 in the local plan. A deposit draft alteration structure plan, the Wiltshire and Swindon Structure Plan 2016, has been the subject of an Examination in Public (EIP), and the Panel's report was made in October 2004. The draft alterations to the structure plan place greater

emphasis on directing new housing to Swindon, and reduce the target for Kennet District to 5250 additional dwellings. I do not have details of a timetable for the publication of any modifications to this plan, or for its final adoption, but it is nevertheless at a stage of preparation where it is a material consideration of some weight.

5. In the local plan policies the strategic objectives aim to promote a settlement pattern based on the three main settlements of Devizes, Marlborough and Tidworth, developing balanced communities with local employment opportunities available commensurate with the local working population and reducing unnecessary journeys. Policies HC3 and HC5 encourage the use of previously developed land and development at higher densities, while Policy HC21 sets out how housing may come forward on unallocated sites. Policy TR20 deals with the protection of allotments, stating that development that would result in their loss, or the loss of land last used as allotments, will not be permitted unless replacement allotments are provided.
6. Policy HC28 in the local plan indicates that the Council will seek an appropriate amount of affordable housing on a site such as this appeal site, and Policy HC30 indicates that a 30% subsidised affordable housing contribution and a 20% low cost market housing contribution would be appropriate here.

## Reasons

### *Housing Policy*

7. The Council accepts that Policy HC21 in the local plan is the most directly relevant policy and agrees that it is a mechanism for the release of housing sites other than those allocated in the local plan. However, the Council considers that there is no need for this appeal site to come forward at this time in order to meet its strategic housing targets. It is argued that the reduced housing target for Kennet in the draft alterations to the structure plan reflects the aim of Regional Planning Guidance for the South West (RPG10) encouraging growth in Principal Urban Areas, which in the case of Wiltshire is Swindon. The Council argues that this emerging lower target should be afforded significant weight as the emerging structure plan will form the basis for Local Development Framework preparations. This target is already being met by completions, outstanding permissions, local plan allocations and windfall assumptions.
8. For the appellant it is argued that the emerging structure plan should carry limited weight. There is no certainty as to what will be incorporated in the proposed modifications, and the structure plan will in any case be overtaken by the preparation of the Regional Spatial Strategy (RSS). Moreover, the local plan is only recently adopted, and there is no indication that Policy HC21 would be regarded as inconsistent with the emerging strategic policies.
9. I have already indicated that in my view the emerging structure plan is a material consideration of some weight, and there is every likelihood that it will become 'saved' as the adopted strategic policy document for a period until the RSS is finalised. However, the Council accepts that there is some uncertainty as to the role to be expected for Devizes in the yet to be prepared new local policies. In the meantime, Devizes is identified in the adopted local plan as one of the main settlements in the District, where Policy HC1 aims to concentrate development in order to achieve strategic housing targets. Conclusions in the local plan Inspector's report indicate that Policy HC21 allows for the possibility of planning

permission for large greenfield sites within main settlements. This appeal site is such a site, and it seems to me that whether or not it should come forward for housing needs to be assessed in terms of the requirements of Policy HC21.

10. It is common ground that this site does not fall within the definition of previously developed land, and so the second part of Policy HC21 is the starting point for considering this proposal. This requires an assessment of previously used land in the same town to demonstrate that the proposal site is the most sustainable location available at the time of the application. Such an assessment was submitted with the planning application and an updated assessment submitted with this appeal. This assessment takes the allocated sites for Devizes in the local plan, and all other known sites, with and without planning permission, and analyses accessibility to the town centre, public transport and a range of other facilities in the town. The methodology of this analysis has not been challenged by the Council, and it indicates that Spitalcroft is the most sustainable location of all the sites assessed.
11. It is then necessary to show that the site complies with the criteria a) to d) in the first part of the policy. Criteria c) and d) require that the site is well related to a range of services and jobs, and that there is easy access to the public transport, cycle and footpath networks. The Council accepts that the appeal site meets these requirements. Criterion a) requires the proposal to reflect the scale and character of the settlement. The Council takes no issue with this requirement. Criterion b) requires there to be no conflict with other policies of the plan that seek to protect local services, amenity and employment. The Council now accepts that there would be no conflict with Policy TR20 over the loss of allotments, although I realise that this is not accepted by SOS and others, and will deal with separately below.
12. The Council suggests that there would be conflict with Policy HC1 and the strategic housing provision aims, but it seems to me that this is not a part of the plan that seeks to protect local services, amenity and employment. Regardless, the Council argues that there are indications that a good many of the allocated sites in Devizes will come forward and become available for development early in the plan period. It is accepted that there are constraints at the Hospital site and parts of the Northgate site, but there are sites with permission, or with development briefs either adopted or at an advanced stage, that will provide an additional some 335 units in the town.
13. To my mind, there are a number of key considerations here. In the first half of the adopted structure plan period, the Council has fallen behind its strategic housing requirement, with some 3,000 houses built, leaving 4,000 to be found in the second ten years. The local plan projection to meet the adopted structure plan target and the Council's revised projection to meet the emerging structure plan target both rely on windfall sites coming forward. As greenfield land, the appeal site does not fall within the definition of a windfall site, but it would nevertheless make a useful contribution to meeting housing targets. Despite the apparently hopeful position in bringing forward allocated sites in Devizes, there remains no certainty that the strategic targets will be met. Even if the target were to be met, the Council now accepts that an increase of 140 houses, or some 4% of the adopted target, would not cause harm and there are no policies that seek to prevent release of land that exceeds the structure plan requirement. Bearing in mind the local plan Inspector's comment that some greenfield sites may be better located than brownfield ones, these factors all count in favour of allowing housing on this appeal site, in what is undoubtedly a very sustainable location for new housing, only a few minutes walk from schools, buses and the facilities of the town centre.

14. The Council has one further concern about this proposal. It believes that to allow additional housing without a proportionate increase in job opportunities would inevitably erode the self-containment of Devizes, and lead to an increase in people commuting out of the town for employment opportunities. The existing balance between the working population and jobs available in the town is considered to be a fragile one, and a balance that has only been achieved as a result of planned provision. Further loss of self containment and an increase in people commuting out of the town would be contrary to the strategic objectives of the local plan, and to emerging structure plan guidance.
15. However, the available data from census figures does not support this concern. These figures show that between 1991 and 2001 the number of jobs, excluding those working from home, rose from 6670 to 7872, an increase of some 18%, and that over the same period the number of economically active rose from 6000 to 7063, an increase of some 17.7%. This indicates that the number of jobs and the number of economically active persons has risen almost identically over this period and also that the number of jobs has exceeded the number of economically active persons by the same amount, at some 11%. I appreciate that these figures demonstrate an overall rise in the numbers of people living and/or working in the town, and note the concerns of SOS in that regard, which I deal with below. However, they do not demonstrate that Devizes has become less self-contained as a town over that period.

#### *Affordable housing*

16. A considerable amount of agreement has been reached between the Council and the appellant over the provision of affordable housing, but in the absence of full agreement, a unilateral legal undertaking has been submitted by the appellant. This would provide 50% of the dwellings on the site as affordable housing, comprising 30% subsidised accommodation and 20% low cost market accommodation. After earlier reservations, the Council is now satisfied with all the provisions except the price at which the units would be transferred to a Registered State Landlord (RSL).
7. The undertaking provides that the price of the RSL units shall be £1240 per sq.m. gross internal area, to be index linked up to the time of offer. This is a lower price than that which had previously been on offer at the beginning of the Inquiry, and I understand that it reflects approximately 62% of the open market value. Nevertheless, the Council maintains that this price is too high, and that as a result it will not be possible for an RSL to provide an appropriate level of housing for rent. The Council considers that the appropriate level of affordable housing for rent should be one third of the total, in accordance with one of the objectives of its Housing Strategy 2004-2008. At the proposed transfer price, the Council believes that an RSL would not be able to provide this level of housing for rent without reliance on Social Housing Grant funding from the Housing Corporation, which at present is unlikely to be forthcoming.
18. The Council believes that the price offered seeks to reflect an element of land value rather than transferring the land at nil value. Guidance in the Council's draft Supplementary Planning Guidance, Affordable Housing Policy Guide (AHPG), at paragraph 9.9, indicates that land values should be negotiated at a level that enables schemes to be delivered with the minimum input of external subsidy. However, there have been objections to the AHPG, and in particular to that paragraph, and while it remains in draft form, it does not carry the weight of adopted guidance and certainly not the weight of an adopted policy.

19. There is support in PPG3 and in the consultation paper, Planning for Mixed Communities, for providing a mix and range of affordable housing types. I can appreciate the Council's argument that it is not seeking to control tenure, but seeks to facilitate the provision of rented affordable housing, and that this would meet an identified need in the area. However, there is no support in Circular 6/98, Planning and Affordable Housing, for the position taken by the Council in respect of the transfer price offered, and in paragraph 30 that guidance specifically indicates that planning obligations should not normally be used to control matters such as tenure, rent or purchase price payable.
20. In the Council's Housing Strategy, it is acknowledged that the achievement of affordable housing targets has required major inputs of subsidy by the Council and funding from other sources, and that changes in the national funding regime will impact on the number and tenure of affordable homes that can be completed. This seems to me to be a clear acknowledgement that without the Social Housing Grant it may not be possible to achieve the target for social rented housing. The proposals put forward by the appellant do ensure that a significant amount of affordable housing would come forward in this scheme. In the circumstances of this appeal proposal, the lower transfer price now offered in the legal undertaking would enable an RSL to provide some social rented housing on this site, possibly some 6 or even 8 units, and this would be a choice open to the RSL. Overall, I am not persuaded that the appellant is unreasonable in the affordable housing arrangements offered, and do not therefore find that permission should be withheld because of these arrangements.
21. I have noted the Council's references to an appeal decision (APP/K2420/A/03/1127963), in which the Inspector makes reference to a need to have some control over tenure so as to meet the largest local need, which is for rented housing. I am mindful that there appear to be considerable differences between that proposal, and the affordable housing arrangements, and the scheme before me in this appeal, and that in this case the Council is not seeking to control tenure, but to offer the RSL choice, which is what is provided for in the legal undertaking.

*Proposed replacement allotments*

22. Following an appeal decision in March 2004, permission has now been granted to the appellant for works associated with the use of an alternative site, at Windsor Drive, for the provision of replacement allotments. The Council accepts that the Windsor Drive site would meet the requirements of Policy TR20. However, SOS and others do not accept that, and argue that it would not meet the requirements of Policy TR20 in terms of having a soil quality and condition comparable or superior to that of the existing allotments, or in terms of accessibility and convenience.
23. A condition attached to the permission granted in March 2004 would prevent the erection of any structures on the proposed replacement allotments site until soil amelioration works had been carried out in accordance with details submitted with that proposal. Further, a legal agreement submitted at this inquiry would, if residential permission were granted on this appeal site, require soil amelioration works at the replacement allotments site to be carried out to a confirmed standard and within specified timetables.
24. Much of the concern of SOS stems from the Windsor Drive site being thin topsoil over chalk. Considerable technical evidence has been exchanged and submitted, detailing the different characteristics of the soil on both this appeal site and the Windsor Drive site. SOS

accepts the soil surveys and reports for both sites, and also acknowledges that the Windsor Drive site soil is of a lowland chalk type, which is generally capable of being more productive than middle or upper chalk types. For the appellant, it is accepted that the soil at the replacement site would remain different to that at the existing site, but pointed out that the reports show that the soil at both sites is not necessarily typical of their respective soil types and argued that this need not adversely affect the ability to grow allotment crops in it. In fact, it is concluded for the appellant that there may be some advantages for allotment holders with the improved soils proposed for Windsor Drive.

25. There remain differences of opinion concerning the significance of the calcareous nature of the soils at the replacement site and the differences between the sites in terms of drainage and ability to retain nutrients. SOS accepts that it would be technically possible to improve the topsoil at the replacement site to a level that would be almost, but not quite, as good as the existing site, but remains concerned that deep rooting crops would still be affected by the chalky nature of the subsoil, into which the roots would reach. SOS does accept that the subsoil at the replacement site is of a soft rather than a hard chalk nature, into which roots would be able to penetrate. To my mind, notwithstanding these differences, there appears to be some agreement that the soil at Windsor Drive could technically be improved, and if to a standard almost, but not quite, as good as the existing site, this to my mind would be to a standard suitable for allotment purposes. It follows that this would meet the requirement of part b) to Policy TR20 in the local plan as being comparable to that of the existing allotments.
26. Regardless, SOS argues that the appellant would not legally be able to carry out the soil amelioration programme proposed, as the movement of topsoil as proposed would be subject to Environment Agency waste licensing requirements and to NVZ (Nitrogen Vulnerable Zone) rules. For the appellant it is stated that the soil amelioration can be carried out in compliance with all relevant regulations, as NVZ regulations apply to farm businesses, which will not be situation at Windsor Drive at the relevant time, and the necessary topsoil or compost movements would not fall within the definition of waste. Both parties have consulted orally with Environment Agency officials and appear to have received conflicting advice, but there is no hard evidence before me in this regard. However, the legal agreement submitted with this appeal would prevent residential development at Spitalcroft until experts acting for the appellant and the Council agree that the soil at Windsor Drive has been improved to the standard required. If, therefore, for any reason the appellant were to be unable to deliver the soil amelioration programme to produce a satisfactory standard of soil at Windsor Drive, this proposed development at Spitalcroft would not take place.
27. Turning to accessibility and convenience, there is no evidence before me to show where former allotment holders at Spitalcroft may have lived, and whether or not the Windsor Drive site would be less convenient for them. It may well be that the demand for allotments would come from people who live in areas where the walk to Windsor Drive would be no further than the walk to Spitalcroft. I have seen from my visits to the area that the Windsor Drive site is well related to extensive areas of residential development on the eastern side of the town. Although pedestrian access would involve crossing Windsor Drive, which has a 40 mph speed limit, the permission granted for that site does have a condition requiring improved provision for pedestrians. I can understand that a somewhat negative impression may be given by the existing open nature of the Windsor Drive site, but with landscaping works, soil improvement and the laying out of individual allotment plots, I am not

persuaded that the proposed replacement site would be so unacceptable in terms of accessibility, convenience or attractiveness that it would fail to meet the requirements of Policy TR20 in the local plan.

*Highways considerations*

28. For the appellant it is pointed out that the Highway Authority has no objections to this proposal and that a legal undertaking has been made to make contributions towards highways improvements and improved cycle and pedestrian facilities. It is also pointed out that the Council now accepts that this site is in a highly accessible location with regard both to the facilities and services of the town centre, which are within walking distance, and to local public transport opportunities.
29. The proposed development would take two road accesses, from the north and the south, onto existing residential roads. The northern access would be onto Brickham Road, from which traffic would pass along Stockwell Road, and Proudman Road coming onto the main road network at Windsor Drive. The southern access would be onto Meadow Drive, bringing traffic onto the main road network at Brickley Lane. There would be pedestrian access onto the Kennet and Avon Canal towpath, and improvements to the existing pedestrian access onto London Road.
30. A traffic assessment for the proposal has been submitted for the appellant. This comprises surveys of existing traffic flows in the area and traffic generation estimates for this proposal using the TRICS database. The traffic generation estimates are 23 arrivals and 59 departures for the morning peak and 59 arrivals and 33 departures for the evening peak.
31. This particular use of the TRICS database has been criticised by SOS due to it having selected a considerable amount of data from Northern Ireland and Greater Manchester, where it is believed that car ownership and/or car usage are likely to be lower than in Devizes. SOS considers therefore that car usage has been underestimated. This was tested by undertaking a count of peak traffic from the estate adjoining Spitalcroft, where 238 dwellings have one point of access onto the main road network, at Proudman Road. This showed a peak flow of 134 cars into the estate between 1700 and 1800 hours. If this proposal has the same pattern of car use, this would give a peak hour flow of 84 cars, not 59 as predicted, some 43% higher.
32. For the appellant, it is explained that TRICS is a database supervised by County Councils that chooses sites carefully so as to be typical of the type of development in question rather than typical of the particular area. Further, it is pointed out that many of the sites within the TRICS database are ones completed some years ago and not designed to encourage travel other than by car, and may be expected to overestimate traffic generation compared to an accessible site such as this which is very compliant with PPG3 objectives. While I can appreciate the concerns of SOS in this particular instance, I have no evidence before me to indicate that the appellant's evidence has not provided a reasonable analysis.
33. SOS has provided other traffic survey information. One item is an analysis of County Council figures from a survey carried out in September 2003. This shows high volumes of traffic entering and leaving Devizes along the main traffic routes, and of particular concern with regard to this appeal are the levels along London Road, where levels of some 8,000 and 8,300 in each direction were recorded over a 12 hour period. Surveys have also been carried out by SOS specifically in relation to this appeal proposal. One survey was carried

out in 2000 in preparing for an appeal against a previous refusal of permission for development at Spitalcroft, and the survey was repeated in November 2004 to submit with this appeal. For the residential roads surveyed immediately around the appeal site, the figures show significant variations from 2000 to 2004, some up and some down and with no clear pattern. They indicate high traffic levels at peak times along London Road, although also without a clear pattern of increase or decrease between 2000 and 2004, and a considerable increase of traffic along Windsor Drive, which is understandable as it now links to through roads southwards out of the town. In Brickley Lane they show significantly higher traffic volumes in 2004 than 2000 in the afternoon peak period, but not in the morning. In Meadow Lane they show no clear pattern of change, but do indicate that this is a residential cul-de-sac that has quite low levels of traffic movements. Insofar as these survey figures seek to show that traffic levels in Devizes have increased between 2000 and 2004, I do not find them to be particularly robust due to the considerable variations and lack of clear pattern.

34. SOS has also submitted a comparison of census workplace data from 1991 and 2001 seeking to demonstrate significant increases in the numbers of people travelling into Devizes to work, up 25%, and residents of Devizes travelling elsewhere to work, up 30%, as well as an increase of 340 people living and working in the town. Although this data does not give any indication of how these people travel to and from their workplace, SOS considers that due to the limited public transport availability for many of the trips concerned a good many are likely to be made by car. Census data submitted for the appellant does confirm that at 2001 driving a car or van to work was the most common mode of travel, at 58.5%, but also that a combined figure for walking or cycling amounts to 21.1%.
35. Turning to the specific impacts of this proposal, for the appellant an analysis of likely traffic movements indicates that very little if any of the traffic generated would be likely to travel along London Road, between Windsor Drive and Brickley Lane, a point now accepted by SOS. The appellant's traffic flow surveys indicate that at peak hours the flows along the main roads that would be affected, in particular Brickley Lane, Estcourt Street, Nursteed Road and Windsor Drive, are within the capacity of the roads. Queue and delay surveys also indicate no significant problems and it is the conclusion that the traffic generated could be accommodated on the local road network without any particular harm.
36. I can appreciate a particular concern of SOS that at peak hours traffic into the town centre does back up from the junction of Brickley Lane with Estcourt Street and London Road, and so any additional traffic entering this part of the network from the appeal proposal would exacerbate this situation. However, the additional traffic movements projected remain relatively minor, and I am not persuaded that they would exacerbate the existing situation to such an extent as to make the proposal unacceptable.
37. I am mindful also of the concerns of individual residents in the residential roads along which additional traffic from the proposal would pass before reaching the main road network. Some of these concerns have been generated by particularly high estimates of traffic generation that have been canvassed. However, the figures given for the appellant indicate that peak hour additional traffic would be well within the capacity of these roads, and the individual numbers of movements would not be so great as to be unacceptable.
38. SOS comments that an increase of overall population that has already taken place in the town between 1991 and 2001, at over 20%, together with increased levels of car ownership

reflecting national trends, must be resulting in increased levels of car journeys, and consequently to problems of congestion experienced around the town, particularly at peak times. For the appellant it is suggested that the situation in Devizes is not especially worse than the situation in other similar towns around the country, and from my own experience that would appear to be the case. I understand the concerns of SOS about the cumulative impact of new housing schemes in the town, and would have some sympathy with this if each housing scheme was not assessed according to its particular impact and what, if any, measures may be needed to deal with that impact. In this particular case, the likely impact of this proposal has been assessed by the County Council as Highway Authority, and a package of improvement measures has been agreed and provided for in a legal undertaking. As a result the Highway Authority is satisfied with the proposal and there is insufficient evidence before me to conclude that the proposal should be refused for reasons of highway safety or inconvenience.

#### *Other considerations*

39. I understand the concerns of SOS and others that the appeal site represents a large area of open space within the built confines of the town, and that Government guidance indicates that local planning authorities should have clear policies for the protection of open space. However, there is always a balance of considerations in a situation such as this, where Government guidance also encourages making efficient use of available land within towns. In this particular instance, the Council does have a policy for the replacement of the allotment facilities, and this land is now vacant and unused, and with no prospect that I am aware of for it to be brought into beneficial use other than this appeal proposal. To my mind, the balance of considerations are for it to be brought into use for housing.
40. Finally, turning to nature conservation, I note that English Nature has confirmed that it has no objections to the proposal subject to measures to protect badgers being implemented and a survey to identify whether protected reptiles are present, and a mitigation strategy if they are found to be present. These measures are included in the recommended conditions considered below.

#### **Conditions**

41. The Council has suggested a number of conditions to be attached to any permission granted should this appeal be allowed. I have considered these conditions bearing in mind the guidance and model conditions set out in Circular 11/95 "The Use of Conditions in Planning Permissions".
42. Recommended conditions 1 and 2 are the statutory time limitations. Conditions 3 to 6 deal with landscaping, which is a reserved matter. However, I do consider that there should be a condition indicating that when landscaping details are submitted as part of a reserved matters application, they should indicate all trees to be retained and measures for their protection in the course of construction.
43. Conditions 7, 8 and 9 deal with stopping up any vehicular access onto London Road, the provision of a cycle and pedestrian link to London Road, and the provision of roads within the site, all of which are reasonable and necessary requirements. Conditions 10 and 11 deal with drainage requirements, which in my view is unnecessary at this stage.

44. Condition 12 would require a method statement to provide details of measures to be taken to prevent pollution during construction. Although there is some consideration as to whether or not this is a matter covered by other legislation, it seems to me that, for the avoidance of doubt, it is a reasonable condition. Proposed conditions 13 and 14 deal with nature conservation matters as considered in paragraph 41 above.
45. Proposed condition 15 would limit the hours of work for external construction activities. As proposed it would prevent work before 0800 hours on Monday to Saturday, and not after 1800 hours Monday to Friday and 1300 hours on Saturday. The appellant seeks to be able to start work at 0730 hours. Given that this site is bounded by existing residential properties on three sides, I feel that there is a real possibility of undue disturbance if work were to commence before 0800 hours, and consider that the condition should remain as proposed.

### **Conclusions**

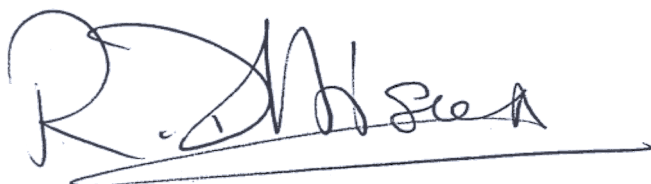
46. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

### **Formal Decision**

**Appeal Ref: APP/E3905/A/04/1149734**

47. In exercise of the powers transferred to me, I allow the appeal, and grant outline planning permission for the construction of houses and apartments, including associated siteworks and houseworks for residential purposes at the former Spitalcroft allotments, London Road, Devizes in accordance with the terms of the application, Ref K/046191/0, dated 27 August 2003, and the plans submitted therewith, subject to the following conditions:
- 1) Approval of the details of the siting, design and external appearance of the buildings the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained in writing from the local planning authority before any development begins.
  - 2) Plans and particulars of the reserved matters referred to in condition 2 above, relating to the siting, design and external appearance of any buildings to be erected, the means of access to the site and the landscaping of the site, shall be submitted to and approved in writing by the local planning authority and shall be carried out as approved.
  - 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
  - 4) Landscaping proposals submitted as part of a reserved matters application shall indicate all trees and vegetation to be retained, and measures for their protection in the course of construction.
  - 5) There shall be no vehicular access from London Road, and prior to the commencement of development details of how the existing access will be permanently closed shall be submitted to and approved in writing by the local planning authority. The closure shall be completed in accordance with the approved details before any of the dwellings are first occupied.

- 6) Prior to the occupation of the 30<sup>th</sup> dwelling, a pedestrian and cycle link shall be constructed from the internal access road onto London Road in accordance with details submitted to and approved in writing by the local planning authority.
- 7) No dwelling shall be occupied until that part of the road which provides access to it, together with whatever parking provision is shown for it, have been constructed in accordance with the plans approved as reserved matters.
- 8) Prior to the commencement of development, a method statement providing details of measures to be taken to prevent pollution during the construction phase shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved method statement.
- 9) Prior to the commencement of development details of the measures for the protection of badgers in the course of development and measures to facilitate their movement to and from the site thereafter shall be submitted to and approved in writing by the local planning authority. The protection measures shall be implemented in accordance with the approved details and the timescales set out within it.
- 10) to the commencement of development, a survey shall be undertaken (between the months of March to September) to identify whether protected reptiles are present on the site and a report, providing the findings of the survey, together with a mitigation strategy if protected reptiles are present, shall be submitted to and approved in writing by the local planning authority. Any mitigation strategy shall be implemented in full in accordance with the timescales set out within it.
- 11) No external construction works shall be carried out before 0800 or after 1800 on Monday to Friday or before 0800 and after 1300 on Saturdays and there shall be no external working at any times on Sundays and Bank Holidays.



Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY

Mrs T Merrett	Solicitor instructed by the Council
She called	
Mr E D A White	Forward Planning and Transportation team Leader
DipTP(Dist) MRTPI	
Mr W Bryant	Housing Development Manager

### FOR THE APPELLANT

Mr C Howell Williams	Of Counsel
He called	
Mr D Parker MSc	Director, Pioneer Property Services Ltd.
BA(Hons) DMS FCIH	
Eur Ing Mr D M Mason	Director, D M Mason Engineering Consultants Ltd.
MBA BSc CEng MICE	
DipEM	
Mr G A Wadsworth MSc F	Fieldfare Southwest Ltd.
I Soil Sci	
Mr M E Dobson MA MPhil	Partner, Pegasus Planning Group
MRTPI MRICS	

### FOR THE SAVE OUR SPITALCROFT COMMUNITY ACTION GROUP (SOS)

Led by	
Commander A T J Padwick	Linden House, London Road, Devizes
OBE Royal Navy	

Also represented by	
Mr A Sedgwick	The Old Coach House, London Road, Devizes
Mr J S Smallshaw	15 Dial Close, Seend
Eur Eng Mr W Butterworth	Cotswold, London Road, Devizes
BScHons CEnv CM FIAgrE	
FCILT FCIT MCIM MCIOJ	
MASAE MCInstWM	

### OTHER INTERESTED PERSONS:

Mr D Sibley	91 Broadleas Park, Devizes
Mr A P J Duck, Ward Member	11 Maryport Street, Devizes
Mr R Hunter-Grubbe	Eastwell, Potterne, Devizes
Mr K E G Hunter	7 Tilley Close, Devizes
Mrs C G Carver (Friends of the Earth)	6 Addington Close, Devizes
Mr R A Shergold	5 The Croft, Meadow Drive, Devizes

## DOCUMENTS

Document	1	Lists of persons present at the inquiry
Document	2	Application documents and documents pre-dating the inquiry
Document	2A	Supporting Statement – Planning
Document	2B	Development Brief
Document	2C	Arboricultural Survey, Graham King Associates
Document	2D	Landscape Strategy, Michael Harris Partnership
Document	2E	Ecological Survey, Conservation Consultancy Ltd.
Document	2F	Comparative Soil Survey and Land Assessment, Fieldfare Ltd., October 2001
Document	2G	Evaluation of proposed replacement allotment site at Windsor Drive, ADAS
Document	2H	Soil Amelioration and Site Landscape Programme, Fieldfare Ltd. July 2002 amended March 2003
Document	3	Statement of Common Ground
Document	4	Highways Statement of Common Ground
Document	5	Proof and appendices for Mr White
Document	6	Proof and appendices for Mr Bryant
Document	7	Proof and appendices for Mr Cosker (Not called as evidence by the Council)
Document	8	Rebuttal proof for Mr Parker
Document	9	Rebuttal Proof for Mr Wadsworth
Document	10	Proof and appendices for Mr Mason
Document	11	Transport Assessment by Mr Mason
Document	12	Proof for Mr Dobson
Document	13	Appendices to proof for Mr Dobson
Document	14	Proof and appendices for SOS
Document	15	Transport Assessment for SOS
Document	16	Petition submitted by SOS
Document	17	Representations and attached petition from Mr and Mrs Crook
Document	18	Representations and attached petition sent to Councillor A Duck
Document	19	Letter from Mrs Carver for Friends of the Earth
Document	20	ODPM Publication, Sustainable Communities: People, Places and Prosperity
Document	21	Copy of appeal decision APP/K2420/A/03/1127963
Document	22	Extracts from the local plan
Document	23	Extracts from the structure plan
Document	24	Internal Council memo from Mr White to Mr Cosker dated 08 October 2003
Document	25	Compilation of Tables H.2 and H.3 from the local plan
Document	26	Copies of letters August 2004 regarding Policy HC1
Document	27	Extracts from ODPM document, Creating sustainable communities
Document	28	Letter from GOSW dated 02 September 2003 regarding affordable housing policy guide
Document	29	Traffic and highways response from SOS
Document	30	Traffic count data from SOS
Document	31	Written statement of objection from Mr Sibley
Document	32	Written statement read on behalf of Friends of the Earth
Document	33	Career details, Mr Wadsworth
Document	34	Expert report by Mr Butterworth
Document	35	Response to Fieldfare by Mr Butterworth
Document	36	Extract from Soils of the Wantage and Abingdon District

Document	37	The Soil Code, revised 1998
Document	38	Comments by Mr Mason on papers by Mr Sedgwick
Document	39	Extract from Government Response to draft PPG3
Document	40	Census data submitted by the appellant
Document	41	Bundle from the appellant concerning the Northgate site
Document	42	Table from SOS indicating the 5 year supply of housing
Document	43	Written note from the Council concerning the Northgate site
Document	44	Legal undertaking relating to highways requirements
Document	45	Legal undertaking relating to education requirements
Document	46	Legal undertaking relating to recreation provision
Document	47	Legal undertaking relating to the provision of allotments
Document	48	Legal undertaking relating to affordable housing

#### PLANS

Plan	A	Location plan
Plan	B	Indicative layout plan
Plan	C	Plan showing traffic survey points
Plan	D	Plan showing Bishop's Canning Parish boundary

#### PHOTOGRAPHS

Photo	1	Photos submitted by Mr Sibley
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