



## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 10<sup>th</sup> February 2022

**Subject: APPEAL DECISION SUMMARY - 19/04950/FU - Development of 58 No. apartments for retirement/lifestyle living exclusively for residents of age 55+, associated communal spaces, access from Grove Lane and new Landscaping, Land Adj. Grove Park Care Home, Grove Lane, Meanwood, Leeds, LS6 2BG.**

APPLICANT	DATE VALID	TARGET DATE
Roseville (The Paddock) Ltd	N/A	N/A

**Electoral Wards Affected:**  
Chapel Allerton  
Headingley  
Weetwood

Yes Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity   
Community Cohesion   
Narrowing the Gap

## RECOMMENDATION: To Note Report:

### BACKGROUND

- 1 This application was considered at the North & East Plans Panel of 13<sup>th</sup> August 2020. The application report set out a recommendation that planning permission be granted. Plans Panel resolved:  
  
“To defer for an extension of time to be sought and, subsequently, further negotiations undertaken with the developers such that if this was proved to not be acceptable to the developers, to delegate authority to officers to set out reasons for refusal of the application based on the stated reasons for deferral.”
- 2 Following further discussions, the applicant declined to extend the time for the consideration of the application and requested that the application be determined as submitted.
- 3 Planning permission was refused on 12<sup>th</sup> November 2020 for the following reasons:

- 1) It is considered that the development proposal results in an inappropriate amount of overlooking particularly in respect of the residential property at 98a Grove Lane leading to a loss of privacy for the occupants of that property and in particular their ability to enjoy use of the private garden space. These are amenities that current and future occupants of that property can reasonably expect to continue to enjoy. As such the proposal is contrary to Policies GP5 and BD5 of the UDPR and contrary to Policy P10 of the Core Strategy. The scheme is also considered to be contrary to advice in the Supplementary Planning Document Neighbourhoods for Living.
- 2) The site currently has an open character and a natural appearance that facilitates long distance views across an open vista. This makes an important and positive contribution to the character and amenity of this defined area of Green Infrastructure. The proposal by reason of its scale and siting is considered inappropriate for this location, resulting in a loss of views across the wider vista of the Meanwood Valley by means of interruptions to those wider views as a result of the prominence and massing of the development. It will also result in a significant reduction in the green infrastructure/corridor function and to a loss of visual amenity to the wider area. As such the proposal constitutes an overdevelopment of the site and is contrary to Policies G1 and P10 of the Core Strategy and GP5 and BD5 of the UDPR and is contrary to advice contained in Neighbourhoods for Living and advice in the NPPF on matters of good design and sustainable development

4 The applicant lodged an appeal against the refusal of planning permission and made an application for an award of costs against the council as it was alleged that the council had behaved unreasonably in refusing planning permission. The Inspector allowed the appeal and granted planning permission but refused the application for costs. The Inspector decision letters are dated 13<sup>th</sup> December 2021.

### **SUMMARY OF APPEAL DECISION**

5 The Inspector identified the main issues to be the effect on:

- The character and appearance of the area, with due regard to green infrastructure.
- The living conditions of nearby residents with regards to privacy, outlook and light; and
- The supply of housing.

6 The Inspector noted that the site is located on the edge of a predominantly residential area, has an open appearance and enables views of the Meanwood Valley. It was concluded that the site makes a positive contribution to the landscape. It was set out that the significant scale and flat roofed design of the proposal that did not reflect that of nearby development. However, it was considered that the size and self-contained nature of the site made an individual approach to development appropriate.

7 The Inspector considered that a combination of the form, design and layout of the building, the landscaped setting, sloping topography and use of undercroft parking would offset its visual impact from Grove Lane and nearby public footpaths.

8 The Inspector noted the site's designation as Urban Green Corridor and the potential of such land to contribute to informal recreation, visual amenity, and nature conservation. It was noted that the site is privately owned with no public access for

recreation. It was concluded that the provision of a pocket park and improvements to an adjacent public right of way would be moderate enhancements to the function of the green corridor. A 5% increase in bio-diversity gain was also considered to be an enhancement.

- 9 The Inspector considered that the proposal would restrict views from public vantage points of the wider vista beyond the site and therefore found that it would cause moderate harm and be in conflict with policies relating to the functions of the Green Corridor. The Inspector also found conflict with policies that seek to protect the spatial and visual character of an area. But conversely the Inspector considered the proposal to be of an appropriate design.
- 10 With regard to residential amenity the Inspector concluded that due to the design and layout of the building, the degree of separation and the provision of landscaping unacceptable harm would not be caused to the amenities of the nearest residents.
- 11 The Inspector gave significant weight to provision of housing, 9 affordable units and the contribution the scheme would make towards the need for meeting older persons specialist provision.
- 12 The Inspector also noted that there would be economic benefits including during construction, that suitable parking was provided, that the site is well served by public transport and that existing trees would be retained. A signed and completed Planning Obligation in respect of the provision of affordable housing, contributions to public open space and a bus shelter upgrade was provided by the appellant.
- 13 The Inspector concluded that the substantial benefits arising from housing supply and the contribution towards meeting an identified specialist housing need and affordable housing outweighed to the harm that he identified. The appeal was allowed.

#### **SUMMARY OF COSTS DECISION:**

- 14 The Inspector set out that the Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
- 15 The appellant argued that the council had failed to substantiate its case in respect of harm to residential amenity, that the council had failed to recognise that the site deleted as proposed Green Space on the adoption of the Site Allocations Plan and that the development plan does not identify protected viewpoints. However, the Inspector concluded that the council consideration of harm to amenity was not without foundation, that the council was justified in considering the visual amenity function of the Urban Green Corridor and that the visual linkages between areas can be an important consideration. For those reasons the Inspector concluded that the council had not behaved unreasonably.

#### **Background Papers:**

Application files: 19/04950/FU

Certificate of ownership: Signed on behalf of the applicant as sole owner



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## Appeal Decision

Site visit made on 19 May 2021

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 December 2021**

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### **Appeal Ref: APP/N4720/W/21/3267996**

### **Land Adjacent to Grove Park Care Home, Grove Lane, Leeds LS6 2BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr S Foster of Roseville (The Paddock) Ltd against the decision of Leeds City Council.
  - The application Ref 19/04950/FU, dated 2 August 2019, was refused by notice dated 12 November 2020.
  - The development proposed is 58 no apartments for retirement/lifestyle living exclusively for residents of age 55+, associated communal spaces, access Grove Lane and new landscaping.
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### **Decision**

1. The appeal is allowed and planning permission is granted for 58 no apartments for retirement/lifestyle living exclusively for residents of age 55+, associated communal spaces, access Grove Lane and new landscaping at Land Adjacent to Grove Park Care Home, Grove Lane, Leeds LS6 2BG in accordance with the terms of the application, Ref 19/04950/FU, dated 2 August 2019, subject to the conditions set out in the Schedule at the end of this decision.

### **Application for Costs**

2. An application for costs was made by Mr S Foster of Roseville (The Paddock) Ltd against Leeds City Council. This application is the subject of a separate Decision.

### **Preliminary Matters**

3. The description of the development has changed during the course of the planning application, including a reduction in the number of proposed apartments. This amended description is specified on the Council's decision notice and the planning appeal form, and I have used it within this Decision.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the revised Framework in reaching my decision.
5. I was requested to view the appeal site from 98a Grove Lane, and I was able to do so at my site visit.

## **Main Issues**

6. The main issues in this appeal are the effect on:
- The character and appearance of the area, with due regard to green infrastructure;
  - The living conditions of nearby residents with regards to privacy, outlook and light; and
  - The supply of housing.

## **Reasons**

### *Character, Appearance and Green Infrastructure*

7. The appeal site is located on the edge of a primarily residential suburban area, and is a grassed plot extending between the built-up area and the landscape of the Meanwood Valley. Although the evidence suggests the site previously contained some built development, I saw that the site has an open appearance and enables views of the Meanwood Valley, including from the public realm of Grove Lane and adjacent residential development. Despite its open character, the site is private land and has no public access.
8. The appeal proposal would be a substantial building arranged in an approximately 'H' layout, with two blocks extending up to 4-storeys high joined by a lower central section. The building would be set back from Grove Lane, with a landscaped setting which would include amenity areas for residents as well as a public 'pocket park' adjacent to Grove Lane.
9. The significant scale and flat roofed design of the building would not reflect that of nearby development, which is predominantly of a suburban residential character. However, the site is of a size and self-contained nature where an individual approach to design is appropriate.
10. In views from Grove Lane, the layout of the proposal, the 'end-on' arrangement of the main blocks and the lower central section would break up the massing of the building. Furthermore, the landscaped set-back from Grove Lane and the use of the sloping topography of the site would mitigate a potentially overbearing impact in views from the north.
11. The proposal would project towards a public right of way to the south of the site. However, although the proposal would be visible from this right of way, the distance from the site boundary, the 'end-on' nature of the nearest elevations and the set-back of the top floor would ensure that the proposal would not have an unacceptable overbearing impact, even allowing for the sloping topography of the area. I am also mindful that it is proposed to improve this right of way as part of the appeal scheme. There are also other rights of way further to the west which lead into the Meanwood Valley. Users of all of these rights of way would see a significant change in the character of the site, with an open field being replaced by housing. However, this change in character would not be sufficient to warrant the refusal of planning permission, and would be mitigated to a degree through the layout and design of the proposal as well as landscaping.
12. The longer side elevations would not be as readily apparent from the public realm. In any event, the massing of these elevations would be mitigated

- through the use of materials and detailing including balconies, which would break up the bulk of the proposal and add visual interest.
13. In medium to longer distance views from the Meanwood Valley, the use of materials, detailing and use of screen planting would be an appropriate approach to mitigating the scale of the building. Trees within the Valley would also provide a substantial degree of screening from routes passing through the area, even when the trees are not in leaf.
  14. The proposal would be apparent in longer-distance elevated views from Woodhouse Ridge. However, it would be viewed against the background of the existing built-up area, including the massing of the Grove Park Care Home. Within this context, the proposal would appear as a logical extension to the built-up area rather than an unacceptable projection of development into the sensitive landscape of the Meanwood Valley.
  15. Although of a substantial scale, the proposal would not appear as an overdevelopment of the site due to the set-back from the site boundaries, the relationship with the sloping topography, the incorporation of landscaping and the design of the building which would break-up its massing. The provision of much of the car parking within an undercroft would also limit the extent of hard surfacing within the scheme.
  16. The site has previously been designated as proposed Green Space within the Unitary Development Plan Review 2006 (UDPR), although that designation was subsequently deleted on the adoption of the Site Allocations Plan 2019 (SAP).
  17. The site is within a wider Urban Green Corridor designated under Policy N8 of the UDPR. These Corridors are a strategic network which links the main urban area and the countryside, and the submitted evidence indicates that these include built-up areas as well as identifiable green-wedges and linear routes. Policy N8 sets out that these Green Corridors have the potential to provide for informal recreation and also contribute to visual amenity and nature conservation.
  18. Policy G1 of the Council's Core Strategy<sup>1</sup> relates to areas of Green Infrastructure, including Woodhouse Ridge which is designated as Green Space. Whilst the appeal site is not within this allocation, policy G1 refers to development adjoining such areas, and due to the proximity and sensitive relationship of the appeal site to designated Green Space I consider that it is appropriate to assess the proposal against this policy.
  19. With regards to the functions of Green Corridors referred to in Policy N8, the site is private land with no public access for informal recreation. However, the provision of a new pocket park for public use and improvements to an adjacent public right of way will provide a moderate enhancement to this Green Corridor function. The provision of safe access to the pocket park can be addressed as part of a condition requiring a landscaping scheme. In respect of nature conservation, a Biodiversity Metric Calculation indicates an increase in biodiversity potential of approximately 5% resulting from the proposal, and whilst this may be of a limited degree it nevertheless represents an enhancement. The indicated biodiversity gain is below the 10% referred to in the Environment Act 2021, however this requirement is not yet in force. The

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<sup>1</sup> Core Strategy (as amended by the Core Strategy Selective Review 2019)

- proposal complies with the Framework with regards to providing net gains for biodiversity.
20. With regards to visual amenity, the site makes some positive contribution to the streetscape as an area of open land adjacent to the built-up area; although I am mindful that a previous potential allocation as Green Space has been deleted. The site also enables views of the Meanwood Valley and Woodhouse Ridge when viewed from Grove Lane, and to this extent therefore makes a positive contribution to the appreciation of the landscape of this Green Infrastructure from the built-up area.
  21. The proposed building would restrict views from Grove Lane of the Meanwood Valley and the Woodhouse Ridge, from both the public realm and in views from adjacent properties. However, this would only impact a limited extent of Grove Lane, and due to the lower central section of the proposal and views to the side of the building, some visibility of the landscape beyond the site would still be retained. The proposed building would also be set back from Grove Lane which would enable the provision of landscaping and a public amenity area. Furthermore, the Green Corridor projects across Grove Lane a short distance to the west of the site, so that the link between this built-up area and green infrastructure would not be completely severed. On that basis, the development would restrict views of the wider vista beyond the site, and this carries moderate weight against the proposal. The proposal would therefore conflict with policies N8(i) and G1(i) with regards to the harm to Green Corridor functions in respect of visual amenity and the appreciation of Green Infrastructure.
  22. Turning to other elements of policy G1, section G1(ii) states that where appropriate, the opportunity is taken to extend Green Infrastructure. However, given the private ownership of the site, lack of public access and the deletion of the potential designation of Green Space, I do not consider that such an extension would be appropriate for this site. That said, the scheme does reflect some of the aims of G1(ii) through the introduction of green roofs and some tree planting. With regards to G1(iii), the proposal would include a landscaping scheme which would deal positively with the transition between the development and adjoining open land. Given the nature of the site and the proposal, the opportunity to increase woodland cover is limited, but in that regard the scheme would at least include a degree of tree planting.
  23. As a housing development on a non-allocated site, the proposal should also be assessed against policy H2 of the Core Strategy. This states that greenfield land should not be developed if it makes a valuable contribution to the visual and spatial character of the area. Due to the impact on views across the site of the wider landscape, the proposal would conflict with this policy.
  24. Drawing the above together, I conclude that the proposal would be of an appropriate design within the constraints of the site. However, due to the moderate harm to views from the built-up area of the important landscape beyond the site, the proposal would conflict with policies H2, P10 and G1 of the Core Strategy as well as policies GP5 and N8 of the UDPR with regards to the visual and spatial character of the area and the functions of green infrastructure. The proposal would also conflict with the Framework with regards to achieving well-designed places.

25. The Council's reason for refusal on this issue refers to policy BD5 of the UDPR. However, this relates to amenity considerations specific to the site and neighbouring buildings and is not relevant to my consideration of this main issue.

### *Living Conditions*

26. The appeal site is located adjacent to the boundary with 98 and 98a Grove Lane. No 98a is a residential property with an extensive garden, although No 98 was in a commercial use at the time of my visit. Due to the layout of the proposal, the proposed building would not face directly towards the buildings of Nos 98 and 98a. However, the building would face onto the garden area of 98a and, due to the relative height of the proposal, would enable a view into this garden area.
27. The Council's Neighbourhoods for Living Supplementary Planning Document 2003 (NFL) refers to a minimum separation distance between the elevations of a building and the boundary of up to 10.5m. With a separation distance to the boundary of No 98a of approximately 15m, the proposed building would exceed this guideline.
28. However, the NFL emphasises that additional distances may be required for unconventional situations. Due to the scale of the proposal and the relationship with No 98a, the consideration of the particular circumstances of this site is appropriate. The Council refers to an additional 3m separation distance per floor, which would give a separation distance of 18m, and whilst this may not be a statutory measure, it is useful as an informal guide. The proposal would not comply with this increased separation distance.
29. However, the garden of 98a is extensive compared to a typical suburban garden. The proposed building has also been designed so that the great majority of windows on the upper floors serve bedrooms, which are of a secondary aspect within the terms of the NFL. A degree of screening is also provided by trees on the boundary, although their retention cannot be relied upon in the longer term. Viewed objectively and in context, whilst the proposal would enable views of the garden area of No 98a, due to the separation distance as well as the design and layout of the properties I do not consider that this would lead to a loss of privacy that would warrant the refusal of planning permission, even allowing for the number of windows on the proposal.
30. Evidence has also been provided in respect to potential loss of light to No 98a, particularly in the morning. However, a degree of overshadowing is not unusual in suburban areas, even allowing for the landscaped setting of No 98a. The garden would continue to receive direct sunlight from the late morning onwards, and would also receive an appropriate degree of indirect daylight. Despite the scale of the proposal, I consider that it would not lead to an unacceptable loss of sunlight and daylight to the garden of No 98a due to the relative arrangement of the properties, including separation distance. Similarly, whilst the proposal would be visible from No 98a, it would not have an unacceptably overbearing relationship with regards to outlook.
31. Reference has also been made to the effect on the living conditions of residents of Boothroyd Drive and the Grove Park Care Home. However, due to the relationship of the appeal proposal to these properties, including consideration

of separation distances and site levels, the proposal would not have an unacceptable impact on privacy, outlook or light.

32. I therefore conclude that the proposal would not lead to unacceptable harm to the living conditions of nearby residents, and in particular residents of No 98a, in respect of privacy, outlook or light. The proposal would therefore not conflict with the amenity requirements of policies GP5 and BD5 of the UDPR or policy P10 of the Core Strategy. The proposal would also not conflict with the Framework with regards to achieving well-designed places with a high standard of amenity for existing and future users. The proposal would also not be contrary to the design guidance of the NFL, particularly with regards to privacy and intrusion.

### *Supply of Housing*

33. The proposal would provide 58 new dwellings on an unallocated site, and the Council Officer's report indicates that it would make a significant contribution towards the windfall element of the Council's 5 year housing land supply.
34. The proposal would also be a significant contribution towards meeting a need for older person's specialist provision identified in the Council's Strategic Housing Market Assessment 2017. Due to the location of the site, it would provide convenient access to public transport and local facilities, and would comply with policy H8 of the Core Strategy with regards to housing for independent living. The proposal would also provide 9 units of affordable accommodation in accordance with policy H5 of the Core Strategy; and would also include a mix of dwelling sizes in response to policy H4 of the Core Strategy.
35. Reference has been made to demand for this form of housing in other schemes. However, this evidence is anecdotal compared to the substantive evidence provided by the appellants in respect of need.
36. Taken together, these benefits carry substantial weight in favour of the proposal, particularly due to the supply of specialist accommodation and the provision of affordable housing. The proposal would comply with policies H4, H5 and H8 of the Core Strategy in respect of housing mix, affordability and housing for independent living. The proposal would also meet the requirements of the Framework which seeks to support the Government's objective of significantly boosting the supply of homes and addressing the needs of groups with specific housing requirements.

### **Other Matters**

37. The proposal would have economic benefits during construction, although this would be for a limited period of time even allowing for the scale of the development. It is estimated that the scheme would provide 3 full-time jobs in respect of site maintenance and services, and given the low number of jobs this carries limited weight in favour of the proposal. Residents are also likely to support local services, and given the scale of the development this carries moderate weight as a benefit.
38. In respect of car parking, the proposal would result in the loss of 3 parking spaces which currently serve the Grove Park Care Home. However, the evidence suggests that these parking spaces were not a requirement of the planning approval of the Care Home as built, and there would therefore be no

displacement of approved parking spaces. In respect of parking provision within for the appeal proposal, the Council's Highways Team does not object to the number of parking spaces given the type of occupation. On that basis, and given the convenient access to public transport from the site which would reduce reliance on the private car, I conclude that the proposal would make suitable provision for car parking.

39. The site contains a number of trees covered by a Tree Preservation Order. However the appellant has provided evidence (including Arboricultural Impact Assessments) which shows how existing trees will be retained. The protection of trees and the provision of landscaping can also be addressed through planning conditions.

### **Planning Obligation and Conditions**

40. A signed and completed Planning Obligation under Section 106 of the Town and Country Planning Act 1990 in respect of affordable housing as well as contributions to public open space and bus shelter upgrades has been submitted in support of the proposal. The public open space contribution includes provision for improvements and maintenance for off-site provision as well as improvements to a public right of way to the south of the site. In respect of affordable housing and the public open space contribution, the Obligation meets the tests set out in paragraph 57 of the Framework, and I have proceeded to determine this appeal giving due consideration to those parts of the Obligation.
41. With regards to the contribution to bus shelter upgrades, the appellant has queried the amount specified by the Council which relates to the upgrade of two bus shelters. The appellant submits that only one upgrade is required, as the nearest west-bound bus shelter to the appeal site has recently been upgraded. This reflects my own observations. On that basis, I conclude that it is only the part of the contribution relating to a single bus shelter upgrade that meets the tests set out in paragraph 57 of the Framework, and whilst I have had regard to it accordingly I have not taken account of the remaining part of the contribution.
42. Regarding conditions, in addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty. In the suggested conditions, the Council has not specified the plans it considers should form the basis of a planning approval. I have therefore taken the plans from a list provided by the appellants, with some amendments in the interests of clarity. The Council has been given the opportunity to comment on this list.
43. The list of plans includes details of a ball-stop fence<sup>2</sup> to be erected between the appeal site and an adjacent rugby pitch. Two versions of the plan have been provided, one specifying a height of 8m (Rev C), and another of 15m (Rev D). The higher fence reflects the comments of Sport England, who consider that this height is required based on a preference expressed by the Rugby Football League (RFL). However, the appellants have provided detailed evidence that an 8m high fence would mitigate the risk of rugby ball strikes affecting the proposal, which is based on a worst-case scenario of the pitch being used by a professional rugby player. Whilst the RFL and Sport England have expressed a

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<sup>2</sup> 2017-147\_P103\_Proposed Eastern Boundary Treatment\_A0

preference for a higher fence, they have provided no substantive evidence to demonstrate that the appellants' evidence is incorrect. I am also mindful of the visual impact of a higher fence and the effect on the outlook of residents of the proposal. On the basis of the evidence before me, I conclude that a ball-stop fence of 8m high would be appropriate, and this is reflected in the list of approved plans.

44. A condition in respect of materials is appropriate in the interests of character and appearance.
45. A condition requiring an updated Arboricultural Impact Assessment is required to minimise impact on existing trees and vegetation in the interests of biodiversity. The submission of a detailed landscaping scheme is required in the interests of biodiversity, character and appearance, and the living conditions of residents. I have amended the landscaping condition to refer to the relationship between proposed trees and sewer easements. All of these details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
46. The submission of a public right of way management plan is required in the interest of the maintenance and enhancement of rights of way.
47. The submission for approval of Management Plans, details of external lighting and invasive species remediation are required in the interests of biodiversity. Details of cycle/motorcycle parking and facilities are required in the interests of highway safety and the promotion of sustainable transport. All of these details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
48. Conditions relating to electric vehicle charging points and car club parking are required in the interests of sustainable transport. A condition controlling the phasing, drainage and retention of areas to be used by vehicles is required in the interests of highway safety.
49. Details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles are required in the interests of highway safety. A condition requiring the submission and phasing of Statements of Construction Practice are necessary in the interests of highway safety and the living conditions of residents in the area. Details of drainage, including during site works, is necessary to ensure that the site is appropriately drained and to address potential contamination of nearby watercourses. The Council has suggested a condition requiring the submission of a Phase II Site Investigation Report. However, such a report has been submitted to the Council, and the comments on this from the Council's Contaminated Land Team refer to the submission of a Remediation Statement. I have worded the condition accordingly. To ensure that matters of land contamination are appropriately addressed. All of these details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
50. A condition requiring a sustainable drainage management and maintenance plan is required to ensure that the site is properly and sustainably drained.

51. Conditions in respect of the implementation of the Remediation Statement, including if significant unexpected contamination is encountered, and the importation of materials are necessary to ensure that matters of land contamination are appropriately addressed
52. A condition in relation to the implementation of ball strike fencing is required in the interests of the living conditions and safety of residents, as well as the retention of nearby sports facilities. Exceptionally, the removal of permitted development rights for gates at the main entrance point is necessary in the interests of highway safety.
53. An occupancy condition restriction limiting occupation of the dwellings to those aged 55 and over is necessary to restrict occupancy in line with the scheme as proposed, and as this is a significant benefit which I have considered in the overall planning balance.
54. A condition requiring details of bat roosting and bird nesting features is appropriate in the interests of biodiversity. These details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
55. In respect of conditions 4, 5, 6, 7 and 17, the appellants have commented that these details have been submitted to the Council and that these conditions are therefore not necessary. However, the Council has not confirmed that the submitted details address its concerns on the relevant issues raised by the proposal. On that basis, I consider that these conditions are necessary so that the matters can be appropriately addressed. If the details that have been submitted meet the Council's requirements, then this can be addressed as part of discharging the conditions. More specifically in relation to condition 6, whilst the Planning Obligation includes a contribution to improvements to the public right of way (PROW), the details required by the condition could clarify these improvements. In relation to condition 17, I have used the wording as suggested by the appellants.

### **Planning Balance and Conclusion**

56. Drawing the above together, I have found that the proposal would conflict with some policies of the development plan due to the moderate harm arising to views of the important landscape beyond the site. However, that moderate harm would be outweighed by the substantial benefits arising in respect of housing supply, and in particular the significant contribution towards meeting an identified specialist housing need and affordable housing, in accordance with development plan policies and the Framework. There are also more limited benefits including the provision of a publicly accessible pocket park, public right of way improvements, an increase in biodiversity, employment and support for local services.
57. In this case, the substantial weight that I afford to the benefits of this proposal outweighs the moderate weight that I attribute to the conflict with specified policies in the development plan for the area. Consequently, and on balance, I conclude that the appeal should be allowed.

*David Cross*      INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 2017-147\_P100\_Site Location Plan\_A3\_Rev
  - ASS 2063 Topographic Survey October 2016
  - 2017\_147\_P210\_Proposed Elevation East (Block A)\_A1\_RevB 19-03-2020
  - 2017\_147\_P211\_Proposed Elevation West (Block A)\_A1\_RevA 19-03-2020
  - 2017\_147\_P212\_Proposed Elevation South (Block A & B)\_A1\_RevB 19-03-2020
  - 2017\_147\_P213\_Proposed Elevation North (Block A & B)\_A1\_RevA 19-03-2020
  - 2017\_147\_P214\_Proposed Elevation East (Block B)\_A1\_RevA 19-03-2020
  - 2017\_147\_P215\_Proposed Elevation West (Block B)\_A1\_RevB 19-03-2020
  - 2017-147\_P101\_Existing Site Plan\_A0\_Rev 02-08-2019
  - 2017-147\_P102\_Proposed Site Plan\_A0\_Rev G 22-07-2020
  - 2017-147\_P103\_Proposed Eastern Boundary Treatment\_A0\_RevC 19-03-2020
  - 2017-147\_P200\_Proposed Lower Ground Floor Plan\_A0\_RevC 19-03-2020
  - 2017-147\_P201\_Proposed Ground Floor Plan\_A0\_RevC 19-03-2020
  - 2017-147\_P202\_Proposed First Floor Plan\_A0\_RevB 19-03-2020
  - 2017-147\_P203\_Proposed Second Floor Plan\_A0\_RevA 19-03-2020
  - 2017-147\_P204\_Proposed Roof Plan\_A0\_RevA 19-03-2020
  - 2017-147\_P300\_Proposed Site Sections\_A0\_RevA 19-03-2020
  - 19-68-S3-100-05-Landscape Masterplan 22-07-2020
  - 19-68-S3-300-Planting Strategy 06-12-2019
  - 19-68-S3-101-00-Biodiversity Habitat Plan 10-06-2020
- 3) Before development above damp-proof course commences on site, details and samples of all external walling and roofing materials shall have been submitted to and approved in writing by the Local Planning Authority. Samples shall be made available on site for inspection by the Local Planning Authority which shall be notified in writing of their availability. The building works shall be constructed from the materials thereby approved.
- 4) Before site clearance commences there shall be submitted to and approved in writing by the Local Planning Authority an updated Arboricultural Impact Assessment report to the standards set out in Sec 5.4 of BS5837. The report shall contain recommendations in regards to tree and vegetation protection and these recommendations shall thereafter be implemented in accordance with the timescales and limitations within that report.
- 5) The development hereby granted consent shall not be commenced until there has been submitted to and approved in writing by the local

planning authority a detailed landscaping scheme that shall contain details relating to:

- a. The protection of the RPA of T34 and T2/3.
- b. Retaining wall details near to T1.
- c. Green roof planting methods.
- d. Irrigation details.
- e. Safe access, including the needs of older people and people with disabilities.
- f. The location of proposed trees relative to and outside of the two public sewer easements crossing the site

The details to be submitted shall include a landscape management plan and any such approved details shall be implemented in accordance with that approval and thereafter maintained.

- 6) Before the development is occupied there shall be submitted to and approved in writing a detailed management plan relating to the improvement and future maintenance of the PROW running along the southern boundary of the application site. Any approved details shall be implemented in full within 6 months of first occupation of the development hereby approved or in accordance with a timescale agreed in writing by the local planning authority, and thereafter maintained for the lifetime of the development.
- 7) Before the development hereby granted consent is commenced there shall be submitted to and approved in writing by the Local Planning Authority:
  - a. A Construction Environmental Management Plan (CEMP: Biodiversity).
  - b. A Biodiversity Enhancement & Management Plan (BEMP).
  - c. Enhancements of retained features through the BEMP.
  - d. Details of any external lighting schemes on the southern and western boundaries.
  - e. An invasive species remediation plan.

Any such approved details shall be implemented in accordance with those approved details and any recommendations within CEMP and BEMP be adhered to during construction and for the recommended time periods in those reports.

- 8) Notwithstanding the approved details, before development is commenced full details of cycle/motorcycle parking and facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved cycle/motorcycle parking and facilities have been provided. The facilities shall thereafter be retained for the lifetime of the development.
- 9) Before the development hereby granted consent is first occupied there shall be submitted to and approved in writing details of Electric Vehicle Charging Points. The development shall not be occupied until the approved details have been implemented in full, and they shall thereafter be retained for the lifetime of the development.
- 10) Before the development is first occupied details of the Car Club parking bay shall be submitted to and approved in writing by the Local Planning Authority. Any approved details shall be implemented in accordance with

those approved details and thereafter maintained for the lifetime for the development.

- 11) Development shall not be occupied until all areas shown on the approved plans to be used by vehicles have been fully laid out, surfaced and drained such that surface water does not discharge or transfer onto the highway. These areas shall not be used for any other purpose thereafter.
- 12) Development shall not commence until details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles (including workforce parking) have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided for the duration of construction works.
- 13) No works shall begin on the relevant phase of development until a Statement of Construction Practice for that phase has been submitted to and approved in writing by the Local Planning Authority. The Statement of Construction Practice shall include full details of:
  - a. the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved;
  - b. measures to control the emissions of dust and dirt during construction;
  - c. location of site compound and plant equipment/storage; and
  - d. how this Statement of Construction Practice will be made publicly available by the developer.

The approved details shall be implemented at the commencement of work on site, and shall thereafter be retained and employed until completion of works on site. The Statement of Construction Practice shall be made publicly available for the lifetime of the construction phase of the development in accordance with the approved method of publicity.

- 14) Development shall not commence until a drainage scheme (i.e. drainage drawings, summary calculations and investigations) detailing the surface water drainage works as well as arrangements for its future maintenance (e.g. adoption by the Water Company) have been submitted to and approved in writing by the Local Planning Authority. The maximum rate of discharge, off-site, shall not exceed 4 l/s, unless otherwise agreed with the LPA. The works shall be implemented in accordance with the approved scheme before the development is brought into use, or as set out in the approved phasing details.
- 15) No development shall be brought into use/occupied until a SUDS management and maintenance plan for the lifetime of the development, including arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme, has been submitted to and approved in writing by the Local Planning Authority.
- 16) Development shall not commence until details and a method statement for interim drainage measures during site works have been submitted to and approved in writing by the Local Planning Authority. The method statement should include provisions to protect and ensure the protection of the boundary watercourse from pollution during construction works.

The site works and construction phase shall thereafter be carried out in accordance with approved method statement.

- 17) Development shall not commence until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.”
- 18) If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.
- 19) Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.

To ensure that the remediation works are fully implemented as agreed and the site has been demonstrated to be suitable for use.

- 20) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, public open space or for filling and level raising shall be tested for contamination and suitability for use. A methodology for testing these soils shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto site. The methodology shall include information on the source of the materials, sampling frequency, testing schedules and criteria against which the analytical results will be assessed (as determined by risk assessment). Testing shall then be carried out in accordance with the approved methodology. Relevant evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto the site.
- 21) Before the development hereby granted consent is first occupied, the ball strike fencing along the eastern boundary shall be erected in accordance with the approved plan 2017-147\_P103\_Proposed Eastern Boundary Treatment\_A0\_RevC 19-03-2020. This ball strike fencing shall be retained and maintained for the lifetime of the development unless there has been submitted to and approved in writing an application for planning permission for its alteration.
- 22) Notwithstanding the provisions of Class A (Gates Walls and Fences), Part 2 of Schedule 2 of the General Permitted Development Order 2015 (as amended), no gates shall be erected at the main entrance point off Grove Lane unless there has been submitted to and approved in writing by the Local Planning Authority an application for Planning Permission.

- 23) Each dwelling of the development hereby permitted shall be occupied only by:
- a. persons of the age of 55 or over;
  - b. persons living as part of a single household with such a person or persons;
  - c. persons who were living as part of a single household with such a person or persons occupying the development who have since died.
- 24) Prior to the commencement of development, a Plan shall be submitted to and approved in writing by the Local Planning Authority of integral bat roosting and bird nesting features (for species such as House Sparrow and Swift) within buildings. The agreed Plan shall show the number, specification of the bird nesting and bat roosting features and where they will be located, together with a timetable for implementation and commitment to being installed under the instruction of an appropriately qualified bat consultant. All approved features shall be installed prior to first occupation of the dwelling on which they are located and retained thereafter.

**End of Schedule**



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## Costs Decision

Site visit made on 19 May 2021

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 December 2021**

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### **Costs application in relation to Appeal Ref: APP/N4720/W/21/3267996 Land Adjacent to Grove Park Care Home, Grove Lane, Leeds LS6 2BG**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr S Foster of Roseville (The Paddock) Limited for a full award of costs against Leeds City Council.
  - The appeal was against the refusal of planning permission for 58 no apartments for retirement/lifestyle living exclusively for residents of age 55+, associated communal spaces, access Grove Lane and new landscaping.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

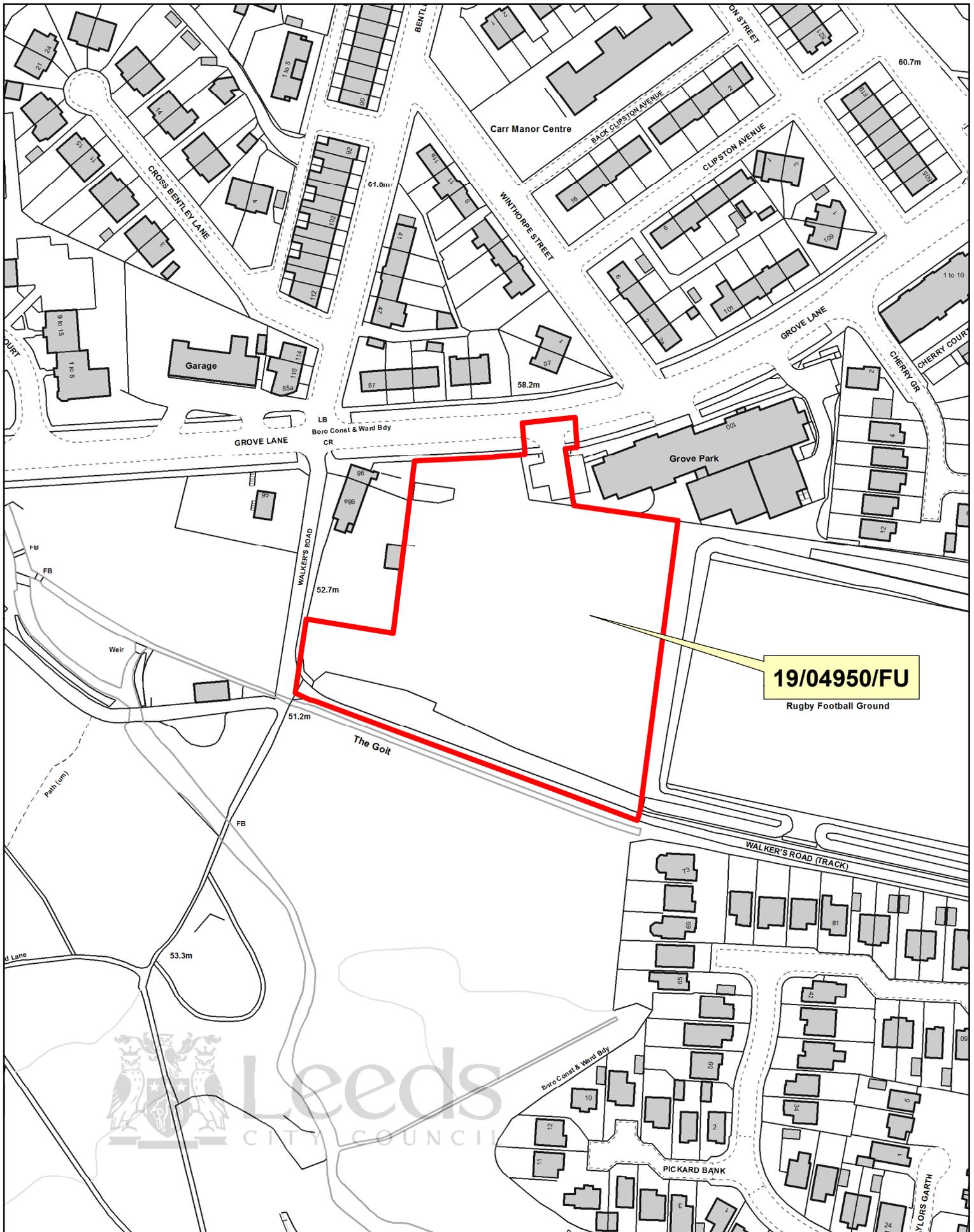
2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council has not responded to the appellants' costs application. However I consider that I have enough evidence on which to reach a conclusion on this application.
4. The appellants submit that the Council has behaved unreasonably in a number of respects.
5. In respect of reason for refusal 1, the appellant submits that the Council has refused permission on an erroneous assumption in respect of separation distances and the effect on privacy, and has failed to substantiate this. However, notwithstanding any advice on separation distances, there is a subjective element to the consideration of overlooking and privacy. This is particularly so in respect of the appeal proposal, which includes a building of a significant scale located in the vicinity of an existing residential property. Whilst I have concluded that the proposal would not lead to unacceptable harm in respect of the privacy of nearby residents, I do not consider that the council's consideration of this issue is so without foundation or substantiation as to represent unreasonable behaviour.
6. With regards to reason for refusal 2, the appellant considers that the Council failed to recognise that the site had been deleted as proposed Green Space on the adoption of the Site Allocations Plan 2019. However, the site is within an

Urban Green Corridor designated by the Unitary Development Plan Review 2006 (UDPR). Policy N8 of the UDPR emphasises the visual amenity function of Green Corridors, and I consider that the appellants contention that the site has no public amenity value is without merit.

7. The appellant also submits that the development plan does not protect specific viewpoints and that there is no 'right to a view'. However, the visual linkages between areas can be an important consideration of visual amenity, particularly when assessing the links between built-up areas and green infrastructure and the public benefits arising from that. Indeed, in my Appeal Decision I have concluded that the appeal proposal would lead to moderate harm on that issue, and I therefore cannot conclude that the Council has behaved unreasonably on this matter.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

*David Cross*

INSPECTOR



# NORTH AND EAST PLANS PANEL

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SCALE : 1/1500

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