

Proof of Evidence of Andrew Fisher
Appeal by Castlefield International Limited
Against the Refusal of Reserved Matters by
South Cambridgeshire District Council at
Land at Teversham Road, Fulbourn

Appeal reference: APP/W0530/22/3291523

April 2022

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PREFACE

1. My name is Andrew Fisher. I am a chartered Town Planner employed by Barton Willmore, now Stantec, in Cambridge.
2. I hold a BA (Honours) Degree in Town Planning and a Post Graduate Diploma in Town Planning Studies. I also hold full membership of the Royal Town Planning Institute and am an Academician of the Academy of Urbanism. I have 25 years overall experience in Town and County Planning matters, gained in both the public and private sectors. My current professional remit involves provision guidance to clients, the production of strategic appraisals, large scale planning applications and local plan submissions.
3. Prior to joining Barton Willmore now Stantec, I held senior positions at two other private planning consultants. I have also worked for the public sector in Northampton Borough Council and the East of England Development Agency.
4. I am familiar with the appeal site, the principal planning issues involved and the key documents pertaining to the upcoming Inquiry.

Declaration

5. I have objectively addressed all of the issues pertaining to this Inquiry, to which I am professionally qualified to comment upon and required to address. I have also strived to ensure that the evidence in this Proof and related opinions are informed, objective and accurate and are based on tangible evidence which is available to the Inquiry.
6. I have included the sources of information that I use and where I rely upon the evidence of others, I have made this clear in the relevant sections of my Proof. I confirm that the planning assessments and professional judgements expressed in this proof are my own and represent my professional opinion of the planning matters under consideration.

1.0 INTRODUCTION

1.1 This appeal (the Appeal) relates to the land at Teversham Road, Fulbourn (the Appeal Site) within the administrative boundary of South Cambridgeshire District Council (SCDC). Castlefield International Limited (the Appellant) has appealed against the decision of SCDC to refuse the reserved matters application (reference S/3290/19/RM) dated 20 October 2021 (the RMA) for the following development:

'Approval of matters reserved for appearance, landscaping, layout and scale following outline planning permission S/0202/17/OL for the development of 110 dwellings with areas of landscaping and public open space and associated infrastructure works – the outline was screened and confirmed not to be EIA development.'

1.2 The Appeal Site adjoins the village of Fulbourn, which is located 8km southeast of the centre of Cambridge. The Site comprises 6.85 hectares of undeveloped land, which is bisected by a narrow chalk stream. The site is surrounded on three sides by a mix of residential and light industrial units, whilst the northern boundary is demarcated by the single-track Cambridge to Ipswich railway.

1.3 The Appeal Site is located outside of the designated village development framework, but does not lie within the Green Belt, the boundary of which is beyond the railway to the north. The entire Appeal Site and proposed points of access lie within Flood Zone 1, an area of lowest flood risk.

1.4 The RMA provides details of those outstanding matters, with the principle of development and details of access secured via the outline planning permission (reference S/0202/17/OL) (the Outline Planning Permission). A number of amendments and submissions of additional information were submitted to SCDC through the determination period, and these are summarised within Appendix 1 and 2 of the Statement of Common Ground (SocG).

1.5 The RMA was reported to the SCDC Planning Committee on 13 October 2021 with a recommendation of approval subject to conditions (see report in CDA9). However, Members voted to refuse the application for the reasons provided.

- 1.6 Submitted alongside the RMA was a discharge of condition application (reference S/3209/19/DC), which was formally approved on 4 October 2021 (CDB1). This formally discharged conditions 7 (Arboricultural Method Statement and Tree Protection Plan), 12 and 14 (Landscape and Biodiversity Management Plan), and 19 (Noise Mitigation Scheme).
- 1.7 In addition, the first section of condition 20 (Noise Mitigation) was formally discharged through a discharge of condition application (reference S/0202/17/CONDA), dated 20 September 2021 (CDB5). The second part of that condition can only be formally discharged following the completion of construction works of the relevant dwellings.

Statement of Common Ground

- 1.8 A separate SoCG has been agreed with both SCDC and the Rule 6 Party. Those matters agreed by all are not repeated in this Proof, although are referenced where necessary.
- 1.9 It is noted that both SCDC and the Rule 6 Party will no longer provide evidence in relation to reason for refusal 3. Whilst SCDC has confirmed they will not provide evidence in relation to reasons for refusal 4 and 5, the Rule 6 Party will continue to pursue these matters and as such, they are addressed within this Proof.
- 1.10 This Proof also addresses some of the third-party comments that are not considered common ground between parties.

Scope of Evidence

- 1.11 This Proof focuses on those matters where there is disagreement between the Appellant and SCDC/Rule 6 Party, namely:
- the effect of the proposal on the character and appearance of the area having regard to the Outline Planning Permission and the Fulbourn Village Design Guide SPD 2020;
 - drainage and the risk of flooding;
 - the distribution and integration of affordable housing across the site; and
 - the living conditions of the occupiers of 17 residential units, to be located adjacent to the Breckenwood Industrial Estate.

- 1.12 To this end, I set out the background to the RMA and assess the appeal proposal in the context of the relevant planning policy framework. In addition to my own evidence, I draw upon the findings or related evidence presented by the Appellant's other technical witnesses in their respective proofs, which address the main issues.
- 1.13 The structure of this Proof is as follows. Firstly, in section 2, I will review the relevant local and national policy relevant to the Appeal, and I will highlight the weight to be given to each of these policies. I will then examine the Outline Planning Permission and establish the basis for the RMA.
- 1.14 Following this, within section 3, I will examine the reasons for refusal, building upon the findings of section 2. For ease of reference, this is set out in order of the reasons for refusal. In Section 4, I make my overall conclusions by weighing the benefits and impacts of the appeal proposals in the overall planning balance.
- 1.15 In this respect, the evidence contained in this proof, supported by the technical evidence of the Appellant's technical witnesses, demonstrates that the proposals are acceptable and accord with the Outline Planning Permission, the policies of the Development Plan and prevailing national planning guidance. It confirms there are no significant and demonstrable reasons why the Appeal should not be allowed.

2.0 RELEVANT PLANNING POLICY CONTEXT

The Development Plan

2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission and appeals to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Whilst the Appeal relates to a Reserved Matters Application, the principle within Section 38 (6) remains. For the purposes of this Appeal, the Development Plan consists of the South Cambridgeshire Local Plan 2018 (CDE1). The policies within the plan have significant weight.

2.2 The policies principally relevant to the determination of this Appeal as set out in the reasons for refusal are identified in the SoCG and listed below (excluding reason for refusal 3):

- S/3 – Presumption in Favour of Sustainable Development
- CC/1 – Mitigation and Adaption to Climate Change
- CC/7 – Water Quality
- CC/8 – Sustainable Drainage Systems
- CC/9 – Managing Flood Risk
- HQ/1 – Design Principles
- NH/2 – Protecting and Enhancing Landscape Character
- NH/11 – Protected Village Amenity Area
- NH/14 – Heritage Assets
- H/9 – Housing Mix
- H/10 – Affordable Housing
- SC/10 – Noise Pollution

2.3 The Outline Planning Permission was approved on 26 October 2017, when the now adopted Local Plan was an emerging document.

Material Considerations

2.4 Alongside the Local Plan are a number of Supplementary Planning Documents. Pursuant to this appeal, these are listed in the SoCG and are set out below:

- District Design Guide SPD 2010
- Affordable Housing SPD 2010

- Landscape and New Development SPD 2010
- Sustainable Design and Construction SPD 2010
- Cambridgeshire Flood and Water SPD 2016
- Fulbourn Village Design Guide SPD 2020

2.5 In addition, a further material consideration is the Fulbourn and Fulbourn Hospital Conservation Area Appraisal and Management Plan 2021.

2.6 These are adopted documents, albeit they do not form part of the Development Plan. As noted within the Planning Practice Guidance (Plan-Making: Para 008 ID 61-008-201901315), the role of SPDs is to 'build upon and provide more detailed advice or guidance on policies in an adopted local plan'. In principle, SPDs can be given significant weight in the decision making process.

2.7 However, with regard the Fulbourn Village Design Guide (FVDG) SPD 2020 (CDE5), the content of the SPD document does not account for the approved Outline Planning Permission which pre-dates the SPD. The FVDG also contains a misrepresentation of the identified 'key long distance' views as noted within Figure 46. The evidence for the Appellant's witnesses confirm that no such views exist. The FVDG therefore contains an error that is not representative of the physical ground conditions and must be viewed in that context.

2.8 Reasons for refusal 4 and 5 reference the Greater Cambridge Housing Strategy 2019-2023 (CDE6). This document is neither part of the development plan nor an SPD. It is a 'high level document' (p6 of the document) that sets out a housing strategy across South Cambridgeshire and Cambridge City. It is therefore a guide across authorities relating to housing aspirations. As a document to assist the determination of this Appeal, it must attract no more than medium weight.

2.9 The Fulbourn Neighbourhood Plan has been submitted to SCDC for examination (CDE7). The Appellant has made comments in relation to the submitted document through the Regulation 16 consultation dated 17 January 2022 (see Appendix 1). These comments again identify the clear conflict between the Parameters Plan approved pursuant to the Outline Planning Permission and the identified Key Outward Viewpoint 'C6' identified within the submitted Neighbourhood Plan. This is emphasised further by the fact that condition 6 of the Outline Planning Permission requires that reserved matters be in 'general accordance with the illustrative layout' M03 Rev CRMA. As a result, the Appellant

concluded in those representations that the Neighbourhood Plan fails to meet the Basic Conditions and should be considered unsound.

- 2.10 The Neighbourhood Plan is at its early stages of examination by an independent assessor, but there remains an unresolved objection to its content. As such, in light of the identified conflict between it and the approved Parameters Plan, I therefore afford the emerging Neighbourhood Plan limited weight.

National Planning Policy

- 2.11 The National Planning Policy Framework (NPPF) was published in July 2021. It provides a presumption in favour of sustainable development. Paragraph 11 of the NPPF notes that for decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay.
- 2.12 Paragraph 130 of the NPPF is referenced directly within reason for refusal 1. This paragraph provides six criteria to be met to ensure appropriate development. The reason for refusal does not specifically reference any of the criteria. However, having reviewed, I concur with the evidence of James Carr that there is no conflict with these criteria.
- 2.13 Paragraph 167 of the NPPF refers to a planning application rather than a RM application. The evidence of Richard Totman demonstrates that a water management strategy can be delivered without increasing flood risk to properties outside of the site boundary. The detail of the drainage arrangements for the site will be approved by SCDC under condition 8 (see below).

The Outline Permission

- 2.14 The Outline Planning Permission approved the development of up to 110 dwellings on the Appeal Site. It approved details in relation to access, with all other matters reserved.
- 2.15 The Outline Planning Permission establishes the principle and framework for the development of the Appeal Site for residential purposes, with the capacity identified as up to 110 dwellings. The Outline Planning Permission includes planning conditions, including those to be discharged ahead of development at the site.
- 2.16 Condition 4 of the Outline Planning Permission (CDC1) listed the approved plans and these are set out below:

- M02 Rev C – Site Plan
- M06 rev E – Parameters Plan
- P2 - 50m Exclusion Zone B
- B411/008 Rev 1 – Cox’s Drove Emergency Vehicle Access
- B411/SK/09 Rev 2 – Indicative Full Right Turn

2.17 In addition, condition 6 of the Outline Planning Permission references the illustrative layout plan. Whilst it is not an approved plan in itself, condition 6 prescribes that detailed plans and particulars of the Reserved Matters Application should be in ‘general accordance’ with this illustrative layout.

2.18 Furthermore, condition 28 of the Outline Planning Permission states that, notwithstanding the detail shown on the Parameters Plan, the number of storeys and the height of eaves and ridge above AOD shall be determined through the RMA.

2.19 Condition 8 of the Outline Planning Permission requires the submission of a surface water drainage scheme prior to the commencement of the development. The evidence of Richard Totman demonstrates that such a solution is achievable. It is not for this appeal to formally discharge this condition, and further details will be sent to the Council for formal discharge.

2.20 These conditions therefore set the framework for the RMA, which therefore is seeking to determine those outstanding matters, which in this case relates to appearance, layout, scale and landscaping. The Rule 6 Party has questioned the validity of the RMA, and this is subject to a separate Written Submission.

Summary

2.21 The information above sets out for the basis for the RMA. The Outline Planning Permission establishes the principle of development and creates a framework in which the subsequent RMA addresses the detail in terms of appearance, layout, scale and landscaping

2.22 The RMA is informed by the conditions on the Outline Planning Permission and the relevant planning policy under which it would be considered.

2.23 The Development Plan in the form of the South Cambridgeshire Local Plan 2018 (CDE1) postdates the Outline Planning Permission. The policies within the plan have significant weight in the consideration of the Appeal, within the context of the Outline Planning

Permission, conditions and signed S106 Agreement (CDC2). The adopted SPDs provide additional guidance to the Development Plan and are therefore afforded significant weight in principle.

- 2.24 As noted throughout this Proof, the RMA accords with the policies of the Development Plan. It also accords with the FVDG, except for the conflict with the 'key long-distance views' identified within figure 46 of that document, which the Appellant says do not exist and therefore need to be considered in that context.

3.0 THE REASONS FOR REFUSAL AND THIRD-PARTY SUBMISSIONS

3.1 The principal issues for consideration in this Appeal are as set out within refusal reasons 1, 2, 4 and 5 of the Decision Notice and summarised at para 1.11 of this proof. I address the substance of each of these reasons below:

Reason for Refusal 1 (RR1)

3.2 RR1 asserts that the location of apartment block A and B, located to each side of the chalk stream and to the centre of the site, would result in significant harm to the character and appearance of the area, exacerbated by the associated increase in height of the raised parcels.

3.3 The evidence of Lisa Toyne and James Carr considers these matters in detail. I have further assessed the alleged impacts in reaching my professional planning opinion on these matters and my observations are set out below.

3.4 In line with chapter 2 of this evidence, the key considerations in relation to reason for refusal 1 are the Outline Planning Permission and its related conditions, the relevant policies within the Development Plan, and other material considerations including the FVDG.

Character and Appearance

3.5 The Outline Planning Permission (CDC1) secures the principle of residential development on the Appeal Site. Condition 4 lists, amongst others, plan M06 Rev E – Parameters Plan (CDC3) as an approved plan. Condition 6 of the Outline Planning Permission confirms that the ‘detailed plans and particulars’ of the future Reserved Matters Application should be in general accordance with the illustrative layout plan M03 Rev C (CDC4). These two plans provide clear guidance as to where built form is considered acceptable on the site.

3.6 The RMA being considered at this Appeal is in full accordance with the Parameters Plan, pursuant to the wording of condition 28 of the Outline Planning Permission. This condition requires that the number of storeys and the height of the eaves and ridge are determined at the reserved matters stage.

3.7 The RMA is, in my view, in general accordance with the illustrative layout as set out in condition 6.

- 3.8 The Council adopted the FVDG (CDE5) in January 2020. The Outline Planning Permission is dated 26 October 2017 and therefore pre-dates the FVDG by over two years. The FVDG, in identifying a key long-distance view from Poorwell Water northwards, makes a different assessment to the approved Outline Planning Permission and the evidence that informed it.
- 3.9 Whilst not adopted at that time, the (then) draft FVDG was considered by the Appellant in the development of the RMA, as referenced in the Design and Access Statement (CDA6).
- 3.10 I concur with the evidence of James Carr, that the RMA is in accordance with the FVDG save for the reference to 'Key long distance views' northwards across the site from Poorwell Water which the Appellant argues are incorrectly identified as being of importance.
- 3.11 The reason for refusal notes three specific conflicts to the 'guidance' within the FVDG. These are summarised in the table below together with the design response in the RMA, which is further elaborated upon in the evidence of James Carr:

FVDG Guidance	Design Response
10.3 – Site Planning should incorporate open views from and through the interior of the site towards the countryside and local landmarks	The layout allows views along the chalk stream, as well as along the linear park within the development. The Appeal Site allows views through Poorwell Water to the south and to the railway to the north.
10.10 – 3 storey buildings are not typical of the village and should only be considered with extreme care – they should be sited away from prominent frontages to minimise visual presence and be articulated to avoid any bulkiness	The tallest section of apartment blocks A and B are 2½ storeys in height, grading down to 2 storeys.
10.12 – The height should be lower than the crown of surrounding trees to retain the setting of a 'village among trees'.	Boundary tree planting around the site consists of very tall mature trees, the height of which the development would not exceed.

- 3.12 Figure 46 of the FVDG shows 'Key long-distance views' across the site to the north. The Appellant does not accept the FVDG's identification of this as a key long-distance view. This was also the view of the Inspector when considering the original Outline Planning Application S/2274/14/OL. He states in paragraph 23 of the Appeal Decision (CDD2) that

'the same, well-treed character, interspersed with predominantly residential development can also be found along Cow Lane, from where I saw that only very limited glimpsed views of the open nature of the appeal site can be obtained, across Poorwell Water and between some of the more modern dwellings which lie just to the west of Cox's Drove'.

- 3.13 In paragraph 24, the Inspector continues *'I acknowledge that a little more may be seen of the appeal site from Cow Lane during winter months, when the tree foliage would be thinner, although I consider that these views could still only be described as glimpsed'.* In paragraph 33, he concludes *'I am not persuaded that glimpsed views of new dwellings on the appeal site would unacceptably harm the existing character of the area'.*
- 3.14 Moreover, the evidence of Lisa Toyne further reinforces the position that this key long-distance view identified within the FVDG is not correct. In making this assessment, the evidence has also acknowledged the increase in floor levels of the development parcels. It is also acknowledged that the railway is set on an embankment which prevents views of the land beyond.
- 3.15 The proposals within the Reserved Matters Application are clearly in line with the approved Outline Planning Permission and all aspects of the FVDG except for the identified key long-distance views. Moreover, the evidence of Lisa Toyne and James Carr confirms that the proposed development would not result in any serious harm to the character and appearance of the area.
- 3.16 Policy HQ/1 of the South Cambridgeshire Local Plan 2018 (CDE1) is a policy dependent upon an assessment and imposes a development control test. It is then an exercise in judgement as to whether the requirements of the policy are met. The evidence of Lisa Toyne and James Carr clearly demonstrates that the development would be in accordance with this policy. Indeed, the officers report on the Reserved Matters Application identifies at paras 161 and 266 that the appearance of the development is considered to accord with policy HQ/1 of the Local Plan, is responsive to the guidance in the FVDG SPD and will not result in significant harm to the amenities of residential development adjacent to the Appeal Site.
- 3.17 The Rule 6 Party is seeking to demonstrate that the impact upon character and appearance of the area would also cause harm to the setting of the Fulbourn Conservation Area. Heritage matters are not referred to in the reasons for refusal, and it is common ground with SCDC that no harm is identified to heritage assets that would warrant refusal of the RMA.

3.18 Attached at Appendix 2 of this Proof is a Note prepared by Lorraine King, Heritage Director at Barton Willmore, now Stantec. This builds upon the findings of the Heritage Statement submitted with the RMA (CDA8), and the findings of the Inspector when assessing the Outline Planning Application (CDD2). The Planning Committee Report on the Reserved Matters Application (CDA9) notes at para 290, that in heritage terms, the proposals would accord with policy HQ/1 and NH/14 of the Local Plan, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, NPPF Guidance, the Fulbourn Conservation Area Appraisal and Fulbourn Village Design Guide. Moreover, the Council's Historic Buildings Officer raises no objection to the proposal. I concur with this view.

Raising of Land Parcels

3.19 The Outline Planning Permission lists the Parameters Plan (reference M06 Rev E – CDC3) as an approved plan. This identifies that development will be a maximum of 2 and a half storeys in height, with limits provided to the ridge and eaves height of built form above grade.

3.20 Condition 28 of the Outline Planning Permission states that notwithstanding the information on the approved Parameters Plan, details of ridge and eaves heights, and the number of storeys will be determined through the reserved matters process and accordingly detail of the heights of the buildings is not settled by the Parameters Plan.

3.21 The RMA includes elevational plans drawn to scale, allowing for the identification of ridge and eaves heights. The tallest development on the Appeal Site is the two and a half storey sections of Apartment Blocks A and B, with a maximum height of 11.24m. The two storey elements of these blocks are lower. It is common ground with the Council that these are the blocks to which reasons for refusal 1 relate.

3.22 The Flood Risk and Surface Water Management Update by Cannon Consulting Engineers dated January 2017 (CDC12) states that the proposal involves the creation of development parcels 'in the order of 500mm above existing site levels'.

3.23 Finished floor levels were subsequently submitted to SCDC in May 2021 on Plan B411-PL-SK-320 Rev P09 – Flood Management Strategy by Cannon Consulting Engineers (CDA4) to support the RMA and the application to discharge condition [8]. Further information to address matters of surface water drainage and flood risk has been submitted to the Inspectorate, as part of the Appeal, on 4 April 2022 (consisting of 'Flood modelling and surface water management update' by Cannon Consulting Engineers, and 'Update to surface water flood management' by HR Wallingford). This shows that the finished floor

levels have been raised, with the finished floor levels of Apartments Blocks A and B set on parcels that are to be built up by between 1.02m and 1.04m above current ground levels.

- 3.24 The evidence of Lisa Toyne and James Carr demonstrates that the additional height of the land parcels, as well as the height of the proposed dwellings as defined via the RMA is acceptable and would not result in any serious harm to the character and appearance of the area. I concur with this assessment and do not consider that the additional height of the floor levels would impact upon character and appearance or upon the views from Poorwell Water.
- 3.25 The officers report on the RMA also notes at paragraphs 187 and 188 that the development is not considered to result in significant adverse harm to the character, amenity, tranquillity or function of the village and that the proposal accords with policy NH/11 of the Local Plan. I concur with this view.

Reason For Refusal 1 Conclusion

- 3.26 The RMA has been submitted in accordance with the Outline Planning Permission and, in particular, the Parameter Plans that are approved under Condition 4 and the Illustrative Layout as required by Condition 6. The heights of the buildings are within the parameters established and reflect the requirements of Condition 28 that these be addressed via reserved matters.
- 3.27 It was established through the Outline Planning Permission that land parcels were always anticipated to be increased in height. The height above ground has been confirmed via the additional information submitted on drainage and flood risk by Cannon Consulting Engineers and reflected in Richard Totman's evidence.
- 3.28 Taking account of the evidence of James Carr and Lisa Toyne, and reflecting the established heights, I do not consider that the additional height of the floor levels would impact upon character and appearance or upon the views from Poorwell Water.
- 3.29 I also concur with the Evidence of Lisa Toyne and James Carr that the proposals would not impact negatively on the character and appearance of the area in the context of the FVDG design guide. With the exception of the Key long distance views which the Appellant submits do not exist, the FVDG is complied with. Moreover, I conclude that the proposals would not impact negatively on the Fulbourn Conservation Area reflecting the Heritage Note from Lorraine King at Appendix 2 to this Proof.

- 3.30 Therefore, the RMA accords with the requirements of Local Plan Policies HQ/1, NH11 and NH 14 and paragraphs 130, 194, 197, 199 and 202 of the NPPF.

Reason for Refusal 2 (RR2)

- 3.31 The key considerations in relation to RR2 are the Outline Planning Permission and its related conditions, the relevant policies within the Development Plan, and other material considerations.
- 3.32 The Outline Planning Permission was supported by a Flood Risk and Surface Water Management Update by Cannon Consulting Engineers dated January 2017 (CDC12). This itself was informed by the appeal against the refusal of the original Outline Planning Application (reference S/2273/14/OL) (CDD2), where the inspector stated the following:

'Although interested persons raised objections to the Flood Risk Assessment, the appeal proposals were considered acceptable by the EA and the Council's Drainage Officer. Moreover, the proposals have subsequently been independently reviewed and assessed by HR Wallingford, who have concluded that the proposed development would be unaffected by surface water flooding, and that the drainage proposals would actually result in a slight reduction in peak flows downstream of the site. No firm contrary evidence has been put forward to contest these conclusions, and I therefore give them significant weight.'

- 3.33 To support the RMA, detail regarding surface water drainage was submitted through a discharge of condition application. This was pursuant to condition 8 of the Outline Planning Permission. The precise wording of that condition seeks a detailed surface water drainage scheme 'based on the agreed Flood Risk Assessment'. That Assessment did not provide finalised heights of the development parcels but noted they would be in the order of 500mm.
- 3.34 Liaison has taken place with the Lead Local Flood Authority (LLFA) and SCDC's Sustainable Drainage Engineer throughout the consideration of the RMA. This culminated in the LLFA confirming in their letter dated 9 September 2021 (CDA9c) that they have no objection to the proposal. Paragraph 233 of the Planning Committee Report states '*overall, given the comments of the LLFA, officers are satisfied that the proposed development could provide*

an appropriate drainage and flood risk solution, a scheme that would need to formally agreed prior to commencing through the discharge of condition 8 of the outline consent'.

- 3.35 In line with the evidence provided by Richard Totman, it is clear that the information submitted with the RMA (crossing over with the Discharge of Condition application) demonstrates that a suitable water management strategy scheme can be provided at the Appeal Site, the precise detail for which would be formally agreed through the successful discharge of condition 8. The reason for refusal on surface water drainage grounds pursuant to the RMA contradicts the views of the LLFA, who advised officers that the RMA could be supported.
- 3.36 That said, Cannon Consulting Engineers has prepared and submitted to the Inspectorate on 4 April a further package of information to address matters of surface water drainage and risk of flooding. Details of this are set out in Richard Totman's evidence which confirms that the updated modelling clearly shows a surface drainage and flood management solution is available. Surface water drainage details would need to be formally signed off through discharge of condition 8.
- 3.37 It is noted that this solution excludes a limited number of private gardens from the raised development platforms such that they may flood in certain flood events. These gardens will be identified and the drainage solution will be secured by way of a section 106 unilateral undertaking given to SCDC by the Appellant as the current freehold owner of the land.
- 3.38 The obligations in the undertaking would ensure that prospective owners of the relevant properties are notified that they would have to comply with the flood risk mitigation measures set out in the approved surface water management strategy, so they are aware of them at the outset. Any new occupiers would then be required to covenant in the transfer, lease or other disposal of the properties to comply with the relevant flood risk measures and to allow access to the Management Company (to be set up under the terms of the Section 106 Agreement) for the maintenance of those measures. These requirements would remain in place and be enforceable against individual occupiers for the lifetime of the Development.
- 3.39 The identified solution is in line with the requirements of the NPPF securing a sustainable low carbon approach to flood risk which will ensure that development is made safe for its lifetime without increasing flood risk elsewhere.
- 3.40 The Planning Committee Report (CDA9) for the RMA is clear that SCDC and the LLFA are satisfied that the details of the drainage scheme can be formally agreed through the

discharge of condition 8 such that the development can accord with Policies CC/7, CC/8 and CC/9 of the Local Plan.

Reason for Refusal 2 - Conclusion

- 3.41 To conclude, the RMA builds upon the information approved within the Outline Planning Permission. Condition 8 confirms that the Flood Risk Assessment is 'agreed'. Revised modelling demonstrates that an acceptable water management strategy can be delivered, which would not increase flooding off-site and is in line with the requirements of national policy in the form of the NPPF. This will form the basis for submission of further details under Condition 8 of the Outline Planning Permission in line with policies CC/7, CC/8 and CC/9 of the Local Plan.

Reason for Refusal 4 (RR4)

- 3.42 The key considerations in relation to RR4 are the Outline Planning Application and its related conditions, the policies within the Development Plan, and other material considerations.
- 3.43 The affordable housing approach was agreed through the Outline Planning Permission. It is secured through the Section 106 Agreement dated 25 October 2017 (CDC2). The Agreement provides the definition of the Affordable Housing Scheme, which states '*for the avoidance of doubt no more than 20 Affordable Housing Units may be clustered together and no such clusters are to adjoin or neighbour each other*'. Schedule 3 confirms the agreed mix of affordable rented units and shared ownership units. The Section 106 Agreement therefore sets out the basis for the affordable provision onsite, with the detail to be agreed through the Affordable Housing Scheme mechanism.
- 3.44 The Outline Planning Permission was granted prior to the adoption of the current Local Plan, including policy H/10 which is directly referenced within RR4. The Outline Planning Permission also pre-dates the publication of the Greater Cambridge Housing Strategy.
- 3.45 The RMA included a plan (reference 28815-P10-010) (CDA4) showing the proposed affordable housing distribution. However, the SCDC Joint Housing Development Officer highlighted some concerns regarding the reliance upon such housing being within apartment blocks.
- 3.46 The amendment package submitted on 2 March 2020 included a plan (reference 28815-P10-010-P4) showing an amended layout for the proposed affordable housing, with four

of the units being incorporated into dwellings. This was supported by the Joint Housing Development Officer in her comments dated 21 May 2020, which stated '*the applicant has now provided 4 x 2 bed houses, this will assist visually to blend the affordable units in with the private market houses*'. The comments concluded '*the Strategic Housing Team are happy to support this scheme now there has been modifications*'. There were no further changes to the proposed affordable housing layout across the Appeal Site through subsequent amendments. This support is further reflected in SCDC's decision to not provide evidence in relation to this reason for refusal.

- 3.47 As noted, the Section 106 Agreement allows for the clustering of up to 20 dwellings. This has set the framework for affordable housing provision across the site. The affordable housing is set in four distinct clusters, the largest being a cluster of 17 (plots 5-6, Block D, Block D1 and Block C) located in the northwest corner of the site.
- 3.48 Plots 31 and 32 can be considered a different cluster, which is consistent with the Inspector's view in determining appeal APP/W0530/W/3174252 (CDG3). However, even if these two plots were considered within the same cluster, it would still be below the 20 dwelling limit set out in the Section 106 Agreement and this view is shared by the SCDC's Affordable Housing Team.
- 3.49 Policy H/10 of the adopted Local Plan seeks affordable housing to be provided 'in small groups or clusters distributed through the site'. Neither the policy or the supporting text provide a definition of a 'small group'. The Greater Cambridge Housing Strategy 2019-2023 Annex 10 (Clustering and Distribution of Affordable Housing Policy – CDE6b) sets out that for medium mixed tenure residential developments of between 30 and 200 units, maximum clusters of 15 units are accepted. It should be noted that the Planning Committee Report notes at paragraph 10, that SCDC's Affordable Housing team has confirmed their support for the mix, tenure and layout of the affordable housing being proposed.
- 3.50 The affordable housing provision at the Appeal Site will be formally finalised through the submission of the Affordable Housing Scheme as required by the Section 106 Agreement. The Appellant considers the affordable housing distribution on the submitted plan (reference 28815-P10-010-P4) as refused provides an acceptable affordable housing distribution, clearly in line with the requirements of the Section 106 Agreement.
- 3.51 RR4 suggests the affordable housing is not integrated into the scheme. The road network around the northwest corner of the site is a loop rather than a cul-de-sac. This encourages journeys past the properties, especially by bike and on foot where the footpath network

in the site allows for a circular route. There is clear separation between the other identified clusters on the Appeal Site, which are all well served and closely linked to the footpath networks and the Locally Equipped Area of Play. I also agree with the evidence provided by James Carr in this regard.

Reason for Refusal 4 - Conclusion

- 3.52 The proposed approach to affordable housing as set out in the RMA is entirely in line with the requirements of the Outline Planning Permission and the Section 106 Agreement. SCDC's Affordable Housing Team has confirmed their support for the mix, tenure and layout of the affordable housing proposed. The proposed layout distributes the affordable housing in small groups or clusters in general accordance with Local Plan Policy H/10 and the Greater Cambridge Housing Strategy 2019-2023. The affordable housing will be confirmed through the submission of the Affordable Housing Scheme in accordance with the requirements of the Section 106 Agreement.

Reason for Refusal 5 (RR5)

- 3.53 The key considerations in relation to RR5 are the Outline Planning Permission and its related conditions, the relevant policies within the Development Plan, and other material considerations.
- 3.54 As referenced within RR4, the affordable housing provision is fully in accordance with the Outline Planning Permission and the requirements of the Section 106 Agreement.
- 3.55 The Parameters Plan approved as part of the Outline Planning Permission clearly shows that housing within this location was considered acceptable. The Illustrative layout plan referenced within condition 6 of the Outline Planning Permission also showed development in this location. The RMA is in 'general accordance' with that layout as required by Condition 6.
- 3.56 RR5 references the constraints of the site. What these constraints are is unclear, but it is assumed it refers to the Breckenwood Industrial Estate to the north of the site. The Outline Planning Application considered the noise output from the Estate and agreed a 50m exclusion zone (CDC3) subject to conditions 19 and 20. These conditions only permit development within this exclusion zone subject to an appropriate noise mitigation strategy.

- 3.57 Conditions 19 (Noise Mitigation) and the first section of Condition 20 (Exclusion Zone) have been formally discharged by SCDC (through discharge of condition applications with reference S/3209/19/DC and S/0202/17/CONDA). The second part of Condition 20 can only be discharged post construction. The discharge of these conditions clearly demonstrates that any noise generated from the Industrial Estate would not preclude residential development.
- 3.58 As such, it should not matter whether the dwellings in this location are private or affordable. The Appellant has clearly demonstrated the suitability for residential development in this area. The Urban Design Team at SCDC has no objection to the design itself or the layout, subject to detailing on materials. I also concur with the evidence of James Carr regarding the design of these units and their integration as part of the overall layout.
- 3.59 The Planning Committee Report (CDA9) identifies at paras 275 – 277 that, subject to the mitigation required by conditions 19 and 20, future occupiers would not be adversely impacted by adjacent noise sources. SCDC's Environmental Health Officer raises no objection to the proposals. It can, therefore, be concluded that the RMA accords with the requirements of Local Plan Policies HQ/1 and SC/10.

Reason for Refusal 5 – Conclusion

- 3.60 The affordable housing provision is entirely in accordance with the Outline Planning Permission and the requirements of the Section 106 Agreement. SCDC's Affordable Housing Team has confirmed their support for the mix, tenure and layout of the affordable housing proposed. The proposed layout distributes the affordable housing in small groups or clusters in general accordance with Local Plan Policies H/10, HQ/1 and the Greater Cambridge Housing Strategy 2019-2023.
- 3.61 Conditions 19 and 20 of the Outline Planning Permission have been discharged. The discharge of these conditions clearly demonstrates that any noise generated from the Industrial Estate would not preclude residential development in line with Local Plan Policy SC/10.

Third Party Submissions

- 3.62 The Inspector has listed a number of concerns raised by third parties during their consideration of the RMA. The Inspector has directly requested information regarding the future maintenance of features on site, and this is summarised below.

Maintenance Approach

- 3.63 The maintenance for the LEAP, Public Open Space and General Open Space is secured through the Section 106 Agreement dated 25 October 2017, via the Management Company (CDC2).
- 3.64 The highway network will be afforded to Cambridgeshire County Council (CCC) for adoption. CCC has indicated it will not seek to adopt the road network, so as such this would become a private road to be managed by the Management Company
- 3.65 The drainage system will be subject to a Unilateral Undertaking confirming the future maintenance and management of the system.
- 3.66 The Section 106 Agreement also makes provision for a Management Company fallback position whereby covenants are in place to ensure that the costs of any such management would be paid to SCDC if for any reason the Management Company were to cease.
- 3.67 Condition 8 of the Outline Planning Permission requires details of the long-term ownership/management of the surface water drainage system and maintenance of the same. This will be in accordance with an Implementation Programme to be agreed in writing by SCDC.

Other Third-Party Matters

- 3.68 As noted at Para 1.9 of this Proof no evidence is being provided to the Inquiry in relation to RR3. However, a number of third-party comments raise this matter. To clarify, the loss of biodiversity is not an issue to be dealt with at reserved matters stage because the principle of the development has already been approved in the Outline Planning Permission. It is improper to require biodiversity net gain at the reserved matters stage when no such requirement was imposed on the outline permission.
- 3.69 The Outline Planning Permission included conditions relating to ecology and ensuring that habitats can be retained and maintained. Ecology is not (and could not be) a reserved matter that should be considered through this application.
- 3.70 Some of the other matters are agreed as common ground. However, for clarity and completeness, the table below covers the matters raised and provides a response to these matters.

Interested Party Concerns	Status
Traffic generation, including at construction stage, and access via Cox's Drove	The outline was assessed in terms of highway capacity for up to 110 dwellings and considered acceptable. Construction traffic can be controlled through condition 16 of the outline as agreed. Cox's Drove access will only be used by emergency vehicles, pedestrians and cyclists.
Whether on site car parking provision is acceptable	Car parking provision is adequate in line with Local Plan policy
Whether flood risk would be suitably managed	Future adoption and maintenance details will be agreed through condition 8 of the Outline permission.
Loss and provision of trees on the site including future maintenance	The outline permission was accompanied by a Tree Survey identifying trees to be removed. The proposed landscape plans indicate acceptable levels of tree planting across the site.
Whether the RM application complies with the outline planning permission	Set out in Written Submissions
Whether there should be the provision of self-build dwellings	The approved outline permission does not include any requirement for self-build dwellings within the reserved matters.
Contaminated land	Contamination was considered at outline stage and condition 10 requires a remediation strategy if previously unidentified contamination is found.
Responsibility for and control of foul and surface water drainage systems	Details of the surface water drainage management will be agreed through the discharge of condition 8 of the Outline Planning Application. Foul water drainage details will be secured through condition 9 of the Outline Planning Application
Compliance with the Fulbourn Village Design Guide	Set out in evidence
Siting of electricity sub-station relative to the living conditions of nearby residents	The sub-station is located at an appropriate distance away from residential properties so as not to negatively impact upon residential amenity.
Whether proposed dwellings would be 'cramped'	The site can provide 110 dwellings, as tested through the outline, without creating a cramped form of development. SCDC's Urban

	Design Officer does not object to the proposals.
Effect of proposed residential units in terms of light and privacy	The layout ensures no negative relationship between proposed dwellings, or with existing dwellings in the vicinity. Artificial lighting details will be agreed through the discharge of condition 18 of the outline permission.
Management of noise at construction stage	Noise monitoring, construction hours and access arrangements will all be agreed through the discharge of condition 16 of the outline permission.
The effect on the proposal on Fulbourn Conservation Area including its setting	Set out in Appendix 2 of this proof of evidence

Additional interested party concerns identified in Inspector's e-mail of 22 March	
Use of Cox's Drove and how a 'planter' would prevent general vehicular access	The design of the planter is agreed through approved Outline Planning Application plan B411/008 Rev 1 – Cox's Drove Emergency Vehicle Access.
The adequacy of the number and type bicycle storage facilities for dwellings and apartments	Each dwelling has adequate space for cycle storage facilities.
Whether there are an adequate number of bat boxes and suitable hedgehog highways relative to outline planning permission details	The number and location of bird and bat boxes, and the location of hedgehog fencing has been agreed within the approved Landscape and Biodiversity Management Plan through the discharge of condition 12 of the Outline Planning Application.
Details of the ownership/adoption and permanent maintenance of roads, surface water drainage, open spaces/landscaping and including whether these matters need to be addressed now	Matters pertinent to future maintenance are set out in paragraphs 3.65-3.69 above.
Use of and details for the Gate Lodge driveway for pedestrian/cycling purposes and the effect of this on the living conditions of the occupiers of this property including use of the workshop	There is a legal right of access across this property and the path is retained. However, the scheme includes more formal pedestrian access directly onto Teversham Road and through the Pumphouse Garden to Cow Lane.
Whether the residential units accord with minimum space standards	All dwellings accord with minimum space standards.

Whether an adequate number of net on-site trees would be provided, including 'trees within proposed streets' given NPPF requirements	The submitted landscape plans show the levels of tree planting proposed, which supplements the existing planting around the site boundary.
Whether retained grassland and woodland areas would be accessible to residents and, if not, how access would be restricted	Pedestrian access is available around the whole site as per the proposed landscaping plans. Access beyond the paths will not be restricted, as per the current situation on site.
Whether all car parking spaces would be to an acceptable size standard (e.g. apartment block 1)	All parking spaces measure a minimum of 2.5m by 5m.
The suitability of wheelie bin/cycle storage space for all house types	All properties have access to rear gardens where relevant, either through gates or garage spaces. Dedicated space is available at the apartment blocks.
Plot 78 and its relationship with the rear of properties 50 & 52 Cow Lane in respect of privacy and outlook	There is a distance of over 15m between plot 77 and the rear boundary of the adjacent Cow Lane properties. This meets the preferred guidance within para 6.68 of the District Design Guide (CDE2)
Additional pressure on village services and facilities	The Outline Planning Application assessed the capacity of local infrastructure for a development of up to 110 dwellings.
Suitability of access to public open space for recreation having regard to use of areas for surface water retention and biodiversity.	There is public accessibility around the whole site.
Additional Comments Following Inspector Email Dated 21 April 2022	
Provision of Water Supplies for Fire Fighting	Condition 15 of the Outline Planning Permission seeks details of fire hydrants to be agreed.

Responses to Additional Drainage Information Consultation

- 3.71 Following the issue of additional drainage information on the 4th April 2022 by the Appellant, the stakeholder responses to this information have been summarised, as requested by the Inspector, at Appendix 3 to this Evidence.

4.0 THE PLANNING BALANCE

- 4.1 The Outline Planning Permission establishes the principle for the development of the Appeal Site for residential purposes, with the capacity identified as up to 110 dwellings, and, via conditions and the Section 106 Agreement, sets the framework within which reserved matters applications can be approved.
- 4.2 The Appeal relates to an RMA, which is wholly in accordance with the framework established by the Outline Planning Permission.
- 4.3 For the purposes of this Appeal, the Development Plan consists of the South Cambridgeshire Local Plan 2018. I have reviewed the Development Plan in relation to the Reasons for Refusal and, notwithstanding that fact that this was adopted after the Outline Planning Permission was granted, I conclude that the RMA is in line with the policies within the Development Plan.
- 4.4 The FVDG is an adopted SPD and as such, I give its content significant weight in principle. However, the content of the SPD document does not account for the approved Outline Planning Permission which pre-dates the SPD. The FVDG also contains a misrepresentation of the identified 'key long distance' views as noted within Figure 46. The evidence for the Appellant's witnesses confirm that no such views exist. The FVDG therefore contains an error that is not representative of the physical ground conditions and must be viewed in that context.
- 4.5 I have concluded that the development is in accordance with the content of the FVDG, except for the 'key long-distance views' shown on Figure 46 of that document. I concur with the technical evidence presented that the view highlighted does not exist on the ground given a combination of the planting along Poorwell Water and along the shared boundary, and the presence of the railway embankment.
- 4.6 I acknowledge the policy within the emerging Fulbourn Neighbourhood Plan. As per the key view within the FVDG, I disagree with the Key Outward Viewpoint 'C6', which again does not exist on the ground. It also contradicts condition 6 of the Outline Planning Permission, which seeks reserved matters to be in general accordance with the illustrative layout plan. Given this unresolved conflict and its current status, I afford the emerging Neighbourhood Plan little weight.

- 4.7 I agree with the technical evidence provided by Lisa Toyne and James Carr regarding RR1. It is demonstrated that there are no views to the countryside beyond the Appeal Site, and therefore construction of built form within this area cannot remove or harm such views. The evidence of Richard Totman confirms the levels to which the land parcels need to be raised to ensure a suitable flood modelling solution. I have considered these heights when drawing my conclusion regarding the suitability of development. I therefore conclude that the development would not result in any serious harm to the character and appearance of the area as to warrant dismissal of this appeal.
- 4.8 Moreover, I also conclude that the proposals would not impact negatively on the Fulbourn Conservation Area, reflecting the Heritage Note from Lorraine King at Appendix 2 to this Proof.
- 4.9 The proposals therefore accord with the requirements of Local Plan policies HQ/1, NH11 and NH14 paragraphs 130,194,197,199 and 202 of the NPPF.
- 4.10 In terms of RR2, the RMA builds upon the information approved through the Outline Planning Permission. Condition 8 of the Outline Planning Permission confirms that the Flood Risk Assessment is 'agreed'.
- 4.11 I agree with the evidence of Richard Totman and the revised modelling which demonstrates that an acceptable water management strategy can be delivered, which would not increase flooding off-site and is in line with the requirements of national policy in the form of the NPPF. This will form the basis for submission of further details under Condition 8 of the Outline Planning Permission in line with policies CC/7, CC/8 and CC/9 of the Local Plan.
- 4.12 On the matter of affordable housing distribution under RR4, this was secured in agreement with SCDC by the completion of the Section 106 Agreement which allowed the clustering of up to 20 units.
- 4.13 The proposed approach to affordable housing as set out in the RMA is entirely in line with the requirements of the Outline Planning Permission Section 106 Agreement. SCDC's Affordable Housing Team has confirmed their support for the mix, tenure and layout of the affordable housing proposed. The proposed layout distributes the affordable housing in small groups or clusters in general accordance with Local Plan Policy H/10 and the Greater Cambridge Housing Strategy 2019-2023 and the Affordable Housing will be confirmed through the submission of the Affordable Housing Scheme in accordance with the requirements of the Section 106 Agreement.

- 4.14 I concur with the evidence of James Carr that the layout of the affordable housing should not warrant the dismissal of this Appeal.
- 4.15 Finally, in terms of RR5, I have identified that the location of dwellings opposite the Breckenwood Industrial Estate is fully in accordance with the approved Parameters Plan and the illustrative layout plan (as per condition 6 of the Outline Planning Permission). The proposed layout distributes the affordable housing in small groups or clusters in general accordance with Local Plan Policies H/10, HQ/1 and the Greater Cambridge Housing Strategy 2019-2023. The discharge of Conditions 19 and 20 of the Outline Planning Permission clearly demonstrates that any noise generated from the industrial estate would not preclude residential development.
- 4.16 Again, I concur with the evidence of James Carr that the design and layout of the dwellings in the northwest of the site should not warrant dismissal of this Appeal.
- 4.17 I have also provided a table providing a response to a number of other third party responses received during the determination period. Following the issue of additional drainage information on the 4th April 2022 by the Appellant, the stakeholder responses to this have also been summarised. None of the matters raised are considered to preclude development on the site, or warrant the dismissal of this Appeal.
- 4.18 Given that the RMA is fully in accordance with the parameters of the Outline Planning Permission and that the proposals accord with the policies of the Development Plan, I can see no material or technical considerations that would outweigh the primacy of these for the purposes of decision making.
- 4.19 The Inspector is therefore respectfully asked to allow this Appeal.

APPENDIX 1

Response to Fulbourn Neighbourhood Plan Regulation 16 Consultation

APPENDIX 2

Heritage Note

APPENDIX 3

Stakeholder Responses to Additional Drainage Information