Statement of Common/Uncommon Ground.

Between Derby City Council and Pegasus Group on behalf of Miller Homes.

Outline application for residential development including access arrangements - up to 90 dwellings.

Land West of Royal Hill Road, Spondon, Derby

Date: 25th February 2025| Pegasus Ref: P19-2639

Application Ref: 23/01631/OUT |

Author: Alan Siviter and Gary Lees (MRTPI)

Signed:	**Signed:**
Name: Cllr Matthew Holmes	**Name: Gary Lees**
On behalf of: Derby City Council	**On behalf of:** Pegasus Group (acting on behalf of the appellant, Miller Homes)
Date: 25 February 2025	**Date:** 28 February 2025

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1. Introduction

1.1. The application the subject of this appeal was registered as valid on the 30th of November 2023 and assigned the reference 23/01631/OUT. The appeal site lies adjacent to the suburb of Spondon and is referenced as "Land West of Royal Hill Road, Spondon", shown on the Site Location Plan submitted with this appeal.

1.2. This Statement has been prepared in accordance with Annexe R of the Planning Inspectorate's Procedural Guide and Article 37, Paragraph (3)(b)(x) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 ("DMPO 2015").

1.3. Article 37(8) of the DMPO 2015 defines "draft statement of common ground" as a statement containing factual information about the proposal that the appellant reasonably considers will not be disputed by the local planning authority.

1.4. Accordingly, this Statement identifies areas of agreement, as well as areas where there is no consensus. As regards the former, the following are areas of common ground:

- Background to the appeal
- Description of the site
- Description of the surrounding area
- Planning history of the site
- The proposed development
- Relevant Development Plan policies
- Relevant Material Considerations
- Other matters upon which the parties agree
- List of possible conditions and the reasons for them
- Draft terms of Section 106 obligations

2. Background to the Appeal

2.1. This appeal is made pursuant to section 78 of the Town and Country Planning Act 1990 ("TCPA 1990") against the refusal to grant planning permission by Derby City Council.

2.2. The description of development reads as follows:

"Outline application for residential development including access arrangements - up to 90 dwellings."

2.3. The application was supported by a suite of documents and plans. A list of documents submitted with the application is appended, together with those documents submitted in response to consultee comments (Appendix A).

2.4. In the course of the application process further information was requested and provided by the Appellant this included Footway Link Details and an Illustrative Tree and Hedgerow Retention Plan.

2.5. This application was considered by the Planning Committee on the 23rd May 2024 with an officer recommendation for approval. The Committee resolved to refuse planning permission.

2.6. The application refusal notice issued on the 7th of June 2024. The sole reason for refusal is:

RfR 1 – *"In the opinion of the Local Planning Authority, the proposed residential development would result in the narrowing of the Spondon and Chaddesden Green Wedge, which provides an important strategic function by maintaining an open and undeveloped area between these two distinct residential areas of the city. The proposal would reduce the extent to which the countryside is able to penetrate the urban area, increase the likelihood of coalescence between the Spondon and Chaddesden neighbourhoods and would, therefore, amount to inappropriate development in this Green Wedge. For these reasons, the proposed development would be contrary to the intentions of Policy CP18 (Green Wedges) of the Derby City Local Plan - Part 1: Core Strategy.*

The Local Planning Authority accepts that this proposal should be determined in the context of the 'tilted balance' which has been invoked and accordingly, the relevant guidance in Paragraph 11d of the National Planning Policy Framework has been duly considered. In this particular case the proposed residential development would lead to the unacceptable narrowing of the Spondon and Chaddesden Green Wedge and, as a result, this important policy contravention would significantly and demonstrably outweigh the planning benefits of the proposal."

2.7. During the consideration of the application representations were received from the consultees listed below:

- Highways (Development Control)
- Highways (Transport Planning)
- Highways (Land Drainage)
- Environmental Services (Health – Pollution)

- Natural Environment (Trees)
- Derbyshire Wildlife Trust

2.8. Over the period of consultation on the planning application, 117 third party objections were received including from Local Ward Councillor – Cllr Smale.

3. Description of the Site and Surrounding Area

3.1. The application site is west of Royal Hill Road, Spondon, is 4.51 hectares in area and generally rectangular in plan form, with an additional rectangular limb extending from its north-western corner. The site comprises 4 no. small field enclosures, or paddocks, currently used for horse grazing. The site slopes upwards from the southern boundary to the northern boundary.

3.2. The north-western paddock is subdivided by a series of post and wire fences and includes several sheds on its eastern edge for animal shelter. The south-western paddock is smaller, enclosed by fragmented hedgerows with occasional trees; the southern, central paddock is longer and narrower and also enclosed by fragmented hedgerows; and the eastern paddock, extending to Royal Hill Road and the private drive, is similarly long and narrow but also retains some sporadic native vegetation on its northern section.

3.3. No Public Rights of Way (PRoW's) cross the site, but two PRoWs (Spondon Footpaths 6 and 7) extend across the wider area linking Spondon to Chaddesden in a generally west to east alignment.

3.4. There are four individual trees on the site that are protected by Tree Preservation Order 179 and relate to trees T9, T10, T11 and T12, all of which are Oak Trees.

3.5. The site lies on the north-western edge of Spondon, a suburb located to the north-east of the City of Derby. Spondon is a large suburb of 12,650 residents[1] extending northwards from the A52 dual carriageway. Directly to the east of the site is the built for of Spondon, which is residential at this point. Directly to the west of the site is agricultural land extending to Acorn Way which defines the eastern flank of Chaddesden.

3.6. To the north of the site is a disused reservoir which is covered and enclosed by a grassed embankment with an adjacent building. Thereafter, open countryside in agricultural use (mainly arable but with some pasture) extends further north into the Derby / Nottingham Green Belt.

3.7. South of the site are residential properties and Springfield Primary and West Park Secondary Schools and their associated playing fields.

3.8. For planning policy purposes, the site is located adjacent to the built form of Spondon to the east in a relatively small area of the eastern part of the Spondon/Chaddesden Green Wedge.

[1] 2021 Census data for the Spondon Ward

4. Planning History of the Site

4.1. There is no relevant planning application history prior to the recently submitted application on this site.

5. The Proposed Development

5.1. The description of development reads as follows:

"Outline application for residential development including access arrangements - up to 90 dwellings"

5.2. The application reference number allocated by the LPA was 23/01631/OUT. The original determination date was the 29th of February 2023.

5.3. The application proposed the erection of up to 90 dwellings including 30% affordable units. As part of the proposals, open space would be created as well as an attenuation basin, new vehicular access onto Royal Hill Road and footpath links on to the surrounding footpath network.

5.4. The development is proposed to be supplemented by a comprehensive landscaping scheme consisting of orchard, wildflower meadow, retention and enhancement of retained trees and hedgerows and new planting of trees and hedgerow. Upgrades are proposed to the local PRoW network and new provision to be included within and out of the site.

5.5. The application was supported by a suite of documents and plans, including an Illustrative Masterplan, which depicts the general arrangement of the site, a Site Location showing the extent of the development site and the proposed detailed access drawings (vehicular and footpaths). Note, as per the Statement of Case, that the appellant wishes to substitute the previously submitted access drawing (ref RHR-BWB-GEN-XX-DR-TR-101 S2-P2) with a slightly revised drawing ref: RHR-BWB-GEN-XX-DR-TR-101 S2-P3 Proposed Access

5.6. A list of documents submitted with the application is appended, together with those documents submitted in response to consultee comments (Appendix A).

6. Relevant Development Plan Policies

6.1. Section 70(2) of the TCPA 1990 sets out that, in dealing with proposals for planning permission, regard must be had to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.

6.2. Furthermore, section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") states that, if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise. Taking these sections together, a decision-maker must, therefore, consider the Development Plan, identify any provisions within it which are relevant, and then properly interpret them.

6.3. For the purposes of this appeal, the Development Plan comprises the Derby City Local Plan Part 1 – Core Strategy (adopted on 25th January 2017) and the saved Policies of the City of Derby Local Review (adopted January 2006), which are used in determining planning applications. The Development Plan also includes the Waste and Minerals Local Plan. For the avoidance of doubt, there is no Neighbourhood Plan that applies to the appeal site.

6.4. The parties agree that the following policies are relevant to this appeal. The most important policies for determining this appeal are denoted by an asterisk:

Table 1: Derby City Local Plan Part 1 – Core Strategy Relevant Policies (January 2017)

Policy Ref:	Policy Title
CP1a)	Presumption in Favour of Sustainable Development
CP2	Responding to Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP6	Housing Delivery*
CP7	Affordable and Specialist Housing
CP16	Green Infrastructure
CP17	Public Green Space
CP18	Green Wedges*
CP19	Biodiversity

CP23	Delivering a Sustainable Transport Network
MH1	Making It Happen

Table 2: Saved City of Derby Local Plan Review (January 2006) Relevant Policies

Policy Ref:	Policy Title
GD5	Amenity
H13	Residential Development – General Criteria
E12	Contamination
E24	Community Safety
T10	Access for Disabled People
T15	Protection of Footpaths, Cycleways and Routes for Horses

7. Relevant Material Considerations

7.1. The following material considerations are relevant to this appeal and are agreed:

Derby City Council 2025 Five Year Housing Supply Position (January 2025)

7.2. Published following the determination of the planning application in June 2024. This version updates the Council's calculated position to 3.85 years supply which is reduced (to account for the updated standard method calculation) from the April 2023 position (and used in the determination of planning application) of 3.88 years supply.

7.3. The update further establishes the Council's lack of housing supply in the context of paragraphs 78 and 232 of the Framework and the revised Planning Practice Guidance (5th February 2024).

7.4. A housing land supply of 3.85 years is a significant shortfall and therefore very significant weight should be applied in favour of applications that can contribute to increasing this supply

National Planning Policy Framework

7.5. The following sections of the National Planning Policy Framework are relevant to the consideration of the proposed development:

Table 3- Relevant National Planning Policy Framework Chapters

Section	Topic
2	Achieving sustainable development
4	Decision making
5	Delivering a sufficient supply of homes
6	Building a strong, competitive economy
8	Promoting healthy and safe communities
9	Promoting sustainable transport
11	Making effective use of land
12	Achieving well designed places
14	Meeting the challenge of climate change, flooding and coastal change

15	Conserving and enhancing the natural environment
Annex 1	Implementation

Supplementary Planning Documents

7.6. The following Supplementary Planning Documents are relevant to the proposals

Table 4: Relevant Supplementary Planning Documents

Supplementary Planning Document	Adoption Date
Planning Obligations SPD - Appendix B Financial Contributions Matrix 2023-24 (Note: 2024/25 Matrix has been published)	2018

8. Other Matters Agreed

8.1. The following matters are agreed upon by the signatory parties.

Out of Date Policies

Policy CP6 Housing Delivery

8.2. The Derby City Local Plan Core Strategy (2017) is beyond 5 years in age and the Council has concluded through a review of their Local Plan that the local plan's housing requirement does not reflect the Government's Standard Method for calculating housing need. The City's objectively assessed housing need over the CS plan period (2011-2028) was for 16,388 new dwelling (964 dwellings pa), of which Policy CP6 required a minimum of 11,000 of these (647 dwellings pa) to be built within the City over the plan period, the remainder was to be provided in South Derbyshire and Amber Valley as the other two authorities in the Derby Housing Market Area (HMA). It was accepted in adopting the Part 1 Plan that there was agreement from the two other authorities in the HMA to help meet the City's housing needs by providing for the 5,388 dwelling shortfall.

8.3. Amber Valley have not produced an adopted a Local Plan in the intervening period and have subsequently not delivered any housing to meet Derby's needs. In South Derbyshire the Part 1 Local Plan was adopted in 2016, covering the same Plan Period as the City. Within Policy S1: Sustainable Growth Strategy, South Derbyshire seek to deliver at least 12,618 dwellings over the plan period, of which 3,013 dwellings are to meet a proportion of Derby's unmet housing need. Accordingly, 2,375 dwellings of Derby's housing need is unaccounted for – based on a now superseded housing requirement figure.

8.4. In December 2024, the Government changed the Standard Method again, removing the 35% urban area uplift and basing the housing need calculation on baseline stock and affordability. A new Standard Method was published in the Planning Practice Guidance on 12 December 2024. The result of the new calculation for Derby City is an annual need of 906 dwellings. This remains significantly higher than the 647 dwellings a year in the Adopted Local Plan. The 5 year new housing supply position, which is set out in para. 7.2, for the city is calculated using the Standard Method need figure and is 906 dwellings per year.

8.5. Policy CP6 is thus considered to be out of date in respect to the housing requirement for the city. Other parts of the policy which are not related to the housing numbers to be delivered, are still relevant and up to date.

CP18 Green Wedges

8.6. It is agreed that the Green Wedge designation contained within Policy CP18 does not offer protection from the tilted balance as per NPPF footnote 7 to paragrpah 11(d).

Presumption in Favour of Sustainable Development

Derby City Council Local Plan Part 1 – Core Strategy 2017

8.7. It is agreed that regard must be had to Policy CP1a – Presumption in Favour of Sustainable Development (DCCLP 2017). Policy CP1a clearly interjects in instances where relevant policies

are out of date at the time of making the decision, and requires that planning permission is granted unless material considerations indicate otherwise – taking into account whether:

1. *any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*

2. *ii. specific policies in the Framework indicate that development should be restricted.*

8.8. It is agreed however that the NPPF revision of December 2024 included an update to Paragraph 11(d)(ii) that is a material change from the wording contained in Policy CP1a (note the order of the criteria in the Policy CP1a has been reversed in the NPPF). Policy CP1a was based upon the wording of Paragraph 11 (d) at the time of adoption of the Part 1 Local Plan. Paragraph 11(d)(ii) now includes the application of an added emphasis which requires *"having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination"*

8.9. It is agreed that the principle of Policy CP1a does remain up to date as it is consistent with the approach set out in the NPPF. However, it is also agreed that Policy CP1a is not considered to be one of the most important policies in relation to the consideration of this appeal as the requirements in NPPF Paragraph 11(d)(ii) takes precedence over Policy CP1a.

The National Planning Policy Framework ("the Framework")

8.10. Notwithstanding the "tilted balance" being engaged by virtue of Policy CP6 Housing Delivery (above), regard must be had to all relevant considerations. For the purposes of section 70(2) of the TCPA 1990 and section 38(6) of the PCPA 2004, the Framework does not purport to displace the primacy of the development plan; rather, it is a material consideration.

8.11. Whilst it is agreed that the housing requirement in CP6 (Housing Delivery), one of the most important policies for determining the application, is out of date, the weight to be afforded to the policies is a matter of planning judgement for the decision maker.

8.12. In light of this, and in the absence of any applicable "Footnote 7" policies, the decision-taker must proceed to limb (ii) and determine the application accordingly. Planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. It is agreed in the decision notice that the tilted balance as required by Paragraph 11d of the National Planning Policy Framework applies in this case.

Scheme Benefits

8.13. As per Section 7.8 of the Committee Report it is agreed that the following scheme benefits are identified in context of the "tilted balance":

- the provision of a large number of new homes in a sustainable location, adjacent to, and therefore forming a new part of the built area of Spondon,

- a quantum of affordable housing units, which would be provided in the context of a very significant housing need, resulting from increased dwelling numbers required in the standard method.
- on-site provision of biodiversity net gain.
- new accessible public open space, through landscape planting and habitat creation.
- temporary economic benefits from construction, through job creation and economic investment in infrastructure.
- Contribution towards the provision of a bus service.

Scheme Disbenefits

8.14. It is agreed that the following disbenefits are attributable to the development scheme:

- Development proposals conflict with Policy CP18 by proposing residential development within a Green Wedge.

Locational Sustainability

8.15. It is agreed that Spondon is a sustainable location for development as described in the Planning Committee Report at Section 7.8.

8.16. It is agreed that subject to the necessary conditions and obligations to be secured through a Section 106 Agreement, the proposed development can be appropriately catered for by services and provisions within Spondon.

Affordable Housing

8.17. It is agreed that, subject to the completion of a Section 106 Agreement, the proposal would deliver a policy compliant 30% affordable housing of up to 27 homes. This is to be split between affordable rent and shared ownership. As per Section 7.1 of the Committee Report, it is agreed that there are extremely significant needs for new affordable housing. Further information will be provided in an additional Statement of Common Ground on housing and affordable housing requirements and supply.

Biodiversity and Ecology

8.18. The proposed development concludes that it is feasible that the site will achieve a net gain in biodiversity value, equalling 11.31% net gain for habitats, 32.25% net gain for hedgerows and a 78.09% net gain for Watercourse. The net gains achievable significantly exceeds the current Local Plan requirement (Policy CP19: Biodiversity which requires a net gain only) and it is therefore agreed to be a benefit of the scheme.

8.19. It is agreed that the appeal should be considered as a "pre-regulation" development meaning it benefits from the transitional arrangements set out within the "*The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024*" and has no regulatory

requirement to deliver a net gain to biodiversity. No objection was received by the Council or consultees in respect of Biodiversity Net Gain.

8.20. The application was accompanied by an Ecological Impact Assessment (November 2023, TetraTech) which draws together the desk top studies and surveys to evaluate the impact of the development.

8.21. It is agreed that the development does not impact on any designated nature conservation sites or irreplaceable habitats and no bespoke compensation needs to be agreed in relation to the loss of habitats of very high distinctiveness.

8.22. It also agreed that impacts on protected species are assessed to be relatively low, but some pre-commencement survey work is advisable as well as avoidance and mitigation measures and targeted enhancements.

Heritage

8.23. There are no designated, or non-designated, heritage assets located within, or adjacent to, the appeal site.

8.24. It is agreed that the development would not result in harm to the significance of any designated, or non-designated heritage assets, through changes to their settings, or otherwise.

Pollution

Air Quality/Noise/Lighting

8.25. The development proposes residential development adjacent to existing residential area of Spondon. The area is not designated as an Air Quality Management Area and is not presumed to suffer from poor air quality. It is agreed that the development will not cause pollution in this respect and is acceptable in this regard.

8.26. In relation to potential noise impacts on future residents of the site, the Environmental Health Officer raised concerns that the new housing could be exposed to high levels of noise disturbance from the neighbouring primary school and from nearby road network.

8.27. It is agreed that a comprehensive noise assessment can be secured through a suitable planning condition to determine the level of likely noise impacts on residents of the development and any sound insulation measures, which may be required at detailed design stage. A suitable noise mitigation scheme to be agreed at reserved matters should be sufficient to address these concerns and ensure that a suitable living environment is provided for future occupants.

8.28. It is agreed that lighting details during the construction phase could be secured via condition to ensure the development has no undue impact on nearby residents. A Construction Environmental Management Plan (CEMP) could be secured via condition to ensure no undue disturbance arises during the construction phase of the development. It is agreed that the development is acceptable in this regard.

Arboriculture

8.29. A Tree Survey and Constraints Plan has been submitted with application and these show that some of the trees are assessed as being Category A and B. Four of the trees are protected by a Tree Preservation Order. It is agreed that all of the TPO trees and much of the hedges are proposed to be retained as part of the development proposal

8.30. It is agreed that an Arboricultural Impact Assessment can reasonably be secured with the reserved matters submission, provided that the detailed scheme accords with the arboricultural requirements of BS5837. It is agreed that with an appropriate condition, the proposed development would be acceptable in principle with regard to arboricultural effects.

8.31. It is agreed that detailed landscape designs will be provided as reserved matters and that the development is acceptable in this regard.

Highways

8.32. Consultees DCC Development Management or DCC Transport Planning raise no objection to the proposed development. It is agreed that subject to conditions and a S106 obligation, the development will not have an unacceptable impact upon highway safety or traffic conditions within the local area. The proposal, due to its location, provides opportunities for residents to walk to local amenities and therefore provides a good prospect of reducing reliance on the motor car.

8.33. It is agreed that the submitted Drawing refs: RHR-BWB-GEN-XX-DR-TR-101-P3-FOOTWAY LINK DETAILS and RHR-BWB-GEN-XX-DR-TR-101-S2-P2 PROPOSED SITE ACCESS ARRANGEMENT were detailed as appropriate means of access into and within the site.

8.34. The Highways Authority agree to the revised vehicular access position as shown on the amended drawing (ref: RHR-BWB-GEN-XX-DR-TR-101 S2-P3 Proposed Access) which will supersede version P2 detailed in the paragraph above. No objections are raised subject to conditions and obligations outlined in committee report being included.

8.35. The Highways Authority request financial contributions towards the provision of, or improvements to, public transport, cycling and pedestrian facilities and/ or network capacity improvements at within the locality of the application site and a bus service to serve the closest bus stops to the development site, and to provide quicker connections to the faster, Ilkeston Flyer service which runs along the A6096.

8.36. The appellant agrees to pay the requested contribution and therefore, subject to the completion of a Section 106 Agreement, the development would be adequately mitigated for in this context.

Landscape Character and Visual Amenity and Green Wedge Impact

8.37. It is agreed that Policy CP18 Green Wedges is not a landscape designation, but one of land use control. The Green Wedge designation does not seek to protect a landscape of any particular quality or amenity contribution, and does not consider other matters such as landscape character, its intrinsic value, or features and components.

8.38. The planning application was supported by a Landscape and Visual Impact Assessment (LVIA).

8.39. It is agreed that the appeal site and surrounding area does not comprise a valued landscape for the purposes of paragraph 180 (a) of the NPPF.

8.40. It is agreed that the site does not lie within any formal designations of relevance to landscape and visual matters.

8.41. It is agreed that the LVIA which accompanied the application has been written in accordance with the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) 3rd Edition (2013).

8.42. It is agreed that the area of the site proposed to be developed is currently well screened and enclosed from long range views by existing built form, topography and landscape features.

8.43. It is agreed that rising land levels to the north, mean that the northern part of the site is the most visible from the wider landscape and that the indicative layout shows this being laid out for open space, with landscape planting and retention of trees and hedgerow.

8.44. It is agreed that the new housing is proposed to be sited alongside the existing residential settlement to the east of the site and therefore should not be unduly prominent in views from the Green Wedge and the wider townscape. The retention and enhancement of tree cover and hedgerow features would also assist in softening the visual impact of the development on to integrate it into the existing street scene. It is agreed that the visual impact of development can be reduced through a condition restricting built form to the north and along the western edge of the site.

Education

8.45. It is agreed that in considering the outline application , whilst there is currently spare capacity at Springfield Primary and West Park Secondary Schools to accommodate the proposed development, this would be assessed at Reserved Matters stage .

Flood Risk and Drainage

8.46. It is agreed that the appeal site falls within flood zone 1 and therefore the site is considered sequentially preferable and sustainable in this regard. It is agreed that a SuDs surface water drainage strategy be implemented to reduce surface water run-off, resulting from the development which can be secured through a suitable planning condition. It is agreed that a surface water attenuation feature is proposed to be included in the development in the south west corner of the site and details of this feature should be provided as part of any reserved matters submission.

8.47. It is agreed that subject to a planning condition to secure an appropriate surface water drainage scheme the development is considered to meet the flood risk and drainage intentions set out in Policy CP2 of the DCLP – Part 1 and the Technical Guidance for flood risk.

8.48. There is no objection to the development from the Lead Local Flood Authority.

9. Possible Planning Conditions

9.1. A summary list of agreed possible planning conditions and the reason for them is presented below on a without prejudice basis.

Pre-commencement Conditions:

1. Standard condition (outline permission time limit)

   Reason: Time Limit reason

2. Standard condition (reserved matters accept access)

   Reason: To accord with relevant legislation

3. Construction Management Plan to include highway dilapidation survey, wheel washing and sweeping, parking for materials deliveries, construction and operations personnel, delivery times routing of vehicles to be approved.

   Reason: In interests of highway safety and residential amenity

4. Construction details for internal road network, including parking and turning, access widths, gradients, surfacing, lighting and structures, visibility and drainage to be approved.

   Reason: In the interests of highway safety

5. Vehicular access to be constructed to minimum of binder course level before development commences.

   Reason: In interests of highway safety

6. Detailed Suds drainage strategy to be submitted and agreed.

   Reason: To minimise flood risk and provide satisfactory drainage solution.

7. Phase I contamination assessment to be submitted and agreed.

   Reason: To minimise risks to human health

8. Phase II contamination assessment to be submitted and agreed if Phase I concludes one is required. Remediation statement to be submitted where required and implemented.

   Reason: To minimise risks to human health.

9. Arboricultural Impact Assessment and Arboricultural Method Statement for trees to be submitted and agreed.

   Reason: To ensure appropriate protection of trees during construction

10. A Construction Environmental Management Plan for biodiversity to safeguard biodiversity features during construction to be approved and implemented.

Reason: To protect biodiversity features during construction.

11. A badger survey for any recent badger setts on or close to the site to be carried out and results/ licencing to be agreed.

Reason: In interests of safeguarding protected species

12. A barn owl survey to be carried out on site, outside nesting season and 6 months prior to development commencing and results to be agreed.

Reason: In interests of safeguarding protected species

Pre-occupation Conditions:

13. A detailed landscaping scheme for development, to include tree and hedge planting details, species and numbers of planting, including details of soil volumes.

Reason: In interests of visual amenity and biodiversity

14. Biodiversity Species Enhancement plan for impacts and mitigation to be submitted and agreed with reserved matters.

Reason: To protect and manage biodiversity as part of the development

15. Remediation strategy to be implemented in full and validation report to be submitted and agreed.

Reason: To minimise risks to human health

16. Comprehensive noise assessment to be submitted and agree and any mitigation scheme shall be agreed and implement pre-occupation.

Reason: To safeguard residential amenity from excessive noise impacts of traffic

17. Improvement works to the public right of way (Spondon 7) to be carried out from most western connection point to Royal Hill Road.

Reason: To promote sustainable travel.

10. Draft Planning Obligations

a. The Appellant has agreed to enter into a section 106 agreement which provides for a range of contributions. The agreed planning obligations are provided below:

S106 Off-Site Contributions

Infrastructure	Contribution	Item
Health Care	£92,178	The provision of, or improvements to, Chapel Street Medical Centre, Derwent Valley Medical Practice and/or The Park Medical Practice.
Sport Facilities (Health and Fitness Suites, Swimming Pools and Sports Halls)	£122,650	The provision of, or improvements to, Springwood Leisure Centre, Derby Arena and/ or Moorways Sports Village.
Community Centre	£83,700	The provision of, or improvements to, Spondon Village Hall.
Transport	£180,090	The provision of, or improvements to, public transport, cycling and pedestrian facilities and/ or network capacity improvements at within the locality of the application site. To be used to introduce a bus service to serve the closest bus stops to the development site, and to provide quicker connections to the faster, Ilkeston Flyer service which runs along the A6096.
Major Open Space	£313,020	The provision of, or improvements to, Willowcroft Road Rec, Brunswood Park and/or West Park Meadows.
Education (Primary and Secondary Contributions)	£zero* with the option for DCC to recalculate education contribution at	To apply the Education Contribution for the provision of, or improvements to, education facilities at Springfield Primary and West Park Secondary Schools.

	the submission of reserved matters	
Total	**£791,638**	

S106 On-Site Provision

Infrastructure	Provision
Affordable Housing	30% (80% Social Rent / 20% Shared Ownership)
Amenity Green Space	3,150 sqm
Play Area	One Toddler play area

b. The obligations above are proportionate and are necessary to make the development acceptable in planning terms.

c. A Section 106 Agreement will secure the above.

11. Matters Not Agreed

Out of date Policies

Policy CP18 Green Wedges

a) The appellant asserts that Policy CP18 Green Wedges in no circumstances allows new build housing development within a Green Wedge and is therefore a policy that restricts the supply of housing.

b) Derby is constrained by Green Belt, a tight administrative boundary and has no countryside.

The appellant's position is that Policy CP18 is not only out of date as a consequence of poor housing land suply, it is also out of date as it conflicts with the NPPF in only permitting development in specifically identified circumstances. In excluding new build housing the policy lacks the ability to balance harms and benefits that runs through the NPPF and is inconsistent with it as a result.

c) In the RfR, the Council gives significant weight to Policy CP18 Green Wedge. The weight to be afforded Policy CP18 in the planning balance is not therefore agreed.

The Tilted Balance

d) The Appellant considers that the benefits from the scheme are significant and outweigh any harm. Benefits arise through: the delivery of housing (including 30% affordable housing) to meet a significant housing need in a sustainable location; on-site provision of biodiversity net gains; new accessible public open space, temporary and permanent economic benefits. It is likely that there will be disagreement on the extent of these benefits relative to the harm in undertaking the planning balance exercise.

Appendix A – List of documents submitted with the planning application and in response to consultee comments

Documents Submitted with the Planning Application

- Application Form;
- Site Location Plan;
    - P19-2639_DE_003_B_01 - Site Location Plan.
- Illustrative Masterplan;
    - P19-2639_DE_001F_01 – Illustrative Masterplan
- Illustrative Landscape Masterplan;
    - P19-2639_EN_0007_-_1 ILMP Fig 7 Illustrative Landscape Masterplan
- Proposed Site Access Arrangement;
    - RHR-BWB-GEN-XX-DR-TR-101-S2-P2 – PROPOSED SITE ACCESS ARRANGEMENT
- Vehicle Tracking
    - RHR-BWB-GEN-XX-DR-TR-110-S2-P1 – VEHICLE TRACKING- LARGE 4-AXLE REFUSE VEHICLE
- Planning Statement prepared by Pegasus Group
    - P19-2639 Planning Statement - Finalv2
- Design and Access Statement prepared by Pegasus Group
    - P19-2639_DE_G001_B Spondon DAS_R-1
    - P19-2639_DE_G001_B Spondon DAS_R-2
- Transport Assessment and Travel Plan prepared by BWB Consulting
    - RHR-BWB-GEN-XX-RP-TR-0001_TA-S2-P4-1
    - RHR-BWB-GEN-XX-RP-TR-0001_TA-S2-P4-2
    - RHR-BWB-GEN-XX-RP-TR-0002_TP-S2-P4
- Flood Risk Assessment and Sustainable Drainage Statement prepared by BWB Consulting
    - RHR-BWB-ZZ-XX-RP-YE-0003_FRA_S2_P01_compressed
    - RHR-BWB-ZZ-XX-RP-CD-0002_SDS_S2_P01
- Ecological Appraisal prepared by TetraTech
    - 784-B038315_Royal Hill Rd Spondon_EA_V3
- Biodiversity Net Gain Assessment prepared by TetraTech
    - 784-B038315_Royal Hill Rd Spondon_BNG_V2_Final
        - Biodiversity Metric 4.0 Calculation Tool - Spondon
- Arboricultural Assessment prepared by Bramley Tree Consulting Ltd
    - BS5837 Survey Royal Hill Road
    - RoyalHillRoadNorth - Tree Constraints Plan
    - RoyalHillRoadSouth - Tree Constraints Plan
- Landscape Visual Impact Assessment prepared by Pegasus Group
    - (R001v1 EN KMSE - P19-2639 LVIA Final)
    - P19-2639 LVIA Appx A Methodology
    - P19-2639 LVIA Appx B GWR
    - P19-2639_EN_0001_Figure 1_Site Location Plan
    - P19-2639_EN_0002_Figure 2_Planning Designations
    - P19-2639_EN_0003_Figure 3_Topography
    - P19-2639_EN_0004_Figure 4_Landscape Character
    - P19-2639_EN_0005_Figure 5_Visual analysis

    - P19-2639_EN_0006 _Figure 6_CBVs and SFs
    - P19-2639_EN_0007_Figure 7_ILMP
- Statement of Community Engagement prepared by Pegasus Group
    - Statement of Community Involvement v3 Final
- Economic Benefits Statement prepared by Pegasus Group
    - R002v4 EC EBS
- Health Impact Assessment prepared by Pegasus Group
    - R001v4 EC - HIA

List of all plans, drawings and documents which did not form part of the original application

Footway Link Details

- RHR-BWB-GEN-XX-DR-TR-101-P3-FOOTWAY LINK DETAILS

Illustrative Trees & Hedgerows Retention Plan

- P19_2639_DE_008_A_01 – Illustrative Trees & Hedgrows Retention

Proposed Access

- RHR-BWB-GEN-XX-DR-TR-101 S2-P3 Proposed Access

Landscape Buffer Plan

- P19_2639_DE_022_C_01

Illustrative Masterplan

- P19_2639_DE_001_J_01)

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

East Midlands
4 The Courtyard, Church Street, Lockington,
Derbyshire, DE74 2SL
T 01509 670806
E EastMidlands@pegasusgroup.co.uk
Offices throughout the UK.

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