

---

## Appeal Decisions

Inquiry held on 19-22, 26 and 28 July 2016

Site visit made on 27 July 2016

**by John L Gray DipArch MSc Registered Architect**

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

**Decision date: 22 August 2016**

---

### **Appeal Ref. APP/M1005/W/15/3132791**

#### **Land at Kedleston Road and Memorial Road, Allestree, Derbyshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Catesby Estates Ltd against the decision of Amber Valley Borough Council.
  - The application, ref. AVA/2014/0928, dated 23 October 2014, was refused by notice dated 6 July 2015.
  - The development proposed is "the erection of up to 400 dwellings (Use Class C3), convenience store (Use Class A1 – up to 500 sqm floorspace) with associated access, earthworks and other ancillary and enabling works".
- 

### **Appeal Ref. APP/M1005/W/16/3144743**

#### **Land at Kedleston Road and Memorial Road, Allestree, Derbyshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Catesby Estates Ltd against Amber Valley Borough Council.
  - The application, ref. AVA/2015/1243, is dated 22 December 2015.
  - The development proposed is "the erection of up to 195 dwellings (Use Class C3) with associated access, earthworks and other ancillary and enabling works".
- 

## **Decisions**

1. Appeal ref. APP/M1005/W/15/3132791 is allowed. Planning permission is granted for the erection of up to 400 dwellings (Use Class C3), a convenience store (Use Class A1 – up to 500 sqm floorspace) and associated access, earthworks and other ancillary and enabling works on land at Kedleston Road and Memorial Road, Allestree, Derbyshire, in accordance with the terms of the application, ref. AVA/2014/0928, dated 23 October 2014, subject to the conditions set out in the attached schedule.
  2. Appeal ref. APP/M1005/W/16/3144743 is allowed. Planning permission is granted for the erection of up to 195 dwellings (Use Class C3) with associated access, earthworks and other ancillary and enabling works on land at Kedleston Road and Memorial Road, Allestree, Derbyshire, in accordance with the terms of the application, ref. AVA/2015/1243, is dated 22 December 2015, subject to the conditions set out in the attached schedule.
-

## Clarification

3. Application ref. AVA/2014/0928 (appeal ref. APP/M1005/W/15/3132791) was refused for seven reasons. The Council has indicated that, had it retained jurisdiction, it would have refused application ref. AVA/2015/1243 (appeal ref. APP/M1005/W/16/3144743) for those same reasons.

## Main Issue

4. The main issue in both appeals is the impact either proposal<sup>1</sup> would have on the landscape character of the area and on the heritage assets of Kedleston Hall, Kedleston Hall Registered Park and Garden and Kedleston Conservation Area, Kedleston Hotel and Quarndon Conservation Area. (Objections relating to the latter two were raised only by Kedleston Voice.)
5. Kedleston Voice also objected on a number of counts not pursued by the Council – foul and surface water drainage, visibility for traffic emerging from Quarn Drive, the single T-junction proposed for the 195-dwelling scheme, the gradients at the T-junction with Kedleston Road in both appeal schemes and the use of DATM (the Derby Area Transport Model) to model traffic generated by the proposed developments.

## Reasons

### **Main Issue – landscape and heritage impact**

6. The main issue is relatively simply described but complex in terms of the matters to be covered. They relate to the position on housing need and housing land supply in Amber Valley and Derby City, the relationship between the Development Plan and the *National Planning Policy Framework* (the Framework), landscape impact both in itself and also bearing in mind the historic connection with the Kedleston Hall estate, the statutory and policy background against which impacts on the heritage assets should be considered and, in the event of harm to any of those assets, the nature of the planning balance to be undertaken.

### Housing need and supply

7. There is no dispute about housing need and land supply. The *Statement of Common Ground – Housing Land Supply* gives the total housing requirement for the period 2011-2026 as 9,770 dwellings and the *Additional Statement of Common Ground* gives the land supply at 1 April 2015 as 3.08 years.
8. Of that 9,770 requirement, 2,371 is to meet some of the requirement of Derby City Council which it cannot provide for within its own boundaries. Amber Valley Borough Council's strategy is to meet the bulk of its requirement in the four main towns of Alfreton, Belper, Heanor and Ripley but it has accepted that Derby's "unmet need is best located adjoining the city (if a view is taken that growth is best met where the demand arises)".

### The relationship between the Development Plan and the Framework

9. The Development Plan comprises the saved policies of the *Amber Valley Borough Local Plan 2006*, which had an end-date of 2011. An emerging Core Strategy was withdrawn in 2015 and there is, as yet, nothing to replace it.<sup>2</sup>

---

<sup>1</sup> The application site for the 195-dwelling proposal is, roughly, the southerly half of the application site for the 400-dwelling proposal. No part of the smaller site is not contained within the bounds of the larger site. For simplicity, therefore, and unless otherwise explained, the singular term 'appeal site' is used in this decision to encompass the sites for both appeals.

<sup>2</sup> March 2018 was said to be the very earliest a new Local Plan might be adopted.

10. Reason for refusal no. 2 lists the saved policies which, in the Council's opinion, render the first application contrary to the Development Plan – LS1, H5, EN1, EN7, EN9 (part), EN10, EN24, EN27, EN32 and EN33. In a sense, all of these policies are out of date – because they come from a Plan with an end-date of 2011. In itself, however, that does not limit the weight they may be given.
11. LS1 seeks sustainability, which is the golden thread running through the Framework. None of its criteria can really be criticised. The Council objects to the appeal schemes only in relation to criteria b) and c). The former expresses a preference, not a requirement, for the re-use of previously developed land and little weight can be given to it when it is accepted that green field sites will have to be found to meet the Borough's housing requirement. The latter seeks to protect and enhance the quality of the built and natural environment, which is clearly relevant to these appeals.
12. H5 and EN1 are clearly policies for the supply of housing, constraining housing outside defined settlement boundaries in a Plan which ran to 2011 and which are known to fall far short of enabling the amount of housing now required.
13. EN7 and EN9, not unlike LS1 c), seek to protect landscape character and are consistent with the Framework. If they are to be criticised, it is only because they do not explicitly allow for a balance between harm and benefit. EN10 seeks to protect the best and most versatile agricultural land and is consistent with the Framework; the Council, however, accepts that little weight can be given to what would be lost on the appeal site in the light of the need to find green field sites for housing and the similar qualities of other likely locations.
14. EN24 c) resists development which would not contribute to the preservation of a listed building and its setting. EN27 does the same for development "within or adjacent" to conservation areas. EN24 is stricter than both section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Framework; section 66(1) requires special regard to be had to the desirability of preserving a listed building or its setting and thereby implies that there may be a balance to be struck. The Framework differentiates between "substantial" and "less than substantial" harm to the significance of a heritage asset and, on the latter (no one suggested that substantial harm would arise from these appeal schemes), indicates that the harm is to be weighed against the public benefits of the proposal. Section 72 of the Act does not apply to these appeals because it requires special attention to be paid only to development within a conservation area, not within its setting; however, since a conservation area is a designated heritage asset, policy in the Framework applies in the same way as to listed buildings. The weight to be given to EN24 and EN27 is reduced in that neither allows for balancing harm against benefit, as set out in the Framework.
15. EN32, dealing with registered historic parks and gardens, takes a similar approach to EN24 and EN27. EN33 deals specifically with Kedleston Hall Registered Park and Garden (the Park), resisting development proposals that would have an adverse effect on a setting which is defined on the Proposals Map. Even so, the weight to be given to these two policies is reduced because they fail to allow for a balance between harm and benefit. It was argued that the defined setting was based on a document now out of date – but it was not suggested that the appeal site lay beyond the setting of the Park.
16. The effect of section 38(6) of the *Planning and Compulsory Purchase Act 2004* is that a planning application should be determined in accordance with the

Development Plan unless material considerations indicate otherwise. In the case of these appeals, and in relation to the Framework, the absence of an adequate supply of housing land, exacerbated by the length of time before a Plan may emerge to respond to that, means that little weight can be given to saved Policies H5 and EN1. The weight to be given to Policies EN7, EN9, EN24, EN27, EN32 and EN33 is also reduced by their inconsistency with the Framework. Accordingly, the only Development Plan policies to carry full weight in the determination of the appeals are LS1 c) and EN10 (and the latter is agreed not to play a compelling role). Otherwise, the Framework contains more up-to-date policy against which to judge the appeal proposals.

### Landscape impact

17. It is difficult to dissociate landscape impact from heritage impact. That is evident from the closing submissions made to the inquiry. Both the Council and Kedleston Voice considered the appeal site a valued landscape because of its heritage connections. In similar vein, the appellant wondered whether the fact that the site lay within the setting of the Park meant that it was a valued landscape. It is not unreasonable to look at landscape quality and impact in purely physical or visual terms and to consider historical value and significance separately, in the context of impact on the Hall and Park.
18. For the Council, Dr Hickie agreed with the EDP *Landscape and Visual Impact Assessment* (LVIA) for the appellant – that the appeal site represents “a relatively simple parcel of agricultural land”. The land slopes down towards the Markeaton Brook and comprises arable fields separated by hedgerows and hedgerow trees, and with some individual trees indicating former field boundaries. There is an immature belt of trees along the northern boundary and the northern part of the western boundary. In terms of the *Landscape Character of Derbyshire*, the site lies partly within the Estate Farmlands landscape type, partly within Riverside Meadows landscape type, though the boundary and difference between them cannot be discerned on the ground.
19. The site has housing on its eastern and southern sides and part of its western side. A high hedge marks its eastern boundary with Kedleston Road; even if (when) trimmed, pedestrians and car drivers would likely find their views north-west towards the open countryside to be largely obscured. From the opposite direction, from the public footpaths and bridleways to the west and north-west, the slope of the land is evident but the fields are partially obscured by the mature vegetation along the Markeaton Brook<sup>3</sup> and also by the immature plantation around the north-west edge of the site. That applies all the more the lower the ground one is on.
20. Dr Hickie evaluated the landscape quality, scenic quality and recreation value as ‘medium’ – the landscape features being typical and in fairly good condition, the scenic quality being assessed as part of the wider landscape area and the recreational value lying not in the use of the site itself but in the rural views to or over it. That is not an unreasonable evaluation.
21. The Council supported its case by reference to the assessment under the AMES (Areas of Multiple Environmental Sensitivity) Study. However, the main

---

<sup>3</sup> It is not clear whether the Cutler Brook, flowing from the lake in the Park, and the Markeaton Brook are one and the same or whether the Markeaton Brook flows from a little to the rear of the Kedleston Hotel, under Kedleston Road close to its junction with Church Road and is joined by the Cutler Brook a little to the north-west of the appeal site. For simplicity, this and other references to the vegetation along the Markeaton Brook should be taken to include all of the vegetation along the water course from Kedleston Road to south of the line of Memorial Road.

reason for its sensitive rating relates to the setting of and historical association with Kedleston Hall and Park. It is difficult to accept the site as being particularly tranquil when it has a busy road on one side (prompting a suggested condition on noise protection) and housing on two and half sides – suggesting that to put housing on it would not mean the loss of a piece of land notable for its tranquillity. Also, the site is accepted as having little ecological value, whatever the wider Study might indicate. Accordingly, setting aside for the moment the historical association with the Hall and Park, the appeal site exhibits no features that could qualify it as a valued landscape in the terms of paragraph 109 of the Framework.

22. It is inevitable that to develop for housing what is presently open land would bring a major change and have a major visual impact. The LVIA appears to understate the degree of change; in particular, the visual and sensory character of the site itself would be completely different if it were a housing development rather than open fields. On the other hand, harm from the loss of Estate Farmlands and Riverside Meadows landscape types would be no more than moderate given the extent of both within Derbyshire and given the unexceptional nature of the landscape across the appeal site.
23. The degree of change would be very likely, however, to be equally true of any piece of open land that was developed for housing; and the development of a significant number of green field sites somewhere in Amber Valley is inevitable. In terms of the qualities of the appeal site itself, there is nothing at all to suggest that its loss to housing would be noticeably more harmful than the development of any other green field site in the Borough. It is much more important, therefore, to look at the impact the proposed housing would have when looking towards it from beyond the site.
24. As one walks down the bridleway from Upper Vicarwood, on higher ground and looking directly towards the appeal site, the proposed housing would, indeed, be plain to see. It would, however be viewed in the context of the built-up area of Allestree. There is some depth to the development beyond the appeal site, albeit that that tapers to two or three 'layers' of housing beyond the southern part of the site. The wider extent of the built-up area is obvious – to the left, where recent housing development climbs the hillside and even more so to its right, where there is housing on the west side of Kedleston Road and the extent of Derby is apparent beyond.
25. Perhaps more importantly, there is a wide rural vista to the south and west from the higher points on the bridleway and, as one descends towards the appeal site, so the extent of the countryside to the north-west becomes evident, with the buildings of Quarndon playing only a secondary role in the rural scene. Descending further, whether taking the bridleway to the north-west or the south, the vegetation along the banks of the Markeaton Brook would serve to screen much of the either proposal from view; and the plantation around the north-west of the site would also help to obscure much of the 400-dwelling scheme in views from the north. Both developments would still be plain to see – but the Brook would provide a natural boundary, already mature, between countryside and built-up area. A suitable layout and appropriate landscaping within the site would further diminish the potential impact of buildings where previously there had been open fields.
26. Thus, the magnitude of the change would be major for residents overlooking the site, for users of Kedleston Road and for walkers on the public footpaths

and bridleways near to the site – but the impact of that would be diminished by the nature of the surroundings (both built-up area and countryside) and by appropriate design and landscaping of the development itself.

27. Residents who presently look over fields from the houses in Kedleston Road, Memorial Road and Somme Road would instead be looking at a housing estate – a major change but not one that should mean an inherently poor outlook or level of amenity. Users of Kedleston Road would have housing on both sides instead of just one for an additional distance of about 115m or 235m (for the 195-dwelling and 400-dwelling schemes respectively); they would then have views over countryside in an arc to the north-west, as they do at present when they have passed Memorial Road. Users of the public footpaths and bridleways would still have extensive views over countryside to the north-west and in a wide arc to the south and west; and, from lower ground, they would find existing vegetation significantly diminishing the impact the proposed housing might have on their enjoyment of the countryside.
28. Dr Hickie gives a visual impact assessment of both schemes for the Council which he compares directly with the LVIAs. It is difficult to disagree to any substantial extent with much of it. He notes the clear change from rural to urban character from the junction of Kedleston Road and Memorial Road, and from elsewhere on Kedleston Road – something that is inevitable but not necessarily any different to what would occur on any other green field site on the edge of an urban area. He distinguishes between car users, pedestrians and bus and coach passengers on Kedleston Road, which the LVIAs do not – but it is the same change from rural to urban that affects that. He addresses in detail some viewpoints which the LVIAs do not – but, with one exception, does so without identifying a visual impact other than minor or moderate.
29. Where his assessment can be disagreed with is in identifying a major impact in views from the bridleways to the west and from the public footpath near the Derby Screen – as indicated above, the extent of rural landscape to the south and west, and to the north-west, the existing influence of the built-up area (left, right and beyond the appeal site) and the existing mature vegetation along the Markeaton Brook combine to diminish the visual impact of the proposed developments to no more than moderate.
30. Accordingly, there is no reason why, in physical or visual terms, harm to the landscape should compel dismissal of the appeals. The question of its historical value may be addressed in relation to the settings of Kedleston Hall and its registered Park and Garden.

#### The settings of the heritage assets and the statutory and policy context

31. The definition of setting in the Framework is the “surroundings in which a heritage asset is experienced”. Further, the extent of a setting “is not fixed and may change as the asset and its surroundings evolve”. Setting is not itself a heritage asset but elements of a setting “may make a positive or negative contribution to the significance of an asset”. And paragraphs 126-141 of the Framework make it clear that, in considering a development proposal, what has to be assessed is the effect there would be, not on the setting, but on the significance of the heritage asset concerned.

#### The setting of Kedleston Hall

32. The Council, Kedleston Voice and English Heritage (as it was then) argue that Kedleston Hall and its Park are an integral whole and that, accordingly, their

settings are the same. It was also argued that the historical, social and economic connection – the appeal site being part of the estate of which the Hall and Park were the hub – brought the appeal site within the setting of the Hall. There has, though, to be more of a physical or visual connection than that, otherwise land completely remote from the Hall could be deemed within its setting. The appellant takes the view that the Park provides the setting for the Hall. That is not an unreasonable approach to take; for example, the Historic England guidance recognises that a conservation area will include the settings of listed buildings and will have a setting of its own. That said, there are two ways to look at the setting of Kedleston Hall.

33. The planting of the Derby Screen, around 1960, brought about a very significant change. Originally, there were views out from the Hall and Park towards Derby – and, for those approaching the Hall, there would have been a first view into the Park, with a glimpse of the Hall, across the appeal site from Kedleston Road. The Derby Screen was planted to obscure the view of Allestree, development having encroached over the horizon, and the night-time glare from the increasingly large built-up area of Derby. Its planting was a deliberate decision, based on the changing surroundings, to make the Park more enclosed and inward-looking; and the Derby Screen has since been significantly extended into the Park by the National Trust. Thus, today, the appeal site forms no part of the setting of Kedleston Hall.
34. If one takes a more historical approach, however, then there was an open view where the Derby Screen now is. Moreover, the evidence suggests it was a designed view – documentary, in the references to the vista including Derby; physical, in the ditch of a sunken fence, akin to a ha-ha, which would have kept stock out (or in) without obstructing the view. The appellant argued that the sunken fence may have been a ditch predating the laying out of the Park but that does not exclude the proposition of a designed view.
35. The view was, clearly, a wide vista. The spire of Derby Cathedral is referred to as being seen in the panorama, though it could only have been seen from relatively close to the boundary of the Park, not from the Hall. The particular view to or from Kedleston Road is only a very small segment and is, from the Hall, at its very eastern extremity. There is no evidence that the view from Kedleston Road towards the Hall and Park was also part of the design; nor is it logical to draw the inference that the view towards the Hall and Park was designed simply because the view in the other direction was.
36. However, if one holds the opinion that the view both to and from Kedleston Road was a deliberate part of the design of the Park and that the Derby Screen, or part of it, could be opened out to restore that view, then the appeal site does indeed fall within the setting of Kedleston Hall.

*The setting of the Registered Park and Garden and the Conservation Area*

37. The Registered Park and the Conservation Area are coterminous and the designations have similar purposes in mind. The Hall and its Park were at the centre of a large estate, socially and economically, though not geographically (there was estate land in Staffordshire). The agricultural land around the Park certainly forms part of its setting in historical and cultural terms. In visual terms, what comes within the setting is less extensive. There were, and still are, places within the Park where the surrounding agricultural landscape contributes to views out; and there are places outside the Park which afford views in, not only of the Park but also, sometimes, of the Hall.

38. The appeal site may be considered to lie within the setting of the Park because of its relative proximity. There are clear views of the boundary of the Park, though it is debatable whether its trees and woodland, designed and laid out in a naturalistic manner, can actually be distinguished as such by anyone unfamiliar with designed parkland. The only views into the Park from or across the appeal site, or out from the Park towards it, have been obscured by the planting of the Derby Screen.

*The setting of Kedleston Hotel*

39. Kedleston Hotel stands on the site of an earlier inn but what is seen today dates from the same period as the Hall and Park and was built to cater for visitors to the Park and its Sulphur Bath. There is thus a close historic relationship between the Hotel and the Hall and Park. The appeal site lies within the setting of the Hotel in as much as it can be seen from the Hotel looking south – but the focus of views from the Hotel, in so far as there are any, is to the west and north-west, towards the Hall and Park. The Hotel is not visible, or certainly not noticeable, from the appeal site or Kedleston Road alongside it. There are views in which the Hotel and Hall can both be seen, for example from Common Hill, just west of Quarndon; from there, though, the appeal site lies in a wholly different direction, by about 90°.

*The setting of Quarndon Conservation Area*

40. Quarndon Conservation Area is drawn tightly round the historic core of the village. It has relatively recent development virtually all around it. There is a significant amount of that to the south of the Conservation Area, in the direction of the appeal site. Because of this, it is debatable that the appeal site actually lies within the setting of the Conservation Area. It may be thought to do so, however, to the extent that it may be seen in winter views (when the trees are bare).

*Impact on the significance of the heritage assets*

*Kedleston Hall*

41. There is no doubting that Kedleston Hall, a grade I listed building, is a heritage asset of the very greatest importance. Statute requires special regard to be had to the desirability of preserving not only the building but also its setting. Any harm to the significance of the Hall must be given very great weight when considering development proposals within its setting.
42. The Derby Screen is key to any impact on the significance of Kedleston Hall. At the present time, the existence of the Screen means that the proposed development would have no impact whatsoever on the setting of the Hall. The questions to be addressed, therefore, are about the prospect of the Screen being removed or opened up and, if it were, the resultant impact of the proposed development on the significance of the Hall.
43. It is not absolutely clear that the view across the appeal site between Kedleston Road and the Hall and Park was designed. Ms Morris, for the Council, said at the inquiry that the view now blocked by the Screen was an “incidental”<sup>4</sup> view out of the Park or from the Hall. That is consistent with the approach taken to the design of a Park such as this. Whether it was also a designed view into the Park, affording a glimpse of the Hall, remains open to

---

<sup>4</sup> “Incidental” in this context is taken to mean incidental to the designed parkland in which the viewer was standing, not that the view of the countryside beyond was somehow accidental.



debate. It is clear that there are (or were) designed views along the road north of the Kedleston Hotel, less clear that this view, so much further south, was also intentionally designed.

44. There is no debate that the Screen was planted to obscure views of Allestree and the night-time glare from the lighting of the expanding urban area of Derby. Its planting was a deliberate response to changing circumstances. It may be seen as part of the evolution of the Park. Moreover, for whatever reason, the depth of the Screen has been substantially increased by the National Trust so that it is now some 40m or more wide. To remove it now, or to open it up in some way, raises a number of issues, as well as being a substantial and costly task.
45. Firstly, to remove all of the Screen might represent a return to what was designed in the mid-1700s – but what would be revealed would not be remotely the almost entirely rural landscape that would have been seen then. (Derby and the spire of the Cathedral are referred to as being seen in the rural panorama, though the view from the Hall would have been much narrower.) Any decision to remove all or part of the Screen would mean balancing the historical merit of the original design against the also historical (albeit relatively recent) decision to alter that design in response to the changing scene beyond the Park.
46. Secondly, should the Park boundary where the Screen stands be restored to something akin to the original design (perhaps akin to what can be seen in the 1952 aerial photograph) or should it be removed only as necessary to restore what is said to be the designed inward view? To do the latter might seem somewhat arbitrary, especially as there must be doubt about whether it was the view into the Park that was designed, or just the view out. The documentary evidence suggests that it was the wide vista towards Derby that was important, not the specific view towards the Hall and Park from a point rather towards the edge of that vista.
47. Thirdly, what else might have to be done to restore the original view from Kedleston Road? A significant number of trees have been planted close to the Hall, some of them fairly recently. If there was once a view from the first floor Drawing Room in the Hall, those trees mean that there is certainly none now. The Derby Screen cannot be seen at all. There are trees along a ditch or brook a little east-south-east of the Hall, in particular two tall poplars; the top of one is just visible from the Drawing Room. It seems highly likely that some of those trees would have to be removed if a glimpsed view of the Hall from Kedleston Road were to be restored. There is also a stand of trees in the Backgrounds that is at least partly in the line of sight to the Hall from Kedleston Road. Some of those would have to be removed.
48. Thus, any opening out of the Derby Screen would have to be accompanied by the removal of other trees within the Park. They might not be part of the original design – but they are part of it nowadays. So how far could or should one go? The golf course has altered the design of a major part of the original Park; and the clubhouse stands in the foreground of one of the designed views of the Hall from the edge of the Park. That cannot be undone – leaving the question of whether one should restore one part of the Park to its original state even though the same cannot be done for other parts.
49. It seemed, until late in the inquiry, that no consideration had ever been given to the removal of the Derby Screen, or to opening it up so that the Park and

landscape beyond are inter-visible. The National Trust then wrote to the Council, attaching an extract from a conservation plan that had not hitherto been known to exist. However, while the letter mentions glimpses of the dome of the Hall from Kedleston Road, the extract talks only about views from the south-eastern corner of the Park and about managing and thinning the Derby Screen "to create more open woodland with permeable edges to the parkland" – not the removal of part or all of the Derby Screen and not significantly different to what is in the 2013 Conservation Plan.

50. Thus, it is unclear that the view from Kedleston Road was a designed view, intended to give a glimpse of the Hall; it is known that the Derby Screen was planted as a response to changing circumstances; there is no firm intention to consider removal the Derby Screen; even if there were, there are a number of attendant issues that would have to be resolved; such indications as there are relate only to views from the south-eastern corner of the Park and to thinning the Screen. There is nothing to suggest that a view from Kedleston Road giving a glimpse of the Hall might at some time be restored.
51. On that basis, it is entirely reasonable to conclude that the appeal site does not lie within the setting of Kedleston Hall and that section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and policy in the Framework do not come into play.
52. If the issues considered above were to be resolved in favour of removing all or part of the Derby Screen to restore a view to and from Kedleston Road, a question then arises as to what would be the impact of the proposed developments. The view from Kedleston Road would be lost. It could never be more than a glimpse across open countryside, rather than a designed view through parkland, but at least it might indicate that one was nearing the Hall and Park. The view from the Hall would be little changed. The cross-section provided by Dr Hickie in his evidence suggests that the land itself would be all but invisible from the Hall, though houses upon it would be seen to bring the boundary of the urban area closer to the Park. All that would represent less than substantial harm – sufficiently little, in fact, that the effect on the significance of the Hall, standing within its designed Park, would be negligible.

#### *The Registered Park and Garden and the Conservation Area*

53. There is no dispute that the Park, registered in grade I, is, like the Hall, a heritage asset of the very highest importance. There is also no dispute that the appeal site lies within the setting of the Park and the Conservation Area; and that the harm caused to the significance of both would be less than substantial. The term 'less than substantial' does, however, cover a wide range of harm – and the question is just how great that harm would be.
54. There are two aspects to the impact on the setting of the Park – visual and historical. The Park was carefully designed and laid out in a naturalistic manner. There are (or were) designed views into the Park, with glimpses of the Hall, most notably (in the context of these appeals) from Kedleston Road between the Hotel and the Park entrances. The farmland surrounding the Park was historically part of the estate – and still is in that, while ownership may have changed, the estate is still managed from the Hall. The farmland acts as a visual setting for the Park; and that is more important than might be thought at first blush – because the Park was designed naturalistically, not in a more formal style which may not have had, or needed, a measure of continuity with its surroundings.

55. The appeal site is part of that setting. So too is the built-up area of Allestree,<sup>5</sup> which stands on land formerly part of the estate. And, of course, the Derby Screen was planted around 1960 because of the incursion of Allestree (and night-time glare from Derby) into the previously rural views from the Park. Much of what is said above about the Derby Screen applies equally to the Park. There would, however, have been views south-eastwards from within the Park, whether intentionally designed or not, from the Backgrounds and from the Long Walk. In historical terms, that brings the appeal site more firmly within the setting of the Park than if there had never been any inter-visibility. What, then, do the open fields of the appeal site contribute to the essential rural setting of the Park?
56. Seen from within the Park (if that were possible), the impact of development would not be so very different to what would be seen from the bridleway to Upper Vicarwood or from the public footpath running parallel to and south-east of the Derby Screen. There would not be the compensating rural vistas to the south-west and west or to the north-east (because of the tree cover that would remain around the Park boundaries even if the Derby Screen were removed). On the other hand, the proposed development would be seen (where the contours of the Park permitted) in the context of the built-up area immediately beyond and to its left and right; and it would still be screened to a significant extent by the vegetation along the Markeaton Brook and the plantation around the north-west of the site itself. There would also be nearly a kilometre between the boundary of the Park and the nearest house.
57. Looking north-westwards from Kedleston Road, it is difficult, at first glance, to discern that one is approaching the Park. That is due, in no small measure, to the naturalistic design of the Park. Development on the appeal site would delay views towards the Park by some 115m or 235m. As things are at present, one might be better able from the nearer the Park to distinguish between the more recent (and less well designed) Derby Screen and the earlier parkland planting. If, however, the Derby Screen were ever to be removed or opened out, then the first views into the Park would be from further north, at a more acute angle and less extensive than potentially available over the southern part of the appeal site (remembering that the roadside hedge, even if trimmed, does much to obscure or limit the views).
58. To sum up, there would be harm to the setting of the Park from development within it – but that would be mitigated to a degree by the extent of the existing built-up area, the existing vegetation and the remaining open land between the Park and the built-up area. That also applies to views out from the Park if the Derby Screen were removed or opened out; views towards the Park would, though, be less extensive and more oblique than possible at present. In terms of the significance of the Park and Conservation Area, though, the harm would be at the lower end of ‘less than substantial’.

#### Kedleston Hotel

59. The principal (roadside) façade of the Hotel faces south-west, with views in a westerly direction towards the Park. The north-west and south-east façades are very different. The former has large windows giving views in the general direction of the Park; the latter has only small windows, conveying the impression that the southerly prospect was thought less important. That is

---

<sup>5</sup> Though excluded from the setting defined for saved policy EN33 because it lies beyond Amber Valley Borough Council's administrative boundary.

consistent with its development as a hotel to accommodate those visiting the Park or Sulphur Bath and thus being orientated towards the Park.

60. The appeal site can be discerned in southerly views from the upper floors of the Hotel itself – but at a considerable distance, between existing vegetation and with the backdrop of the existing housing on the south side of Memorial Road. Development of either appeal scheme would be visible through gaps in the vegetation cover but would still be at a considerable distance. Nor would it intrude into the approach to the Hotel, which cannot be said to start until after one has forked left at the junction with Church Road. Even the roundabout for the 400-dwelling scheme would be no more than a piece of highway engineering some little distance before one reached what could be said to be the approach to the Hotel. Appropriately designed and landscaped, neither proposed development would have any material impact on the setting of the Hotel and would thus cause no harm to its significance as a grade II\* listed building.

#### Quarndon Conservation Area

61. The relatively recent housing development to the south along Church Road, between the Conservation Area and the appeal site, tends to take the appeal site out of the setting of the Conservation Area. Were there winter views, which could bring it within the setting, the proposed development would have even less impact than on the setting of Kedleston Hotel. There would be no harm to the significance of the designated Conservation Area.

#### Conclusions on the main issue

62. At the present time, the appeal site lies beyond the setting of Kedleston Hall, which extends no further than the Derby Screen. It could only be said to lie within the setting if, firstly, it were known that the view to the Hall from Kedleston Road was deliberately designed and, secondly, if there were any prospect of the Derby Screen being removed or opened out to restore that view. On the evidence, the first is open to debate and the second is very unlikely. Even giving the benefit of the doubt, however, the harm that would be caused by either appeal proposal to the significance of the Hall would be less than substantial to the point of being negligible.
63. The appeal site does lie within the settings of the registered Park and Garden and the contiguous Conservation Area. What was agreed at the inquiry as 'less than substantial' harm is mitigated by the juxtaposition of the proposed development with the existing built-up area, the extent of screening provided by existing vegetation and the separation between the Park and the built-up area that would remain. The harm to the significance of the heritage assets would be very much at the lower end of 'less than substantial'.
64. There would be no harm at all to the significance of either the listed Kedleston Hotel or the designated Quarndon Conservation Area.

#### **Other issues**

##### Foul and surface water drainage

65. The objections raised by Kedleston Voice led to discussions which culminated in a note agreed by RPS Planning and Development for the appellant and Mr Steer for Kedleston Voice. Severn Trent Water had offered no objection to the original (400-dwelling) application subject to a condition requiring the prior approval of surface water and foul drainage details.

66. On foul drainage, Mr Steer does not believe that the existing sewerage network has the capacity to cope with the proposed development. Ultimately, however, if upgrading works were required, it would be Severn Trent Water's responsibility under the Water Industry Act 1991 to deliver the appropriate works and facilitate a connection to its network. A planning condition can ensure a satisfactory foul drainage scheme within the site.
67. On surface water drainage, Mr Steer's concern was primarily with the southerly attenuation pond (and thus with both appeal schemes) and that there may be a residual flood risk for existing properties on Somme Road. He contended that two additional criteria needed to be inserted into the already-suggested condition on surface water drainage. That is considered below.

#### Quarn Drive

68. This matter was raised by local residents as well as by Kedleston Voice. It was not being suggested that the appeal schemes should be used to improve existing visibility for emerging drivers; rather, it was that an already dangerous situation would be made worse by the additional traffic from the proposed developments. While visibility is not as bad as indicated by some objectors, it is certainly not easy to join Kedleston Road from Quarn Drive, especially if turning right. However, the Highway Authorities (Derby City Council and Derbyshire County Council) have clearly considered the matter and concluded that there is no cause for objection.
69. A number of things would improve the existing situation. For the 400-dwelling scheme, the roundabout at Askerfield Avenue would help to slow traffic; drivers might still be able to accelerate to 40mph (the present speed limit) between the roundabout and Quarn Drive but, overall, there should be a tendency towards slower traffic. The bus stops and formal crossing points would be a further help in moderating traffic speeds. Lastly, while not the sole cause of the poor visibility, cutting back vegetation that obscures sight lines over the public highway is the responsibility of the Highway Authority.

#### The T-junction for the 195-dwelling scheme

70. Strictly speaking, 195 dwellings may be too many to be served from a single access point. It is guidance, though, not a requirement, that a development of more than 150 dwellings should have more than one access point, with the qualification that developments exceeding that limit may be considered on their merits. Again, the Highway Authority (Derbyshire County Council in this case) has clearly done that – and requested neither a second access nor an emergency access. The proposal does not contravene the guidance, because of the qualification, and there is no evidence that the Highway Authority has been lax in its consideration of the proposal.

#### The T-junction gradients

71. Mr Steer's concern was principally that footway gradient requirements for the disabled could not be met by the proposed T-junction access road in either scheme. It does not appear to be a concern shared by the Highway Authority. If, however, it turned out to be a problem at the detailed design stage, there is surely adequate space within the appeal sites for satisfactory arrangements for the disabled to be provided. Although access was not a reserved matter in either application, the provision of appropriate footway routes for the disabled, in addition to the vehicular accesses proposed, would not contravene the purpose of seeking an outline permission.

### The use of DATM

72. Mr Benison did not argue that either appeal proposal was unacceptable in highways terms; his concern was that to use DATM to model the proposed 400-dwelling development was inappropriate, that there was no detailed modelling to address what appeared to be significant issues on the highway network surrounding the appeal site and that it was not possible to infer from the evidence up to June 2016 what the true impact of the proposal would be.
73. *The Statement of Common Ground on Highway and Transport Matters* notes that the use of DATM was agreed by all three Highway Authorities (Derby City Council, Derbyshire County Council and Highways England), a modelling brief was prepared by Peter Brett Associates (PBA) on behalf of the appellant and Systra (who operate the model on behalf of Derby City Council) was commissioned to complete the modelling. The reasons for using DATM, even though it is a strategic model potentially unsuitable for a development of fewer than 500 dwellings, are clear and entirely understandable; the results of the exercise were considered by all three Highway Authorities; local validation was undertaken, including observed traffic flows, logic checks of the DATM results against those flows, sensitivity testing, further discussion with the Highway Authorities and mitigation testing. It is all but impossible that any significant highways problem arising from the proposed development would not have been identified by one or other of the Highway Authorities.
74. Paragraph 32 of the Framework says that development should only be prevented or refused on transport grounds if the residual cumulative impacts would be severe. That cannot be said to be the case here. Even the increases in traffic on Askerfield Avenue, expressed by Mr Benison as massive percentages, turn out to be relatively low in numerical terms and well within the actual capacity of the road.

### Education

75. A *Statement of Common Ground on Education* was prepared for both appeals, one signed in April 2016, the other in June 2016. Councillor Webb, speaking at the inquiry, produced a letter from the Chair of Governors at Ecclesbourne School which appeared to contradict what had earlier been agreed with the Education Authority. A subsequent email from the Education Authority suggests that the situation may not remain as set out in that letter. However, to cover all eventualities, an agreement supplementary to the two already executed (one for each appeal scheme) was prepared, executed and submitted within a week of the close of the inquiry. It enables the Post-16 Education Contributions in the original agreements to go to an alternative project, should that prove necessary, and thus brings those agreements into line with the situation as it was understood at the close of the inquiry.

### ***Obligation and conditions***

76. Executed obligations, in the form of agreements between Catesby Estates Ltd, the landowners, Amber Valley Borough Council and Derbyshire County Council (as both Highway Authority and Education Authority) were submitted to the inquiry. An executed supplementary obligation was submitted, as described in the preceding paragraph. In essence, the agreements provide for affordable housing, open space within the appeal site and its management, a contribution towards off-site open space provision, contributions towards primary, secondary and post-16 education provision, with specific projects named, a bus service to serve the development and a travel plan; in addition,

there is a marketing plan for the convenience store in the 400-dwelling scheme. The provisions of the obligations satisfy the Community Infrastructure Levy (CIL) Regulations in that they are all necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to it in scale and kind. The Council provided CIL compliance statements in respect of each aspect of the agreements for each appeal scheme.

77. Agreed suggested conditions for each scheme were provided in the Statements of Common Ground and, following my comments and queries, amended agreed suggestions were submitted to and discussed (as necessary) at the inquiry.<sup>6</sup> They deal (in the order presented) with reserved matters, temporary access from Kedleston Road, details of access roads and footpaths (and the timing of their provision), phasing and off-site highways improvements, details of the retail premises (in the 400-dwelling scheme only), the travel plan, bus stops and pedestrian/cyclist crossing points on Kedleston Road, construction methodology, noise (affecting those dwellings closer to Kedleston Road), trees to be retained, surface water and foul drainage, biodiversity enhancement and landscaping. Conditions on all of these matters are reasonable and necessary.
78. That said, the construction or wording of some conditions may be amended in favour of model conditions or in the interests of clarity and precision. Condition 11, on construction methodology, can be simplified without loss of effect. Condition 12, on noise protection, may be simplified because of its reference to the Acoustic Report submitted with the application. Condition 13, on tree retention and protection, is unnecessary since part of condition 17, on landscaping, provides the necessary control. Condition 14, on surface water drainage, may be simplified by reference to the Flood Risk Assessment submitted with the application (and without ignoring the concerns raised by Mr Steer). Street lighting should be conditioned, best as part of condition 4. And an additional condition would be appropriate simply to identify the approved plans, in particular the access roundabout and T-junction plans.

### **Overall conclusions**

79. As things are at present, the appeal site does not lie within the setting of Kedleston Hall. Thus, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and policy at paragraphs 131-137 of the Framework do not apply.
80. If the Derby Screen were removed or opened out, then it might be possible to say that the appeal site fell within the setting of the Hall. However, among the issues to be resolved before any resolution could be made to do that are what should be the overall intentions for restoration of the Park and should trees within the Park be removed to allow views out from the Hall and views, or glimpses, of the Hall from Kedleston Road. Even then, neither appeal proposal would cause significant change to the view from the Hall itself. While potential views of the Hall from Kedleston Road over the appeal site would be lost, it is not entirely clear that the view in that direction was ever more than a glimpse across open countryside, rather than a designed view through parkland. Accordingly, even if the Derby Screen were removed or opened out, and the appeal site were considered to fall within the setting of the Hall,

---

<sup>6</sup> Document 21.

the impact on the significance of the Hall would be less than substantial, indeed little more than negligible.

81. The appeal site lies within the setting of the registered Park and Garden and the Conservation Area. As it is today, less than substantial harm comes from the encroachment of development towards the Park; but it is mitigated by the context – the extent of the existing built-up area, extensive rural views in other directions, the existing vegetation along the Markeaton Brook and the remaining countryside between the Park and the built-up area. Save for the some of the views in other directions, that would apply equally to views from within the Park if the Derby Screen were removed or opened out. Views towards the Park would become less extensive and more oblique than possible at present. Overall, the harm to the significance of the Park and Conservation Area lies very much at the lower end of 'less than substantial'.
82. The appeal site lies within the setting of Kedleston Hotel but there would be no material harm to that setting and no harm to the significance of the heritage asset. It is highly doubtful that the appeal site can be said to be within the setting of the Quarndon Conservation Area. Even if it were, however, there would be no harm to that setting and no harm to the significance of the heritage asset.
83. Kedleston Hall and its Park are heritage assets of the greatest importance. Any harm to their significance must carry very great weight in the balance against the public benefits of the appeal proposals required by paragraph 134 of the Framework. That said, as things are today, there is no harm to the significance of the Hall and only very modest harm to the significance of the Park and Conservation Area. Even if the Derby Screen were removed or opened out, the harm to the significance of the Hall would be very limited indeed and the harm to the Park still no more than modest. Against that is the very great public benefit of market and affordable housing<sup>7</sup> which is much needed, especially in Amber Valley but also in Derby City. That public benefit is more than sufficient to tip the balance in favour of the appeal proposals.
84. The proposals can also be said to be sustainable. There is no question about that in social or economic terms and the location is obviously a sustainable one in relation to the housing requirement for Derby City. There would be some environmental harm – but that would not be at all great, as concluded above, and would be far outweighed by the need for housing and the social and economic benefits from it. That brings into play the balance set out at paragraph 14 of the Framework – permission should be granted for sustainable development unless the impacts of so doing would “significantly and demonstrably outweigh the benefits”.
85. Apart from the impacts on Kedleston Hall and Park, weighed in relation to paragraph 134, there would landscape and highways impacts. In terms of paragraph 109 of the Framework, the landscape is not a valued one in its own right; the site itself displays no more than moderate landscape merit and views towards the proposed housing would be mitigated by the context (both built-up and rural). In terms of paragraph 32 of the Framework, the residual highways impacts of the proposals would not be severe. No other matters have been raised that would have any significant impact on the balance.

---

<sup>7</sup> The 400-dwelling scheme would provide 280 market houses and 120 affordable houses; the 195-dwelling scheme 137 and 58.



86. In addition to the provision of much-needed housing, the benefits include construction jobs, support for the supply chain during construction, gross value added contribution to the East Midlands economy during construction, permanent jobs in the convenience store (in the 400-dwelling scheme), support for the convenience store supply chain, gross value added contribution to the East Midlands economy from the convenience store, an enhanced local labour force, increased resident spending power when the dwellings are occupied, support for local retail and leisure services and the New Homes Bonus.
87. It might be argued that many of these benefits would come from development elsewhere in Amber Valley – simply at a later date than on the appeal site. However, the policy situation is such that one cannot say how long the delay in finding an acceptable alternative site or sites would be. In any event, these secondary benefits do not themselves influence the balance; they simply consolidate it in favour of the proposals. There can be no doubt that the adverse impacts of either development would not significantly and demonstrably outweigh the benefits from providing much-needed housing.
88. To sum up very simply, there is no conflict with the Development Plan or with policy in the Framework. Saved Policy LS1 c) is the only relevant Development Plan policy not reduced in weight because of policy in the Framework but it also has to be viewed in the context of the inevitable need to release green field land to meet the housing requirement in Amber Valley. Policy EN10, on the loss of best and most versatile agricultural land, may be given full weight but, in the same context, what losses there would be are acknowledged by the Council to carry little weight in the overall balance. Otherwise, and as undertaken above, the proposals are more appropriately considered against up-to-date policy in the Framework rather than against the saved Local Plan policies referred to in the reasons for refusal.
89. Accordingly, both appeals may be allowed, subject to the executed obligations and the conditions set out in the attached schedules.

*John L Gray*

Inspector

## **APPEARANCES**

### **FOR AMBER VALLEY BOROUGH COUNCIL**

Jonathan Mitchell of Counsel	instructed by Venice MacDonald, Principal Solicitor, Amber Valley Borough Council.
He called	
Dr David Hickie BSc(Hons) MA PhD CEnv MIEMA IHBC	Principal Consultant, David Hickie Associates, Landscape Architecture and Environmental Planning, Atherstone, Warwickshire.
Mel Morris BA(Hons) DipArchCons IHBC MRTPI	Mel Morris Conservation, Ipstones, Staffordshire.
Derek Stafford BA(Hons) MRTPI	Assistant Director (Local Plan Manager), Amber Valley Borough Council.

### **FOR CATESBY ESTATES LTD**

Rupert Warren QC	instructed by David Morris of Catesby Estates Ltd.
He called	
Duncan McInerney BSc(Hons) MLD CMLI	Director, EDP (Environmental Dimension Partnership Ltd), Environmental Planning, Design and Management Services, Cirencester.
Andrew Crutchley BA(Hons) PGDip(Oxon) MCIfA	Director, EDP.
Keith Fenwick BA(Hons) MRTPI	Director, WYG Environment Planning Transport Ltd, Birmingham.

### **FOR KEDLESTON VOICE**

Jack Smyth and Nina Pindham, both of Counsel	instructed by John Wren of Kedleston Voice.
They called	
Christopher Gallagher BSc(Hons)	Historic landscape consultant.
Stephen Levrant AADipl RIBA	Principal, Heritage Architecture Ltd, London.
Peter Steer BSc CEng MStructE	Retired civil and structural engineer.
Neil Benison BSc(Hons) IEng MICE	Associate Director, Mewies Engineering Consultants Ltd (M-EC), Consulting Development Engineers.

### **INTERESTED PERSONS**

Mark Heppenstall	Local resident.
Roy Webb	Derby City Councillor for Allestree Ward.
David Anderson	}
Michael Richardson	}
David Eley	}
René Dobson	} Local residents.
Keith Thomas	}
Wendy Gough	}
Peter Benham	}
Graham Bennett	}

## **DOCUMENTS**

### **Submitted during the inquiry**

- 1 Extract from 1937-8 Estate log with handwritten note to "plant a derby screen".
- 2 The setting of Kedleston as defined in the Amber Valley Borough Local Plan.
- 3 Copy of the agreement for the sale of Kedleston Park by the Kedleston Trustees to the National Trust, with covering letter dated 13 August 1986.
- 4 Letter of objection to the 400-dwelling application from the National Trust to the Council, dated 8 December 2014.
- 5 Letter of objection to the 195-dwelling application from the National Trust to the Council, dated 3 February 2016.
- 6 Letter of objection to the 400-dwelling application from English Heritage to the Council, dated 17 November 2014.
- 7 Kedleston Hall Parkland Conservation Plan, September 2013 (final version of draft at Mr McInerney's Appendix AC4).
- 8 Google Earth aerial view of the Derby Screen.
- 9 Vertical aerial photograph superimposed with the view from Kedleston Road to Kedleston Hall as shown in Figures 13 and 14 of Dr Hickie's proof of evidence.
- 10 Agreements reached on surface water and foul drainage between RPS for Catesby Estates Ltd and Mr Steer for Kedleston Voice.
- 11 Letter dated 9 December 2014 from Severn Trent Water to the Council.
- 12 Land Registry entry and plan showing the Estate boundary at the Derby Screen.
- 13 Note by Mr Fenwick responding to the Inspector's queries about the benefits claimed for the appeals proposals.
- 14 Letter dated 12 July 2016 from Trent Motor Traction Co Ltd to Peter Brett Associates supporting the public transport strategy for the proposals.
- 15 Section 106 Agreement – Summary Report, Eversheds, July 2016.
- 16 Email correspondence re. Derbyshire HLC (Historic Landscape Character) project.
- 17 Letter dated 25 July 2016 from the National Trust to the Council relating to the possible opening out of the Derby Screen.
- 18 Land Registry entry and plan showing the National Trust boundary at the Derby Screen.
- 19 Statements by local people: 1. Mark Heppenstall; 2. Cllr Roy Webb; 3. David Anderson; 4. Michael Richardson; 5. David Eley; 6. René Dobson; 7. Keith Thomas.
- 20 Updated Technical Note in support of the Education Statements of Common Ground.
- 21 Amendments to the suggested conditions in response to the Inspector's queries.
- 22 CIL Compliance Statements on affordable housing, open space, education and the marketing plan.
- 23 Email relating to the education provisions in the section 106 agreements.
- 24 Executed Section 106 Agreement relating to appeal ref. APP/M1005/W/15/3132791.
- 25 Executed Section 106 Agreement relating to appeal ref. APP/M1005/W/16/3144743.

### **Submitted after the inquiry**

- 26 Executed Supplementary Agreement (relating to Documents 24 and 25).
- 27 Summary Report on the Supplementary Agreement, submitted with it.

**Appeal Ref. APP/M1005/W/15/3132791**  
**Land at Kedleston Road and Memorial Road, Allestree, Derbyshire**  
**Schedule of conditions attached to outline planning permission**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

**Approved plans**

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: dwg. no. 1011 (red-line plan), dwg. no. 29232-5504-015, rev. B (access roundabout at the junction with Kedleston Road and Askerfield Avenue) and dwg. no. 29232-5504-016, rev. A (priority junction with Kedleston Road).

**Phasing**

- 5) No development shall take place until a phasing plan has been submitted to and approved in writing by the local planning authority. The phasing plan shall include the timings for all on-site development and for the completion of the roundabout at the junction of Kedleston Road and Askerfield Avenue (dwg. no. 29232-5504-015, rev. B), the priority junction with Kedleston Road (dwg. no. 29232-5504-016, rev. A) and the signalisation of the junctions of Kedleston Road with Allestree Lane (dwg. no. 29232-5504-010) and the University access road (dwg. no. 29232-5504-020). The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until a temporary access for construction purposes from Kedleston Road has been laid out, constructed and provided with visibility splays of no less than 2.4m x 83m in both directions, in accordance with details first submitted to and approved in writing by the local planning authority. The sight lines shall be clear of any obstruction higher than 1.0m above the edge of the carriageway at the junction and maintained as such throughout the construction period.
- 7) No development shall take place until details of the following, including the timing of provision in relation to development on-site, have been submitted to and approved in writing by the local planning authority:
  - a) details of bus stop locations, including bus shelters, kerbs and real-time information, on Kedleston Road;
  - b) details of the locations and design of pedestrian/cycle crossing points on Kedleston Road.

The development shall be carried out in accordance with the approved details.

- 8) No building shall be occupied or use commenced until a Travel Plan, based on that attached to the executed planning obligation and including provision for implementation, monitoring and review, has been approved in writing by the local planning authority. The Travel Plan shall be implemented as approved.

**On-site roads and footpaths**

- 9) No development shall take place until full details of all access roads, parking areas, footways and footpaths within the site, including the phasing of construction, details of street lighting and details of any footway junctions with Kedleston Road, have been submitted to and approved in writing by the local planning authority.

- 10) No dwelling shall be occupied until the vehicular and pedestrian access to it, both on-site and at the junctions with Kedleston Road, and the parking space for it within its curtilage, has been constructed in accordance with the approved details.

**Convenience store**

- 11) The retail premises hereby permitted shall not be occupied until space for service and delivery vehicles and access to it has been constructed in accordance with details first submitted to and approved in writing by the local planning authority.

**Noise protection**

- 12) No development shall take place until a scheme of noise mitigation, designed broadly in accordance with Sections 6 and 7 of the *Acoustic Report* by RPS dated 10 October 2014 (Document CD1o), has been submitted to and approved in writing by the local planning authority. The scheme shall provide details to ensure that all habitable rooms within dwellings and all private garden areas are protected from road traffic noise in accordance with the recommendations of the Report. No dwelling shall be occupied until the noise mitigation measures required for it have been implemented in accordance with the approved scheme.

**Drainage**

- 13) No development shall take place until a detailed surface water drainage scheme for the site, broadly in accordance with the *Drainage Strategy* in the *Flood Risk Assessment* by RPS dated October 2014 (Document CD1i), has been submitted to and approved in writing by the local planning authority. The scheme shall include details of discharge rates, attenuation storage and outfall arrangements and maintenance and management arrangements for the lifetime of the development. The scheme shall be implemented before any building is occupied (subject to the phasing approved under condition no. 5 above) and maintained thereafter in accordance with the approved scheme.
- 14) No development shall take place until full details of the means of disposal of foul sewage, including any phasing in accordance with condition no. 5 above, has been submitted to and approved in writing by the local planning authority. No building shall be occupied until the means of disposal of foul drainage from it has been implemented in accordance with the approved details.

**Landscaping, retained trees and biodiversity**

- 15) The landscaping reserved matter referred to in condition no. 1 above shall include full details of both hard and soft landscape works. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (such as street furniture, play equipment, refuse or other storage units, signs, amenity lighting); proposed functional services above and below ground (such as drainage, power and communications cables or pipelines); planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities as appropriate); the identification of all trees and hedgerows to be retained (within the site and on its boundaries) and measures for their protection throughout the course of construction works; an implementation programme; and a management and maintenance programme. All landscaping shall be carried out in accordance with the approved details.
- 16) The soft landscaping proposals in condition no. 15 above shall include measures for biodiversity enhancement in accordance with the proposals at paragraph 6.4 of the *Ecological Appraisal* by EDP dated October 2014 (Document CD1h).

**Construction method statement**

- 17) No development shall take place until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved

statement shall be adhered to throughout the construction period and shall provide for:

- a) hours of construction, including deliveries to and removals from the site;
- b) the control of noise-generating and vibration-generating activities, including tonal reversing alarms;
- c) the parking of vehicles of site operatives and visitors;
- d) the loading and unloading of plant and materials;
- e) the storage of plant and materials used in constructing the development;
- f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- g) wheel washing facilities;
- h) the sheeting of vehicles entering or leaving the site;
- i) measures to control the emission of dust and dirt during construction;
- j) no burning of waste materials on the site;
- k) a scheme for recycling/disposing of waste resulting from construction works.

**Appeal Ref. APP/M1005/W/16/3144743**  
**Land at Kedleston Road and Memorial Road, Allestree, Derbyshire**  
**Schedule of conditions attached to outline planning permission**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

**Approved plans**

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings nos. 1013 and 29232-5504-023.

**Phasing**

- 5) No development shall take place until a temporary access for construction purposes from Kedleston Road has been laid out, constructed and provided with visibility splays of no less than 2.4m x 83m in both directions, in accordance with details first submitted to and approved in writing by the local planning authority. The sight lines shall be clear of any obstruction higher than 1.0m above the edge of the carriageway at the junction and maintained as such throughout the construction period.
- 6) No development shall take place until details of the following, including the timing of provision in relation to development on-site, have been submitted to and approved in writing by the local planning authority:
  - a) details of bus stop locations, including bus shelters, kerbs and real-time information, on Kedleston Road;
  - b) details of the locations and design of pedestrian/cycle crossing points on Kedleston Road.

The development shall be carried out in accordance with the approved details.

- 7) No building shall be occupied or use commenced until a Travel Plan, based on that attached to the executed planning obligation and including provision for implementation, monitoring and review, has been approved in writing by the local planning authority. The Travel Plan shall be implemented as approved.

**On-site roads and footpaths**

- 8) No development shall take place until full details of all access roads, parking areas, footways and footpaths within the site, including the phasing of construction, details of street lighting and details of any footway junctions with Kedleston Road, have been submitted to and approved in writing by the local planning authority.
- 9) No dwelling shall be occupied until the vehicular and pedestrian access to it, both on-site and at the junctions with Kedleston Road, and the parking space for it within its curtilage, has been constructed in accordance with the approved details.

**Noise protection**

- 10) No development shall take place until a scheme of noise mitigation, designed broadly in accordance with Sections 6 and 7 of the *Noise Assessment* by RPS dated 3 December 2015 (Document CDX1o), has been submitted to and approved in writing by the local planning authority. The scheme shall provide details to ensure that all habitable rooms within dwellings and all private garden areas are protected from road traffic noise in accordance with the recommendations of the Report. No dwelling shall be occupied until the noise mitigation measures required for it have been implemented in accordance with the approved scheme.

### **Drainage**

- 11) No development shall take place until a detailed surface water drainage scheme for the site, broadly in accordance with the *Drainage Strategy* in the *Flood Risk Assessment* by RPS dated 17 December 2015 (Document CDX1g), has been submitted to and approved in writing by the local planning authority. The scheme shall include details of discharge rates, attenuation storage and outfall arrangements and maintenance and management arrangements for the lifetime of the development. The scheme shall be implemented before any building is occupied and maintained thereafter in accordance with the approved scheme.
- 12) No development shall take place until full details of the means of disposal of foul sewage has been submitted to and approved in writing by the local planning authority. No building shall be occupied until the means of disposal of foul drainage from it has been implemented in accordance with the approved details.

### **Landscaping, retained trees and biodiversity**

- 13) The landscaping reserved matter referred to in condition no. 1 above shall include full details of both hard and soft landscape works. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (such as street furniture, play equipment, refuse or other storage units, signs, amenity lighting); proposed functional services above and below ground (such as drainage, power and communications cables or pipelines); planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities as appropriate); the identification of all trees and hedgerows to be retained (within the site and on its boundaries) and measures for their protection throughout the course of construction works; an implementation programme; and a management and maintenance programme. All landscaping shall be carried out in accordance with the approved details.
- 14) The soft landscaping proposals in condition no. 15 above shall include measures for biodiversity enhancement in accordance with the proposals at paragraph 6.4 of the *Ecological Appraisal* by EDP dated December 2015 (Document CDX1f).

### **Construction method statement**

- 15) No development shall take place until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period and shall provide for:
  - a) hours of construction, including deliveries to and removals from the site;
  - b) the control of noise-generating and vibration-generating activities, including tonal reversing alarms;
  - c) the parking of vehicles of site operatives and visitors;
  - d) the loading and unloading of plant and materials;
  - e) the storage of plant and materials used in constructing the development;
  - f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - g) wheel washing facilities;
  - h) the sheeting of vehicles entering or leaving the site;
  - i) measures to control the emission of dust and dirt during construction;
  - j) no burning of waste materials on the site;
  - k) a scheme for recycling/disposing of waste resulting from construction works.