The Planning Inspectorate

Appeal Decision

Inquiry opened on 12 February 2013
Site visit made on 14 February 2013

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 15 April 2013

Appeal Ref: APP/B3438/A/12/2180250
Land off Sugar Street, Rushton Spencer, Macclesfield SK11 0SQ

- 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 JFL Developments against the decision of Staffordshire Moorlands District Council.
- The application Ref 12/00364/OUT, dated 13 April 2012, was refused by notice dated 6 July 2012.
- The development proposed is residential development including partial demolition of existing cottage and garage.

Procedural Matters

1. The application is in outline but access and layout are not reserved for subsequent approval.

2. My attention was drawn to a fault in the original notification procedure, subsequently rectified during the course of the Council's determination of the application, thereby drawing the attention of the overlooked landowners, Canal & River Trust (formerly British Waterways) and Ms. Fiona Kinsey, to the application. The correct notification was undertaken at the time of appeal and therefore the owners had the opportunity to make representations to the Secretary of State, having been made aware of the appeal proceedings. I am therefore satisfied, having listened also to the submissions of the main parties on the matter, that no material prejudice has been caused by this error on the part of the appellant.

3. The Council's notification letter erroneously indicated that the inquiry was to be only one day in duration. However, I ensured that those who wished to speak and could not subsequently attend were able to do so on the opening day. On that basis, I am satisfied that no material prejudice has been caused by this error on the part of the Council.

4. A statement of Common Ground (SoCG) agreed between the main parties was submitted to the Inquiry.

5. The Council confirmed that it did not intend to pursue its first and second reasons for refusal encompassing sustainability, residential amenity and character and appearance. They are, in effect, withdrawn.

Decision

6. The appeal is allowed and planning permission is granted for residential development including partial demolition of existing cottage and garage at Land off Sugar Street, Rushton Spencer, Macclesfield SK11 0SQ in accordance with the terms of the application, Ref 12/00364/OUT, dated 13 April 2012, subject to the conditions set out in the Annex hereto:

Main Issues

7. I consider the main issues to be the effect of the proposed development on highway safety and whether it represents sustainable development for the purposes of relevant policy including the National Planning Policy Framework ('the Framework').

Reasons

Background to appeal

8. The site is a field of around half a hectare within the village of Rushton Spencer, bounded to the west by a feeder canal for Lake Rudyard, to the north east by the local primary school, to the east by a terrace of cottages on Sugar Street and to the south by a wooded area and the car park of the Royal Oak public house. The field slopes fairly gently towards the feeder canal, but a sharp break of slope at its western boundary, where the canal was formed, elevates it a little relative to a short ribbon of houses on the east side of Macclesfield Road (A523).

9. Sugar Street is a lane that gently descends the hill from the primary school to its junction with Leek Old Road close by the junction of the latter with the A523 (Leek Road at this point), which affords priority to through traffic. The Royal Oak is situated within the angle formed by Sugar Street and the main through route at the junction, where southbound traffic may diverge from it to ascend the hillside traversed by the Leek Old Road.

10. The access to the proposed development would be on the outer angle of an elbow on Sugar Street (which becomes steeper and a little more tortuous northwards of this point) and would necessitate demolition of an extension to Ivy House that forms the northern property in the terrace. Because of its location, a visibility splay for traffic exiting the proposed development would be available. The inside angle of the elbow in Sugar Street contains a single track road, Alley Lane, which serves a limited number of properties on the hillside to the east. The resultant geometry and the boundary treatment and property at Alley House limits vision for drivers exiting Alley Lane, especially to the north, and a mirror is installed on one of two utilities poles opposite, by the pedestrian gate to the primary school, to aid such drivers. At the time of my visit the mirror was not in full and effective working order and is apparently not an officially recorded highway authority installation. I observed that drivers were obliged to exit the junction with considerable care.

11. The proposed access to the appeal site would not alter the geometry of the Alley Lane/Sugar Street junction and it would be close to and very nearly contiguous with the vehicular access to the primary school, with only the pedestrian access gate to the latter and the slightly re-positioned utilities poles in the intervening space. It is proposed to remove a dwarf wall from in front of the remainder of Ivy House to create a short stretch of footway, albeit this

would be interrupted but not severed by the projecting front porch to that property. The footway would continue around into the appeal site for a short distance as far as two parking bays that would be created for the property and a small area of footway would also be created at the pedestrian gate to the primary school. The remainder of Sugar Street would continue to function as a shared surface subject to a 30 mph speed limit. There are no parking restrictions on Sugar Street.

12. The submitted layout shows that 9 dwellings would be constructed on the appeal site, arranged around the proposed access way in the form of a small cul-de-sac. As a consequence of the layout having incorporated land currently owned by the occupiers of Rushton Cottage, it would not be possible to form the rear garden to Plot 9, one of a pair (with Plot 8) of semi-detached houses proposed within the layout, unless the necessary land was acquired by the developer of the proposed scheme.

13. Similarly, a proposed footbridge to link the development to the public footpath on the west side of the feeder canal would not be possible without the co-operation of the Canal & River Trust.

Common Ground

14. Salient points of the SoCG include the following:

- The Council is unable to demonstrate a five year supply of deliverable housing sites for the purposes of the Framework;
- No element of affordable housing is required by local policy in the current development plan;
- The site is identified as having potential for housing development in the Council's Strategic Housing Land availability Assessment (SHLAA);
- The site is within the defined development boundary for the village and there are no irresolvable ecological constraints to its development;
- Drainage of the site is a technical problem for which there is a technical solution;
- The Transport Statement correctly quantifies the order of traffic generation anticipated and identifies the relevant personal injury accident record for Sugar Street and its junction with Leek Old Road;
- The dimensions of Sugar Street south of the appeal site vary from a width of 4.57 to 5.3 metres and it is mostly bounded by grass verge, some of which is steep;
- Notwithstanding the 30 mph speed limit, 85th percentile recorded speeds in dry conditions range from 19 to 22.9 mph, giving wet weather speeds of 16.5 to 20.5 mph; and, accordingly;
- The 2.4m X 21m visibility splay available at the proposed access is adequate.

Relevant policy

15. Relevant national policy is contained in the Framework. The development plan currently comprises the West Midlands Spatial Strategy (RSS), saved policies of

the Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011 ('the structure plan') and saved policies of the Staffordshire Moorlands Local Plan ('the local plan').

16. The RSS is dated insofar as the housing figures were based on household projections from the 1990s. The housing projections for the Phase 2 Revision 2 Draft of the RSS will not now proceed to approval in view of the progressive revocation of RSS generally following the Localism Act 2011. Although the figure of 6,000 dwellings net for Staffordshire Moorlands over the period 2006 – 2026 emerged from the Panel's Report, subsequent work by the Council for the purposes of its Revised Submission Core Strategy (RSCS) leads to a net requirement of 5,500 dwellings. Nevertheless, the Council accepts that it remains unable to demonstrate a five year supply on the basis of that reduced figure even if only a 5% buffer is applied. The appellant's proposition of a deliverable supply of around 3 years would therefore potentially engage the presumption in favour of sustainable development set out in paragraph 14 of the Framework even if a 20% buffer in recognition of persistent under–delivery were not to be deployed. In that case, it is contended, the five year supply would reduce to a little less than 2.6 years supply if compensation for previous shortfall in delivery is applied to the first five years of the plan period. If only a 5% buffer is utilised and the necessary adjustment for under-delivery is spread over the remainder of the plan period, the supply would equate to 4.13 years, representing the very best arguable scenario. In any event, the Council's acceptance of a significant shortfall was uncontested by up-to-date evidence at the inquiry.

17. Under the terms of the existing local plan, the appeal site is within the defined settlement boundary for Rushton Spencer for the purposes of policy H4. That policy directs new housing development to locations within such boundaries where it can be satisfactorily and economically serviced and where it is in sympathy with the character of the existing settlement in terms of density, scale and environmental quality. Policy B13 of the local plan concerns, amongst other things, design in context and the protection of amenity. Both policies are consistent with the broad intentions of the Framework and they may therefore continue to be afforded due weight.

18. The Council's RSCS is at a relatively advanced stage, having been recently subject to independent examination, and a number of draft policies are potentially material, including H2 which restricts housing in smaller villages such as Rushton Spencer to housing that is either affordable or which meets local needs not capable of being met elsewhere, consistent with the general intention of draft policy SS6b to provide only for appropriate development which enhances community vitality or meets a local social or economic need of the settlement and its hinterland. However, these policies as drafted are subject to objections, thereby reducing the weight that may be accorded to them at the present time. The Council does not seek to argue otherwise, albeit third parties suggest they should be accorded significant weight for the purposes of this decision. But in any event the concept of local need is not confined to affordable housing, the explanation to the policy SS6b making it clear that some development is necessary to provide ongoing housing opportunities and the Council has responded to objections with an acceptance that the proposed limits on numbers are indicative only.[1] Although it has been

[1] Evidence of Mr Copestake paragraph 4.69

examined the Core Strategy is not yet an adopted document and the weight that may be accorded to it is necessarily limited by comparison with the existing development plan, subject to consistency of the latter with the Framework.

Effect on highway safety

19. The highway authority is the Staffordshire County Council, which initially objected to the proposals[2]. However, it subsequently altered its position[3] in the light of a revised scheme for the access put forward by the appellant, namely Drawing Number APP14 Rev A.

20. The Council suggested that there was a lack of transparency in the process by which the relevant officer of the highway authority moved from a position of objecting to the proposals to one of endorsing them, subject to conditions. Although there was no written record of the meeting between the relevant officer and the appellant's highways consultant, Mr Booker, close comparative scrutiny of the "Form X" pro-forma communications that respectively conveyed (i) a recommendation of refusal and (ii) a recommendation of conditional approval, indicates that the highway authority considered the changes introduced to be significant, notably in respect of changes to the geometry of the proposed access to facilitate the passage of refuse vehicles, the movement of the utilities poles to resolve visibility and obstruction of pedestrian movement between the site and school entrances, provision for a separate footway within the site and the provision of a service strip within the layout. The revised drawing number APP14 Rev A (i.e. the amended access drawing submitted in response to the first "Form X") is explicitly cited as overcoming the highway authority's objection.

21. Although the terminology and format of the relevant forms arguably inhibit immediate comprehension of the changes sought and the reasons for them, as far as the non-technical reader might be concerned, I do not consider this amounts to a lack of transparency, bearing in mind that responding to such forms during the progress of applications is routine practice amongst those professionally involved. Bearing in mind the detailed content of the forms I do not consider the highway authority's stance to be either unexplained or contradictory as the Council asserts. It became clear at the inquiry, however, that the Council's highways witness was unaware that Form X (ii) had in fact been issued subsequent to the highway authority's initial objection.

22. What is also clear is that the highway authority's objection to a shared surface was in respect of the arrangements internal to the site and not the existing de facto shared surface that Sugar Street represents, the dimensions and characteristics of which underlie the Council's refusal of planning permission.

23. Those characteristics include the wholly inadequate vision available to vehicles exiting the single track Alley Lane opposite the proposed site access, which the proposed development at issue can, in practical terms, do nothing to alter. I consider the key question in respect of the Alley Lane junction, which represents an existing and long established deficiency near the school entrance, to be whether the creation of the proposed site access opposite

[2] Form X (i) dated 18 May 2012
[3] Form X (ii) dated 13 June 2012

would materially exacerbate the difficulties already experienced by vehicles emerging from it.

24. Having experienced the situation as both a driver and observer, and considered the logic, I conclude that it would not. The proposed development would not attract significant traffic downhill towards the junction from the side blinded by Alley House and the traffic emerging from the new access, which would serve only 9 dwellings, would be commensurately light and primarily right turning. The occasions when vehicles exiting from Alley Lane would have to cope with the added distraction of a vehicle exiting from the proposed access would be relatively few and, given the propensity of most experienced drivers to co-operate in such situations, I do not consider the existing difficulty at Alley Lane would be in any sense exacerbated. There is of course the school entrance to contend with also; but that is an existing factor that users of Alley Lane must take into account and there is no reason why the quantity of traffic emerging from the school entrance should be increased by the proposed development. I do not consider the occasional coincidence of emergent vehicles from Alley Lane, the school entrance and the proposed new access would create situations that would be unduly difficult for drivers to comprehend and appropriately respond to by comparison with the existing circumstances. I do not therefore accept the Council's proposition that there would be material harm to highway safety in that respect.

25. Sugar Street itself has the characteristics of many such lanes in rural villages, namely; constrained width, lack of pavements and steep grass verges backed by walls or hedges. In this case, the road is susceptible to long term residents' parking where it is of sufficient width, between the cottages and the public house car park, and is effectively a shared surface for pedestrians and vehicular traffic including large farm vehicles and lorries from the haulage business north of the school. Parents taking children to the school by car either drive up Sugar Street to the large school car park or use the public house car park and walk up the lane with them. I observed traffic conditions and pedestrian behaviour both in the afternoon peak prior to the inquiry and in the morning peak prior to and during my formal site visit.

26. The road is lightly trafficked as the appellant's surveys confirm, even at those times. Moreover, I noted that a significant number of the vehicles that did use the lane were visiting or leaving the school, which has a substantial car park. Few pedestrians used Sugar Street and those that did appeared to experience no great difficulty interacting with the generally slow moving traffic when sharing of the surface did occur, notwithstanding the constrained width of the road.

27. I am conscious that the Council dismisses the utility of the spaces between parked cars on Sugar Street as a form of pedestrian refuge when vehicles pass, but the reality is that the spaces can and do function in that way, as they do in similar circumstances on lightly trafficked roads elsewhere. Looking, listening and accommodating is normal behaviour for pedestrians in such situations, whilst drivers tend to reciprocate, being conscious of the conditions. Such highway circumstances are not unduly dangerous if traffic is light and speeds are low, as here, and I am conscious that the evidence of the accident record on Sugar Street supports the appellant's contention in that respect. Such recorded accidents as have occurred in the five year period to September 2012 have been at the junction of Sugar Street with Leek Old Road with only slight

injury being sustained. Off-site measures to slow the south bound traffic turning off Macclesfield Road (Leek Road) past that junction are proposed by the appellant and supported by the highway authority.

28. The proposed development would be likely to create additional trips to the primary school if young families were to occupy the houses but access to it would clearly be so direct that there are no significant implications for the use of Sugar Street by young children as it currently functions between the proposed site access and Leek Old Road. The only such implications would be those in respect of other pedestrian and vehicular movements out of the site, for example down to the public house or the bus stops on the Macclesfield Road, or journeys undertaken by car, or deliveries. However, in the context of the current use of Sugar Street, the additional vehicular and pedestrian flow, although material, would not in my estimation significantly alter the current conditions on Sugar Street down to Leek Old Road and the effect beyond the school entrance to the north would be even less. The appellant's predictions in respect of additional movements have not been effectively challenged and in any event would have to be serious underestimates to produce any significant worsening of conditions on Sugar Street which, whilst not ideal, are reasonably typical of many rural settlements where the sharing of highway surfaces is commonplace.

29. In principle, all highway usage has potential for danger and in that overall context all interaction between pedestrians and vehicles has potential for danger. Driver and pedestrian behaviour, taking a commonsense view, is a key factor in managing the inherent risks of movement so as to reduce such risks to an acceptable level. Although not ideal, I do not consider Sugar Street to be unusually dangerous in the light of the above considerations and all the evidence before me and I do not therefore accept the proposition that, as a matter of fact, it does not operate in a safe and adequate way. A situation does not have to be ideal to be adequate. If that were so, a wholly impractical level of uniformity across the highway network would be imperative and in this case there is no evidence to suggest that users of Sugar Street do not manage its risks adequately well. Moreover, I do not I consider that conditions would be unacceptably worsened by the proposed development if the small increment of additional traffic and pedestrian movement likely to result were to be added to the existing circumstances on Sugar Street.

30. Much was made of the interruption of the proposed footway across the front of Ivy House by the projecting porch, but at present there is no such footway and the fleeting interruption to the easy passage of, for example, a buggy, would not in my view create unacceptable danger as responsible pedestrians would adjust their behaviour according to the circumstances of the moment. Overall, I consider the physical works associated with the proposed access, endorsed by the highway authority, would improve the opportunities for pedestrians using Sugar Street and the pedestrian entrance gate to the primary school (which currently appears not to be favoured by comparison with shared use of its vehicular access) to segregate themselves from passing traffic.

31. The Council also sought to argue that the school will be attracting more pupils from the local area and that it will promote walking to school, but this it could do regardless of whether or not the proposed development took place, with no physical improvements to Sugar Street whatsoever in the vicinity of the site. Bearing in mind ready access to the school from the proposed development,

increased pedestrian use of Sugar Street by local children is only likely to result from such initiatives, which, if successful, would in my estimation have a greater impact on the intensity with which Sugar Street is used by pedestrians and vehicles than the proposed development at issue. The uncertain prospect of such increased local patronage of the school and increased encouragement of walking to school cannot reasonably count decisively against a proposal with such limited impact on Sugar Street in terms of pedestrian and vehicular flows.

32. The Council also criticises the off-site highway improvements sought by the highway authority and offered by the appellant to improve the safety of the A523/Leek Old Road/Sugar Street junction on the grounds that there would be practical difficulties in locating the required standard signage, notwithstanding that the alterations to the geometry of the acute angle of the junction of the Leek Old Road with the A523 would be marginal. Having assessed this on site in the light of the relevant tolerances for sign location and design and bearing in mind the practical necessity for adjustments on installation within such parameters, a process effectively anticipated by the relevant safety audit of 15 March 2012, I have no reason to consider that the relevant signs could not be installed in a safe and adequate way.

33. Finally, the appellant aspires, at the instigation of the Council, apparently, to provide a pedestrian bridge over the feeder canal to connect the proposed development to the footpath on its far bank. That footpath is wholly inadequate in terms of surfacing for users without suitable footwear and, in view of my conclusions regarding the use of Sugar Street by pedestrians, would add little if anything to the safety of the development from an accessibility standpoint. In practical terms the bridge would be of limited advantage to pedestrian convenience and then only in favourable weather and light conditions conducive to negotiating the footpath along the feeder canal. It is not in my view necessary in the sense of being essential to the satisfactory development of the site and in any event there is no evidence to suggest that the appellant could reach agreement with the relevant landowner.

34. For all of the above reasons, I do not consider that highway safety would in practice be compromised by the proposed development whether or not the footbridge were to be implemented. It follows that the proposed development would not give rise to unacceptable conflict with the intentions of the development plan or the Framework regarding highway safety. The latter requires that safe and suitable access to sites can be achieved for all people and, bearing in mind the context of the existing circumstances and the limited quantum of development proposed, I see no reason why those requirements would not be met.

Sustainability

35. The Framework carries a presumption in favour of sustainable development by virtue of its paragraph 14. Sustainability is a multi-faceted concept to be considered in the context of the Framework as a whole and the sustainability credentials of sites and developments vary according to circumstances. Rushton Spencer is an established settlement with some limited public bus services to Leek and Macclesfield and limited local services such as the public house. Affordable dwellings for local needs have recently been constructed on Macclesfield Road, adding to the vibrancy of the community. The settlement strategy for Staffordshire Moorlands has yet to be incorporated in an adopted core strategy and in the meantime the local plan favours the development of

the site through policy H4, as it lies within the defined settlement boundary. I have no evidence to suggest that the policy is in conflict with the intentions of the Framework as regards the location of new development, certainly given that what is proposed is of a scale commensurate with the nature of the settlement and is 'plan-led' as far as the existing development plan is concerned. A development of 9 houses would not fundamentally alter the balance between employment and residence and could provide market housing for local people and not necessarily commuters from the nearby towns and it is common ground that policy does not require any element to be affordable. The acknowledged lack of a five year supply of deliverable sites is an especially compelling factor where the existing development plan for the area favours the development of the site at issue in principle and there are no compelling reasons such as highway safety to resist the development in practice.

36. In this case, the site is effectively unused and does not comprise best and most versatile agricultural land and it is confirmed by survey that there are no bio-diversity reasons to prevent the development of the site subject to the imposition of appropriate planning conditions. There is scope for the retention of existing trees at the site margins and although the water table in and around the site is undoubtedly high, a situation to which a number of local residents drew my attention, it is common ground that there are technical solutions to both surface water and foul drainage problems that the particular circumstances of the site, which (in common with neighbouring properties) is not connectable to a main sewer. The account given by Mr Graveney was both informative and compelling. I am conscious that existing residents are prone to ongoing difficulties relating to drainage, but there is no evidence to suggest that the anticipated arrangements would exacerbate those difficulties and there is in any event no right of interference with privately owned connections to septic tanks and the like. In my estimation, the chances are that, with appropriate liaison and consultation, a properly conceived and executed scheme might even improve conditions for certain existing residents.

37. The layout of the site is not a reserved matter and it is clear that this evolved on an iterative basis to the point where it is endorsed by the 'Design Review Panel'. The scheme provides for a variety of house types which are disposed around the site in response to its shape and topography. Notwithstanding the demolition of the property at the end of the terrace to achieve access, I am satisfied that, subject to the control of the appearance and detailed design of the houses and the creation of a suitable scheme of landscaping based on the principles illustrated, the proposed development has the potential to make a positive contribution to the character and appearance of the settlement, consistent with the relevant intentions of local plan policy B13. In concluding thus, I am conscious that there are attractive prospects of the site in its open, undeveloped state, but I am equally conscious that it is within the settlement boundary and therefore, in principle, considered an acceptable location for housing development, a factor which in this context outweighs the aesthetic contribution that it currently makes, bearing in mind that it is not subject to any specific designations that might otherwise inhibit its development.

38. Although the village is partly characterised by ribbon-style development there are numerous properties within it, for example to the north of Alley Lane and the primary school, that do not conform to any rigid pattern and the seemingly random (but in reality carefully conceived) disposition of houses around the proposed cul-de-sac, as a means of achieving efficient but harmonious use of

an infill site such as this, does not seem to me to be inherently inappropriate bearing in mind the variety of layout and house styles characteristic of the village.

39. When the above factors are considered in the round, I am satisfied that the proposed development accords with what the Framework intends in promoting development that is sustainable in terms of economic, social and environmental considerations.

Other matters

40. The majority of the matters raised by third parties are embraced by the main issues but specific concerns regarding the impact of the proposed development on the living conditions of occupiers of houses on Macclesfield Road were also voiced and I visited those most likely to be affected by the discernible change in level across the feeder canal. Having done so, I am satisfied that, given the manner in which the layout has been devised, notably to orientate the dwellings so that the nearest present a gable end to the rear of the Macclesfield Road properties, the effect on the outlook and privacy of existing residents would not be unacceptably harmed. The outlook from their houses clearly would be changed, but with appropriate boundary treatment and the effect of the proposed orientation of the dwellings on the appeal site taken into account, I do not consider that their living conditions would be unduly compromised by reason of the new dwellings appearing overbearing, the change of level notwithstanding.

41. I am conscious that local residents regard the site as rather difficult to develop and I acknowledge that it is not without practical challenges, as most sites are to a greater or lesser extent. However, the evidence before me is that the appellant is fully cognisant of such challenges and has designed the scheme in outline to accommodate them. There is sufficient comfort in the various studies that have been undertaken to conclude that the difficulties are capable of being resolved at detailed design and implementation stage.

42. I am also conscious of the dismay of residents that the Council declines to pursue two of the three original reasons for refusal. The Council's putative motives in adopting this stance are not a matter for me, as I am obliged to consider the proposal on its merits having appropriate regard to the development plan and other material considerations. However, in my consideration of the main issues as I have identified them, the Council's original concerns, insofar as they may be said to reflect the concerns of local residents, are taken into account.

Conditions

43. The Council suggests a number of conditions (SC) which I have reviewed in the light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions.* SC1 – SC3 reflect the standard approach to the definition of reserved matters and timescale for implementation.

44. SC4, SC10, SC19 and SC20 all concern the construction process and the concerns reflected therein are most appropriately dealt with in the context of a construction method statement to be submitted for approval by the Council.

45. SC5 concerns the provision of a footbridge but involves land outside the control of the applicant and would therefore have to be expressed in a negative or

'Grampian' form, albeit with little certainty that it would be implemented. In any event it fails the test of necessity, for reasons I have previously explained. It would not therefore be appropriate to impose it. The layout takes the prospect of a footbridge into account and would not preclude its provision at some point in the future if opportunity, motivation and resources favoured that occurrence. SC25 and SC26 are also concerned with the footbridge and its linkage from the site to the public footpath along the feeder canal and are, by the same token, inappropriate.

46. SC6 concerns implementation so as to ensure appropriate mitigation for potential bio-diversity impact and a condition along those lines is in my view necessary for this site. SC7 concerns the arrangements for the open space associated with the development, including land to the south of the site proposed to form an amenity woodland. As that is controlled by the appellant, such a condition is acceptable and it is a necessary means of securing environmental quality.

47. SC8 is plainly a necessary means of ensuring that the development does not commence until such time as the details of the technical solution in prospect for the surface and foul water have been fully resolved. SC17 concerns the sort of information that it would be necessary to submit in order to discharge SC8 and the objects of SC18, to protect the drainage systems associated with existing dwellings, could usefully be incorporated, along with those of SC17, in a single condition reflecting the objects of SC8 in a revised form.

48. SC11 concerns plot 9 and would be necessitated by the lack of certainty that the appellant can gain the necessary control of the land to form a satisfactory plot. However, layout is not reserved and as this dwelling would form part of a semi-detached pair with Plot 8, the latter, it was agreed, would also have to be bound by such an inhibition on development; and a requirement to satisfactorily treat the balance of the land owned by the appellant pending or in default of acquisition of the necessary parcel of land would be required. Occupation of the adjacent plots 1 and 7 would logically be contingent upon satisfactory treatment of the undeveloped plots.

49. SC12 concerns potential ground contamination and, in view of the proposed use of the site for housing and the possibility that historic drainage arrangements around the site may have led to pockets of contamination, investigation would be a necessary precaution. SC13, directed at preventing the import of contaminated material, on the other hand is unnecessary bearing in mind the control exerted by other legislation.

50. SC14 and SC16 concern the protection of existing trees and hedges and can be advantageously combined in a single condition directed to that end. The suggested requirements regarding replacement are more appropriately directed at newly planted specimens in landscaping schemes, bearing in mind also that effective protection measures should prevent loss of established vegetation. SC15 provides for the necessary definition of levels.

51. SC21 would require a detailed specification for the access and on-site highway works to be approved, consistent with the drawing submitted for purposes of planning approval of the means of access. Insofar as it is concerned with the detailed implementation of that means of access, taking into account, inter alia, the relocation of utilities equipment, it would be a necessary condition.

Similarly it would be necessary to ensure, as SC22 intends, the satisfactory implementation of the parking areas and driveways proposed within the site.

52. Although the appellant is clearly willing to undertake the off-site highway works proposed, the necessity for these is disputed. Insofar as the proposed development would add a small increment of traffic to the rather difficult junction of Sugar Street with Leek Old Road, where accidents have occurred, and bearing in mind the tendency of traffic to diverge from the main A523 with only a limited reduction in speed, I concur with the Council in this instance that SC23, on balance, would be necessary. SC24, it was agreed by the parties, would need to be imposed in modified form to ensure the future maintenance of the proposed estate road and its drainage.

53. Although I do not consider it would be necessary or appropriate to remove permitted development rights on plots 5, 6 and 7 to prevent the addition of conservatories, as the Rushton Spencer Residents Group suggests, I do consider the circumstances of the site demand close attention to boundary treatment, notably along its sensitive western boundary with the land associated with the feeder canal, such as to warrant a specific condition of the type promoted through SC9, both for visual reasons and to aid the privacy of occupiers of houses on Macclesfield Road.

54. Finally, a condition specifying approved plans would be necessary for the avoidance of doubt and in the interests of good planning.

Planning balance and overall conclusion

55. The proposed development represents a small residential scheme on a site acceptable in principle under the terms of policy H4 of the existing local plan. Given that Rushton Spencer is an established, if relatively small, rural settlement with limited services including a primary school and some public transport connections, I do not consider the appeal site to be fundamentally unsustainable in terms of its location and there is nothing specific to the site that would place it in such a category, bearing in mind my conclusion that the Council's highway safety objections are not well founded.

56. If there is a potential conflict with the precise terms of the emerging core strategy regarding smaller villages, notwithstanding the flexibility the Council intends regarding the scale of individual developments, the lack of a demonstrably deliverable five year housing land supply carries substantial weight in any event, sufficient in my view to outweigh the potential conflict regarding the lesser number of houses indicated to be appropriate in individual developments in smaller villages.

57. I have taken all other matters raised into account, but none are sufficient to alter the overall balance of my conclusion that, for the reasons I have given, the appeal should be allowed.

Keith Manning

Inspector

Annex: Schedule of Conditions

1) Details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: AL 05 Rev L and APP14 Rev A.

5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.

6) The development hereby permitted shall be carried out in accordance with the specified elements of the following submitted documents prepared by Clear Environmental Consultants Ltd:

- Recommendations of the Phase 1 Habitat and Protected Species Assessment dated July 2011
- Recommendations and Mitigation Strategy of the Bat Survey Report dated October 2011
- Recommendations of the Water Vole & Otter Survey Report dated June 2012

7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme detailing and securing the future maintenance and management of the following areas shown on Drawing AL 05 Rev L:

- The retained public amenity woodland
- The area of open space at the entrance to the site
- The area of open space between Plots 6 and 7

8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the disposal of surface water and foul sewage. The scheme shall include provision for the long term maintenance of sewage plant and surface water drainage infrastructure, documentary evidence concerning the relationship of the proposed development and its drainage arrangements to those of surrounding properties, provision for alternative arrangements if any of those drainage arrangements in respect of surrounding properties would be affected, provision for restitution or repair in respect of any damage or disruption to existing drainage arrangements occasioned by the development, and a programme for implementation. The scheme shall be implemented in

accordance with the approved details and no dwelling shall be occupied until it has been fully implemented.

9) Construction of Plots 8 and 9 shown on Drawing AL 05 Rev L shall not commence until the garden area to plot 9 has been physically defined on site and laid out in accordance with this approved drawing. No house shall be occupied elsewhere on the development prior to this action unless a scheme for the treatment of Plots 8 and 9 in default of their development in accordance with Drawing AL 05 Rev L has been submitted to and approved in writing by the local planning authority. That scheme shall be implemented in accordance with the approved details prior to the occupation of plots 1 and 7 in the event that Plots 8 and 9 cannot be laid out and developed in accordance with Drawing AL 05 Rev L.

10) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

11) No development or site preparation works shall take place until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the protection during construction of any hedgerows and trees to be retained in accordance with the details to be approved pursuant to conditions 1) and 5) above and for the protection of trees and hedgerows on adjacent land outside the site boundary. The approved measures shall be implemented in full for the duration of the construction period unless their partial removal or cessation is authorised in writing by the local planning authority prior to the completion of the development in the event that individual dwellings are completed ready for occupation.

12) No development shall take place until details of the existing and proposed levels across the site and relative to adjoining land, together with the finished floor levels of the proposed dwellings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

13) No development shall take place until detailed specifications of the proposed estate road and its junction with Sugar Street have been submitted to and approved in writing by the local planning authority. The details shall include longitudinal and cross sections of the estate road, treatment of the sight lines at its junction with Sugar Street and the proposed footway fronting Sugar street in accordance with the design shown on Drawing No. APP14 Rev A, materials specifications, relocation of statutory undertakers'

equipment, street lighting, road drainage and the means of draining the estate road to an outfall. The works shall be carried out in accordance with the approved specifications and thereafter maintained in the approved form.

14) No individual dwelling shall be constructed until construction details and specifications of the proposed drives and parking areas relating to the plot in question have been submitted to and approved in writing by the local planning authority, and no dwelling shall be occupied until the driveway and parking areas relating to it have been provided in accordance with the approved details. The drives and parking areas shall thereafter be retained as approved.

15) No development shall take place until construction details and specifications of all aspects of the proposed off-site highway improvement at the junctions of Sugar Street and Leek Old Road and the A523 and Leek Old Road have been submitted to and approved in writing by the local planning authority and no dwelling shall be occupied until the improvement scheme has been carried out in accordance with the approved details.

16) No development shall take place until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the future maintenance of the proposed estate road and its means of drainage. The measures shall be retained as approved.

17) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) wheel washing facilities
- v) measures to control the emission of dust and dirt during construction
- vi) a scheme for the partial demolition of Ivy House including drawings detailing the proposed treatment of its retained newly exposed north elevation.
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- viii) a scheme to ensure public safety on Sugar Street and at the access to the adjacent primary school during demolition and construction works
- ix) hours of construction working including the hours during which demolition and HGV movements and the movement of heavy plant and equipment to and from the site on the public highway may take place.

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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Reid	of Counsel
She called	
Mr R Greenwood I Eng FIHE	Sanderson (Consulting Engineers) Ltd

FOR THE APPELLANT:

Mr Roger Lancaster	of Counsel
He called	
Mr W Booker BSc (Hons)	
Mr C Copestake BA (Hons) DipUPl MRTPI	
Mr P Graveney B Eng C Eng MICE	Senior Civil Engineer, Hydrock

INTERESTED PERSONS:

Councillor Norma Hawkins	Ward Councillor
Mrs A Hughes	Rushton Spencer Residents' Group
Mr J Pool	Chair of Governors, Rushton Spencer C of E Primary School
Mrs A Barton	Local resident
Mr R Rigby	Local resident
Mrs Anne Bailey	Local resident
Mrs Annie Bailey	Local resident
Dr P Russell	Local resident
Mrs M Russell	Local resident
Mrs K Foschtinski	Local resident
Mr L Young	Local resident
Ms F Kinsey	Local resident
Mr W Kinsey	Local resident
Mr A Chappell	Local resident

DOCUMENTS

1 Council's notification letter and list of those notified
2 Extract from *Roads & Traffic in Urban Areas*
3 Extract from DB32 *Residential Roads and Footpaths*
4 Extract from Chapter 4 of *Traffic Signs Manual* (page 10)
5 Statement of Common Ground
6 Draft conditions list
7 Council's opening submissions
8 Second draft conditions list
9 Email trail ending from Ian Dickinson 11 February 2013 @ 15:46
10 Email trail ending from John Dingley 11 February 2013 @ 15:50
11 Extract from Summary of Representations on Revised Submission Core Strategy and Officer's Response
12 Extract from Chapter 4 of *Traffic Signs Manual* (pages 6,7, 64,65)
13 Statement from Councillor Norma Hawkins
14 Statement from Rushton Spencer Residents' Group with bundle of documents appended
15 Council's Closing Submissions
16 Appellant's Closing Submissions