



## Appeal Decision

Inquiry opened 2 February 2016

*Site visit made on 3 February 2016*

**by D R Cullingford BA MPhil MRTPI**

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

**Decision date: 11 April 2016**

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**Appeal Ref: APP/C1055/W/15/3132386**

**Land at Acorn Way and Derby Road, Spondon, Derby, DE21 7LU**

- 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 by British and Continental Company Limited against the decision of the Derby City Council.
- The application (ref: DER/10/14/01417/PRI and dated 15 October 2015) was refused by notice dated 16 April 2015.
- The development is described as an outline application for 'proposed residential development for up to 125 houses together with public open space and vehicular access to Acorn Way'.

**Summary of Decision: ~ The appeal is dismissed.**

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### Procedural matters

1. Although this 'urban development project' falls within the descriptions set out at paragraph 10b of Schedule 2, exceeds the thresholds in column 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, the Screening Direction issued by the Secretary of State on 16 December 2015 indicated that the scheme would not entail development in a 'sensitive' area and would be unlikely to have any significant environmental effect, bearing in mind the criteria set out in Schedule 3 to the Regulations. Consequently the scheme is not EIA development and an Environmental Statement is not required. The Screening Opinion issued by the Council and dated 27 November 2014 concurs. Nevertheless, the application was accompanied not just by a:
  - A Planning Statement and by
  - 2 Design and Access Statements,But also by:
  - A Landscape and Visual Assessment,
  - An Ecological Walkover Survey,
  - An Archaeological and an Archaeological Geophysical Survey,
  - An Education Impact Assessment,
  - A Transport Assessment with an Addendum
  - A Residential Travel Plan, and
  - A Flood Risk Assessment.

### Reasons

*The site and surroundings*

2. The appeal site covers about 6.8ha of open, unused and unkempt land that rises slightly behind the back gardens of the solid semi-detached properties that line
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the northern side of Derby Road (part of the A6005). The bulk of it is a rectangular block with an expanse of playing fields adjacent to its northern and eastern boundaries; the playing field to the north is about 2m above the level of the appeal site. Both playing fields are associated with West Park Academy (to the north east) while thick hedgerows enclosing Acorn Way form the western boundary. A narrow triangular segment sandwiched between the playing fields and the Acorn Way hedges projects northwards to the West Park Meadow Local Nature Reserve, an attractive collection of mature trees, remnants of ridge and furrow cultivation and a peaceful pond. Beyond the Nature Reserve and a 'metalled' cycleway, small fields and hedgerows stretch northwards across an undulating landscape, falling towards Brookfield Farm and rising to reach a reservoir beside Longley Lane and the encircling Green Belt. Much of this land, including the appeal site, lies within a 'green wedge' separating the 'suburbs' of Chaddesdon and Spondon (as designated by 'saved' policy E2 of the City of Derby Local Plan Review (2006)). This 'green wedge' encompasses areas of different character. Visually, the appeal site and the adjacent playing fields lie in a southern segment where urban influences are fairly evident in the dwellings and back gardens along Derby Road (to the south), in the cul-de-sac at Merchant Avenue (to the east) and the Academy buildings (to the north east). But the mature trees in the Nature Reserve and beside a footpath create a sky-line feature heralding the presence of a more rural landscape to the north.

3. The appeal site has supported arable crops in the fairly recent past (until about 2007) and was used as an isolated outlier to an agricultural holding, although both present and previous owners indicate that urban detritus affected the viability of such a use; it has also been used on occasions to accommodate a circus. A gap in the ribbon of dwellings beside Derby Road, filled with the foliage of bushes, Potts Elm and Ash trees, also accommodates a footpath that runs diagonally across the appeal site to the playing fields, the Nature Reserve, the Academy and the core of Spondon, with its Listed Buildings and the landmark spire St Werburgh's Church. There are links to footpaths and cycleways across the 'green wedge' and northwards into the countryside towards ancient woodlands and the attractive grounds of the eighteenth century mansion at Locko Park.
4. Opposite the dwellings on Derby Road is a muddle of commercial sheds, signs and car parks; a large Asda and its associated petrol filling station are the most prominent, but there is also a public house and other businesses. Beyond this amorphous out-of-centre sprawl are the dual carriageways of the A52 (here dignified as the Brian Clough Way) immersed amidst a cacophony of slip roads and roundabouts with a connection to Derby Road. As a result Derby Road is often busy. It also accommodates several bus routes with a frequency of up to 7 an hour linking the suburbs to the City centre and the employment opportunities at Pride Park, just 4km or so to the west; there are also buses to Nottingham and the surrounding villages. Spondon station lies about 1.2km to the south east, although services are infrequent. There are District Centres at Chaddesden and Spondon about 1.3 km to the west and 1km to the east, respectively. There are also primary schools at both Chaddesden and Spondon and the secondary school at West Park Academy, all within reasonably easy reach.

#### *The proposal*

5. The proposal is made in outline with all matters except the means of access reserved for subsequent approval.

6. The access arrangements entail the provision of a roundabout on Acorn Way, some 200m to the north of its junction with Derby Road, and an estate road into the site serving a series of culs-de-sac. There are also proposals to realign and slightly widen the Acorn Way approach to its junction with Derby Road, essentially to provide a 2-lane entry to the roundabout there.
7. A previous proposal (in March 2014) entailed the erection of up to 250 dwellings: the current scheme is for 125 homes. Indicative details of the scheme are shown on an illustrative Masterplan. A mixture of house types, including the intention to provide some 30% of the units as affordable homes, are shown laid out in a rectilinear pattern beside the estate roads, those along the northern and eastern edges facing outwards over landscaped boundaries across the adjacent playing fields. The intention is that the scheme would conform to the arrangements indicated on the Parameters Plan, incorporating a small 'pocket park' and a central 'green corridor' and offering pedestrian and cycle links around the landscaped periphery of the proposed estate. Roughly, the eastern third of the site is indicated to be a new Neighbourhood Park, intended to accommodate an 'equipped play area' and a balancing pond. Planting and improvements to the existing footpath across the site are also indicated. The triangular projection to the north beside the playing fields would connect the scheme to the West Park Meadows Local Nature Reserve and is shown as providing for the creation of a wildflower meadow. The hedges beside Acorn Way are to remain, save for the section required to accommodate the new access proposed.
8. A submitted section 106 Agreement proffers some £685,488 towards consequent improvements required to educational, medical and local community facilities, including swimming facilities, and it secures provision for the affordable housing, to maintain the open areas and to enhance public transport.
9. Suggested conditions would ensure that the scheme would be implemented as intended and that the reserved matters and other details (including hard and soft landscaping and boundary treatments) would be submitted to the Local Planning Authority for approval: that foul and surface water drainage systems would be installed and controlled: that a Construction Management Plan (including hours of operation) would be devised and implemented: that further ecological and archaeological investigations would be undertaken: that a residential Travel Plan would be prepared: and that opportunities for 'green infrastructure', the retention of trees and the provision of new pedestrian and cycle facilities would be considered.

*Planning policy and the main issues*

10. The Development Plan currently consists of the 'saved' policies in the City of Derby Local Plan Review (2006), which was intended to cover the period up to 2011. There is an emerging Derby City Local Plan – Part 1 (the Core Strategy). This was published as a pre-submission consultation document in August 2015 and was submitted for examination in December 2015. There are objections to the emerging Plan. There is also a current hiatus in providing for the dwellings likely to be required for, although the other Districts that make up the relevant Housing Market Area (South Derbyshire and Amber Valley) together agree (under the 'duty to cooperate') to accommodate nearly 5,400 of the dwellings otherwise deemed to be needed in the City of Derby, recent reassessments have demonstrated the requirement for additional sites to achieve that level of provision. To that end, and even though the anticipated shortfall appears to be fairly modest, the Amber Valley Core Strategy has recently been withdrawn from examination and a 'call for

sites' (not just for housing) has been instigated to elicit the availability of additional land.

11. The appeal site is shown as a 'green wedge' on the Proposals Map where, in accordance with 'saved' policy E2, development is to be severely restricted; none of the normally permitted forms of development would encompass the appeal proposal. Hence, in accordance with the Development Plan, permission for this scheme should be refused unless material considerations indicate otherwise. The 'green wedges' remain in the emerging Core Strategy and a similarly restrictive policy (policy CP18) seeks to maintain their open and undeveloped character, including the 'green wedge' here between Chaddesden and Spondon. However, it is accepted that the Council cannot demonstrate a 5-year supply of deliverable housing sites and it is clear that the adopted Plan was not designed to accommodate development needs beyond 2011. It follows that the adopted Plan is time-expired and, as the Framework (NPPF) advises, the relevant policies for the supply of housing cannot be considered to be up-to-date.
12. In those circumstances it is now clear (from the recent Court of Appeal judgement in *Suffolk Coastal District Council v Hopkins Homes Limited and SoS and Richborough Estates Partnership LLP v Cheshire East Borough Council and SoS*) that 'relevant policies for the supply of housing' should be interpreted in the 'broad' sense as any 'relevant policies affecting the supply of housing' or, indeed, 'restricting' the supply of deliverable housing sites. Explicit examples are offered, including 'policies for the Green Belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development'. That must encompass 'saved' policy E2 dealing with 'green wedges' in Derby. Whether the same applies to emerging policy CP18 is less certain, since the 'status' of emerging policies was not explicitly addressed by the Court. Nevertheless, although policy CP18 is intended to form part of a 'sound' Plan, it is accepted that outstanding objections remain, that changes may well be made in the course of the impending examination and, at least for the moment, that there is some uncertainty about how the likely housing requirements might be met. Hence, and in the agreed absence of a 5-year supply of deliverable housing sites, I think that both policies must be regarded as being, in effect, 'not up-to-date'.
13. The judgement also clarifies that 'not being up-to-date' is a reason for policies being 'out-of-date' for the purposes of applying the decision-making mantra set out in paragraph 14 of the Framework. Hence, in the context of this appeal, the presumption in favour of sustainable development means that permission for this scheme should be granted unless either any consequent adverse impact would significantly and demonstrably outweigh the benefits (assessed against the advice in the Framework as a whole) or specific policies in the Framework indicate that development should be restricted. However, that does not provide *carte blanche* to necessarily disregard a policy in a time-expired plan or even to discard a policy which is deemed to be 'out-of-date'. The statutory requirements, both to have regard to the Development Plan and to make decisions in accordance with it unless material considerations indicate otherwise, remain. The task is to set those statutory requirements against the other material considerations that apply in order to arrive at an appropriate balance in favour or against the scheme, always bearing in mind that the advice in the Framework is itself an important material consideration.

14. In those circumstances, and from all that I have heard, read and seen, I consider that the main issues here involve:
- i) the role and function of 'green wedges' in Derby,
  - ii) the character of the 'green wedge' between Chaddesden and Spondon, the contribution of the appeal site and the impact of the proposal,
  - iii) the need for, and the provision of, additional housing.
  - iv) the overall planning balance in relation to the economic, social and environmental dimensions of 'sustainable development'.

*'Green wedges' in Derby*

15. 'Green wedges' are an evident element in the form and character of Derby. There are 13 of them and they all entail open, green expanses of largely undeveloped land penetrating tracts of the surrounding suburbs from the fields and farmland beyond. They are intended to perform some key functions in maintaining the different character and identity of the City's suburbs and preventing, to some extent, the perception of an amorphous sprawl of suburban development that might otherwise engulf the City. They can serve as buffer zones between dwellings and industry and they often offer direct access to the countryside presenting opportunities for recreation and enhancing the quality of life for residents. Some contain sites of significant ecological value; the Local Nature Reserve at West Park Meadows just to the north of the appeal site being one example. In all these ways, the role and function of 'green wedges' serve, in my view, to enhance the structure of the City and incorporate interludes of open land between the suburbs, so contributing to the character of Derby and maintaining recognisable distinctions between its suburbs.
16. The concept, role and function of Derby's 'green wedges' are all long-established. They have also been recognised as an important attribute of the City for over a generation. The Inspector's 1998 report into the objections to the City of Derby Local Plan (document 6.5) recognises that an undeveloped area between Chaddesden and Spondon had already existed for many years while an appeal had been dismissed in 1981 on the grounds that development within that area would diminish the effectiveness of the psychological and physical break between those communities and substantially intrude into a pleasant open area. The Spondon Local Plan (adopted in 1989) is described as including a forerunner of the 'green wedge' policy and the first draft of the City of Derby Local Plan (1992) identified 'green wedges' within the City, which were largely confirmed by the adoption of the Plan in 1998. Later, the principle of 'green wedges' was again 'fully endorsed' as an 'important tool in shaping the urban form of Derby' by the Inspector considering objections to the City of Derby Local Plan Review in 2005 (ID2). Recognising that 'green wedges' did not have the permanence of Green Belt boundaries and were subject to review (with the result that some areas were to be allocated for development, including necessary housing), he supported the designation of 'green wedges' in the adoption of the Plan in 2006.
17. The emerging Core Strategy aims to establish a consistent continuity with that long-established planning policy. Hence, the review process has continued in accordance with the requirements of the adopted Plan. As a result, boundaries have been amended and sites for nearly 2,000 dwellings identified on land previously designated as part of a 'green wedge'. This was achieved in the context of undertaking a Green Wedge Review (document 11) while preparing the Preferred Growth Strategy (document 10), both documents being published in October 2012. The intention was to review the role and function of each 'green

wedge' in the light of the development pressure facing the City and to establish the potential of any site promoted within them to accommodate development without undermining the role, function or overall character of the 'green wedge'. Clearly, the aim has been to continue to apply the concept of 'green wedges' throughout the City and to establish boundaries that are reasonably robust until the Core Strategy (or Local Plan) is subsequently rolled forward.

18. There is continuity between the past and the emerging policies that apply within 'green wedges'. 'Saved' policy E2 aims to prevent development that would adversely affect the predominantly green and open nature of 'green wedges', particularly where a narrow 'green wedge' might be vulnerable to development. However, it is not a policy for protecting landscapes. The policy is restrictive, normally allowing only development entailing agriculture and forestry, outdoor sport and recreation, allotments, nature conservation, cemeteries, 'essential buildings', some ancillary activities, the extensions and alterations to dwellings and the erection of ancillary buildings. Similar restrictions are applied by emerging policy CP18. But the emerging policy is also updated by seeking to link 'green wedges' to the wider 'green infrastructure and ecological network' within the City and by seeing the policy as contributing to climate change adaptation.
19. The appellants claim that neither the 'saved' nor the emerging policy, or indeed the concept of a 'green wedge', is consistent with the Framework. They point out that the words themselves appear nowhere in the Framework or the Guidance (NPPG). Moreover, a 'green wedge' is not a 'local green space', but is alleged to be something more akin to a pseudo Green Belt without the explicit flexibility to accommodate schemes warranted by 'very special circumstances'. As such it is stated to simply sterilise large tracts of otherwise developable land, thereby undermining the pro-growth stance of the Framework and confounding the exhortation to 'boost significantly the supply of housing'.
20. I accept that a 'local green space', as described in the Framework, does not equate to Derby's 'green wedges'. Although the latter may be close, special and often of some significance to local communities, the 'green wedges' need not contain attractive landscapes, interesting historical features or be rich in wildlife or habitat. Moreover, unlike the description of 'local green spaces', 'green wedges' often encompass fairly extensive tracts of land. But the mere absence of such words in either the Framework or the Guidance cannot disqualify their use to identify a legitimate planning concept. Neither document is all-encompassing or statutory. On the contrary, they serve as 'material considerations' and offer advice about 'the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so'. Moreover, an explicit aim of the Framework is to facilitate the production of distinctive local and neighbourhood plans by, and for, local people and their Councils. That alone must rule out the sort of pedantically prescriptive interpretation of the Framework that would prohibit the use of anything not explicitly mentioned within it.
21. In any case, the primary function of the 'green wedges' is to define and enhance the urban structure of the City as a whole. As areas of predominantly open land, they penetrate the suburbs from the surrounding countryside, separate different neighbourhoods and maintain distinctions inherent in the character of the City, not least in helping to demonstrate how the place has developed. As such, I consider that 'green wedges' chime with important aims of the Framework, contributing to the identity and distinctiveness of neighbourhoods within the City, maintaining and enhancing the character of the place and offering opportunities for leisure and recreation in places connected to the countryside, all as the Framework advises. I

do not accept that this is to misinterpret the pro-growth stance of the Framework. On the contrary, this simply focusses on elements incorporated into the 'golden thread' of 'sustainable development'. The aim is to find an appropriate balance between the economic, social and environmental dimensions. And, just as it would be inappropriate to sterilise large tracts of land without good reason, so also would the sanctioning of development on any open area anywhere be equally unsustainable.

22. More importantly, the concept, role and function of Derby's 'green wedges' are long-established; they have been supported by adopted planning policies for nearly 20 years and reflected in draft or emerging policies for even longer. The emerging Core Strategy seeks to apply and update them, incorporating one or two current aims, so that they might properly affect the urban structure and character of the City in the future. And, although it is always possible that configurations may alter as a result of the impending examination, there is no indication in the examining Inspector's initial letter that the concept itself is unsound (ID16). The Framework is intended to replace, rather than radically alter, the previous volumes of national policy. The 'new' regime does not aim to sweep away long-held and demonstrably effective local policies, particularly those devised to support and enhance the urban structure of the City or to maintain the distinctiveness of its constituent neighbourhoods. Indeed, such policies are exactly the sort of provision that might be expected in facilitating distinctive local and neighbourhood plans by, and for, local people.
23. I do not agree that a 'green wedge' is a pseudo Green Belt policy. Although there are similarities (in keeping land open and in the restrictions on development), there are also important differences. In particular, 'green wedges' do not have the permanence of Green Belts, being subject to review under the terms of both the adopted and the emerging policy. Nor are they nearly as extensive, functioning mainly to maintain gaps between neighbourhoods or different land uses, and often being barely ½km in width. In addition, they are essentially a feature within the urban structure rather than beyond it and they function as part of the urban fabric rather than as a means of protecting rural areas from urban encroachment.
24. Nor do I accept that the 'green wedges' simply serve to sterilise large tracts of otherwise developable land. The review process undertaken, in accordance with the adopted Plan, has scrutinised each of the 'green wedges' amending boundaries and proposing sites to accommodate nearly 2,000 homes. This represents about 18% of the dwellings currently intended to be provided within the City over the 12 years or so remaining of the emerging Core Strategy. Hence, I consider that the 'green wedges' are not necessarily incompatible with the pro-growth stance of the Framework nor, in themselves, inconsistent with the exhortation to 'boost significantly the supply of housing'.
25. Taking all those matters into account, I consider that Derby's 'green wedges' serve an important planning function in maintaining the different character and identity of the suburbs and enhancing the urban form and structure of the City. They are integral to the character and distinctiveness of the place, so that their supporting policies (both long-established – in the form of 'saved' policy E2 – and emerging – in relation to policy CP18) are potentially consistent with elements of the 'core principles' and a raft of the advice set out in the Framework. At least in relation to 'saved' policy E2, that must affect the weight due to such considerations, in line with the advice in the Framework at paragraph 215. In the context of this appeal (and the task outlined in paragraph 13, above), I think that

such 'consistency' would be demonstrated provided first, that this part of the 'green wedge' between Chaddesden and Spondon (including the appeal site) fulfilled the role and function attributed to 'green wedges' in general and, second, that protection for this 'green wedge' could be shown to be consistent with the exhortation to 'boost significantly the supply of housing'. Hence, I turn to consider those tests below.

*The Chaddesden and Spondon 'green wedge, the appeal site and the proposal*

26. As indicated above, the primary function of a 'green wedge' is to define and enhance the urban structure of the City by maintaining areas of predominantly open land penetrating the suburbs from the surrounding countryside and separating different neighbourhoods or land uses. Does the 'green wedge' between Chaddesden and Spondon perform such functions?
27. It seems to me that this 'green wedge' performs those functions quite well. It does consist of predominantly open land in the form of farmland, the Local Nature Reserve and the playing fields, albeit that the school buildings at West Park Academy are evident, as are the Brookfield and Springfield farmsteads further north. Moreover, 'predominately open land' does penetrate these suburbs to the very edge of Derby Road and the out-of-centre Asda store connecting visually, as well as via tracks or footpaths, to the countryside and the enveloping Green Belt over 1km to the north at Longley Lane. The 'green wedge' itself forms a separating space some 300m to 560m wide between Chaddesden and Spondon. I rather agree that a physical separation between communities would not be essential to preserve a distinction between them. But, the 'separating space' provided by this 'green wedge' does create a perceptible and physical distinction between identifiably different places, thereby helping to maintain their separate identity and contributing to the character of the City; this space contributes to the distinction between these different places.
28. Moreover, although this 'green wedge' encompasses areas of different character, I think that they all perform a 'green wedge' function. There is no dispute that the small fields and hedgerows in the rural north or the mature trees, shaded pond and remnants of ridge and furrow of the Nature Reserve achieve those aims. The dispute relates to the southern section (including the appeal site). I agree that this area is more urban; here playing fields, rather than farmland, forms much of the open space and school buildings, rear boundaries and rear elevations are all evident, together with the noise, sheds and signs associated with Derby Road. But, the playing fields (and the appeal site) form an expanse of open land offering vistas (from footpaths, tracks and adjacent dwellings) testifying to the evident separation of Chaddesden and Spondon. The perception of 'separation' is accentuated by the strong boundary created by Acorn Way (a road without footways between burgeoning hedgerows and sylvan embankments enclosing the edge of the Chaddesden suburbs) and the views towards the landmark spire of St Werburgh's Church. Moreover, the mature trees associated with the Nature Reserve create a sky-line feature heralding the presence of the more rural landscape to the north. This part of the 'green wedge' can sometimes be glimpsed between the dwellings on Derby Road and its presence is all the more evident from the verdant roadside gap at the entrance to the footpath across the appeal site, which also offers a link (eventually) to open countryside. This is clearly an area of predominantly open land that penetrates the suburbs from the surrounding countryside and separates different neighbourhoods; it thus functions as a 'green wedge'.



29. Would this proposal undermine that function? In simple terms the proposal would result in built development extending across some 240m of open land, reducing the remaining 'green wedge' across the proposed neighbourhood park and adjacent playing field to about 300m. That would diminish the space separating these adjacent neighbourhoods by over 40%. True, there are other parts of this 'green wedge' with similarly limited separation distances, particularly at West Road just to the north of the Nature Reserve. But there are crucial differences. First, the appeal scheme would breach the strong physical and visual boundary created by Acorn Way and, as currently illustrated, the proposed dwellings would be likely to remain evident beyond the illustrated landscaped edge and the intervening neighbourhood park. In contrast, the Acorn Way boundary is very much in evidence to the north of the Nature Reserve and serves to enclose the Chaddesden suburbs, thereby reinforcing the sense of separation between the adjacent suburbs. Second, the appeal proposal would diminish the separation across a fairly flat space of playing fields where urban influences are already evident. In those circumstances, there can be little but distance to convey a perception of separation. And, because the proposed estate would remain evident beyond the neighbourhood park and the peripheral landscaping, the scheme would serve to accentuate the impact of the existing urban influences here. In contrast, the landscape to the north of the Nature Reserve is rural and undulating, thereby providing an evident contrast to the adjacent suburbs. Hence, I consider that this scheme would significantly undermine the ability of this southern section of the Chaddesden and Spondon 'green wedge' to perform its intended function.
30. Similar views have been reached by previous Inspectors, albeit in relation to schemes lacking some of the benefits now proposed. An appeal was dismissed in 1981 on the grounds that development here would diminish the effectiveness of the psychological and physical break between Chaddesden and Spondon and substantially intrude into a pleasant open area. And, in 2005 a similar site, together with adjoining open land, was deemed to form part of the long established 'green wedge' separating Chaddesden and Spondon, allowing open countryside to flow into the built-up area and being an integral part of this open green setting. The loss of that site to development, even with open land remaining to the north and east, was considered to seriously compromise the function and character of the 'green wedge'.
31. In my view, those harmful effects would still pertain, for it is the openness of the appeal site that I consider to be crucial to the function of this part of the 'green wedge'. The proposal would be inimical to that function. It would breach the strong boundary created by the hedged barrier of Acorn Way and intrude into a visually cohesive open area contained by thick hedgerows to the west, by the back gardens of suburban dwellings to the south and east and by the mature trees on higher ground in the Nature Reserve to the north. The proximity of the proposed estate would urbanise the character of the footpath across the site (the dwellings being evident beyond the peripheral landscaping) and confine the edge of the playing fields with buildings. The estate would add depth to the ribbon of dwellings along Derby Road, so consolidating the apparent spread of suburban development, an impression that would be all too evident from the gap in the Derby Road frontage. And, the diminished extent of this open land would reduce the sense of separation, the estate being evident almost from the Spondon entrance to the footpath into the Nature Reserve and, from the north, only just across the intervening playing field. I consider that the impact of the proposal would be very damaging.

32. I agree that the appeal site does not fulfil all the functions that might be attributed to land in a 'green wedge'. It is not in agricultural use, although it has been used for agriculture within the last decade or so, and it is unkempt. But, I do not agree that such circumstances warrant this scheme. Whether or not alternatives might be feasible, developing a site in a 'green wedge' because it is unkempt could, all too easily, set a precedent that ought to be avoided. In addition, although there is no public access to the land earmarked to accommodate the proposed estate, there is a well-used public footpath across the site. That, in itself, provides recreational opportunities and offers a link that eventually leads to open countryside, ancient woodlands and the attractive grounds of an eighteenth century mansion. Partly for those reasons, I do not accept that a sense of the countryside penetrating the urban area is absent here or that there is no visual connection to the countryside. On the contrary, I consider that the mature trees across the sky-line on higher ground in the Nature Reserve herald the imminent presence of rural surroundings and, in themselves, signal the proximity of an interesting ecological area offering recreational opportunities of its own. Hence, in spite of its current state, I think that the site contributes to the green infrastructure of the City and the sense of separation between adjacent suburbs.
33. The importance of the appeal site in contributing to the function of this 'green wedge' can be gleaned from the nature of the sites recommended for release in the Green Wedge Review and allocated for housing in the emerging Core Strategy. At least 2 of those sites (Brook Farm – AC25 – and Lime Lane – AC26) already benefit from planning permission for some 300 and 250 dwellings respectively. Both sites are inherently more attractive than the appeal site, one containing small fields enclosed by hedges sloping towards the banks of Lees Brook and the other consisting mainly of a more open field on the rural slopes beyond much of the City. However, in both cases the key consideration in the Review seems to have been the contribution of sites to separating different neighbourhoods and to penetrating the urban structure. It is clear from the 'sustainability appraisal' (ID10) that the location of a site within a 'green wedge' is an important consideration. But, it is evident from the Green Wedge Review that it is the role of the site in contributing to the functions of a 'green wedge' that is the main determinant of whether it can subsequently be allocated for development. It is not perverse that such considerations should 'trump' other elements used in that assessment of 'sustainability'. On the contrary, the assessments explicitly require subjective judgements weighing the outcome of disparate criteria. In my reading of the Review, that exercise seems to have been undertaken consistently and on the basis of understandable observations. Cramming such careful considerations into a system of 'point-scoring' where all criteria are weighted equally fails to capture the complexity of the task (ID11).
34. I consider, therefore, that 'predominately open land' between Chaddesden and Spondon, including the southern element, functions as a 'green wedge' and that the appeal site makes a crucial contribution to that function. Hence, the proposal would significantly undermine the ability of this southern section to perform as part of this 'green wedge'; it would breach the boundary of Acorn Way and intrude into a cohesive area of open land, substantially diminishing the sense of separation between Chaddesden and Spondon. In so doing, the scheme would contravene the requirements of 'saved' policy E2 and undermine the aims of emerging policy CP18.

35. I now turn to consider whether protection for the appeal site and for this 'green wedge' would be consistent with the exhortation in the Framework to 'boost significantly the supply of housing'.
36. The Framework sets out a series of 5 tasks in connection with that exhortation. They are all consistent with a plan-led approach to decision-making and invoke the use of the housing requirements identified in a Local Plan, the supporting evidence base, trajectories or density policies. The evidence base should be used to ensure that the Local Plan meets the 'full, objectively assessed needs for market and affordable housing' in the 'housing market area': a 5-year supply of deliverable housing sites should be identified annually: specific sites and broad locations for growth should also be identified to accommodate residential development 6-10 years hence and, where possible, even 11-15 years ahead: the expected rate of delivery should be set out through a 'housing trajectory' and an 'implementation strategy' prepared to maintain a 5-year supply of deliverable housing sites: and, local density policies should be identified. The need to identify a 5-year supply of deliverable housing sites is thus one element in a suite of tasks intended to 'boost significantly the supply of housing'.
37. The starting point is to identify the 'full, objectively assessed needs for market and affordable housing' in the 'housing market area' and, where relevant, its distribution. This has been done for the relevant 'housing market area' identified here (the City of Derby, Amber Valley and South Derbyshire). The analysis by G L Hearn identifies the 'full objectively assessed need' to entail the provision of 33,388 additional dwellings over the period 2011-2028 with a requirement for some 16,388 arising from needs generated within the City. Both Inspectors examining the emerging Plans in Amber Valley and South Derbyshire confirm this as the 'best estimate' of the 'full objectively assessed need' (document 6.7). In addition, under the 'duty to cooperate' it is agreed that there is insufficient capacity within the City to provide for all the additional 16,388 dwellings likely to be required. The agreement between all 3 Councils is that a minimum of 11,000 homes are to be accommodated within the City, with the remaining 5,388 provided as 'sustainable urban extensions' allocated on sites to be identified within both the Amber Valley and the South Derbyshire emerging Local Plans. Moreover, this approach was pursued at joint hearings into the South Derbyshire and Amber Valley Local Plans held in October 2015 (ID13).
38. I cannot discern anything in the initial letter from the Inspector appointed to examine the City of Derby Core Strategy that might seriously undermine the basis for those agreements or the approach adopted. Nor can I find any criticism that might substantially alter the currently mooted distribution of dwellings (ID16). The queries and requests for further information or clarification seem to me to mainly relate to matters of detail. The hiatus due to the recent reassessment of available sites in Amber Valley comes with an endorsement of the extant agreements and an explicit determination to identify additional sites to accommodate the additional dwellings deemed to be necessary (ID12). The process may well entail difficulties and succumb (as here) to shortfalls barely more than any reasonable margin of error, but it is the process specifically devised to address cross-boundary considerations and issues that cannot be contained within the confines of a single local authority, particularly one as geographically constrained as the City of Derby. It would be wrong, in my view, to abandon the 'duty to cooperate' just because it can be difficult to apply. Likewise, it would be oddly myopic to ignore the agreements made in pursuing such cooperation in

determining the relevant provision for housing that should be made within the City. Hence, I consider the suggestion that the City should accommodate all, or even substantially more, of the dwellings arising from the needs generated within it, as misplaced. While changes may well be made as a result of the impending examinations, I consider that regard must also be given to the extant agreements, the emerging strategy and, indeed, to all the cooperative work that has already been undertaken.

39. The 5-year supply of deliverable housing sites is to be assessed in the context of the appropriate 'objectively assessed need'. Were the whole of that need to be met within the confines of the City then, applying a 20% buffer and making up any shortfall within the first 5 years, the Council can demonstrate the availability of sufficient land to accommodate the dwellings required only over the next 3.05 years. If provision is to be made in accordance with the agreements struck under the 'duty to cooperate', reflected in the strategy incorporated into the emerging Plans of all 3 Councils and related to the whole of this housing market, then the City can demonstrate provision for 4.84 years (document 6), again applying a 20% buffer (including any shortfall). That shortfall entails a lack of provision for all but a couple of months. It is not only very modest, but also well within any margin of error inherent in this sort of exercise. Moreover, it depends upon ignoring any potential provision from the strategic sites allocated in the emerging Core Strategy. Although in line with the Guidance (PPG), the allocation of sites previously within the 'green wedges' at Brook Farm and Lime Lane have already led to extant planning permissions for some 500 homes; some of those dwellings might yet contribute to the provision during the next 5 years.
40. Once the Core Strategy is adopted, and the allocations confirmed, then the Council estimate that more than a 5-year supply of deliverable housing sites could be demonstrated. The Plan was submitted for examination in December 2015 with hearings anticipated in March 2016 and adoption expected in July 2016. There has been some slippage, but not much, for I see that hearings are now due to commence in April 2016. So, there is at least some reason to expect that the current shortfall may soon be rectified. In those circumstances, I think that the emerging Core Strategy, the associated housing trajectory and the SHLAA together provide the sort of plan-led mechanisms envisaged in the Framework for identifying broad locations for growth over the Plan period, for anticipating expected delivery rates and for both implementing the strategy and maintaining a future 5-year supply of deliverable housing sites. Apart from the density policy (which does not matter here), every task entailed in the exhortation to 'boost significantly the supply of housing' is thus addressed. In those circumstances, it seems to me that the shortfall in the 5-year supply of deliverable housing sites in relation to the level of need, as agreed to be met within the City, is both very modest and reasonably likely to be transient. It follows that protection for the appeal site and for this 'green wedge' would not necessarily be inconsistent with the exhortation in the Framework to 'boost significantly the supply of housing.'

*The planning balance*

41. Even so, in the absence of a 5-year supply of housing, the scheme must be considered in the context of the presumption in favour of sustainable development. As indicated in paragraph 13 above, that means that permission for this scheme should be granted unless either any consequent adverse impact would significantly and demonstrably outweigh the benefits (assessed against the advice in the Framework as a whole) or specific policies in the Framework indicate that development should be restricted. No specific policies in the Framework have

been identified that would indicate that the scheme should be restricted. Hence, the test must be whether or not the adverse impacts of this scheme would significantly and demonstrably outweigh the benefits of granting planning permission, taking into account the planning balance in favour or against the scheme. This raises 3 questions directed at the same issue. Is the scheme sustainable? Would the adverse impacts significantly and demonstrably outweigh the benefits? And, would the planning balance be in favour or against the scheme?

42. The appeal site clearly lies in a sustainable location. It is within the built-up area of Derby. And, it lies close to, or within easy reach of, employment, retail, educational, leisure and community facilities. Frequent buses pass the site connecting the place to the City centre (often in barely 10 minutes) and to towns and villages beyond; there is even the occasional train that stops at Spondon Station. An Asda superstore stands on the opposite side of Derby Road and the 'district centres' of Chaddesden and Spondon are within a reasonable walking distance or barely short bus ride away. The proposal would build on those advantages. Walking and cycling facilities would be enhanced, a Travel Plan would be prepared and a new bus shelter provided beside the site conveying real-time information.
43. The scheme would incorporate environmental measures to overcome or mitigate most of its environmental impacts or to enhance the appearance of the scheme and the ecology of the site. The Council agree that the indicated design and layout would be acceptable, that any serious impact on residential amenity could be avoided, that potential ecological and archaeological issues have been addressed and that the proposal would not generate flood risks, traffic hazards or present difficulties in terms of utilities and infrastructure. The peripheral and integral landscaping would help to create a pleasant environment for prospective residents and soften the outline of the new buildings. The Neighbourhood Park would contribute to the open area between the estate and the existing houses and the wildflower meadow would enhance the ecological diversity evident in the neighbourhood.
44. In addition, both social and economic benefits would accrue from the scheme. It would provide a range of house types and tenures, including 30% of the units as affordable homes. The market housing would reduce the shortfall in the 5-year supply of deliverable housing sites. In addition, the development would entail the provision of jobs, the spending power of new residents and a commensurate New Homes Bonus. The section 106 Agreement would offer some £685,488 towards consequent improvements required to educational, medical and local community facilities, including swimming facilities; it would also secure provision for the affordable housing, for the maintenance of the open areas and for the enhancement of public transport.
45. But, in breaching the strong boundary created by the hedged barrier of Acorn Way and intruding into a visually cohesive open area, the proposal would significantly undermine this part the 'green wedge' between Chaddesden and Spondon. The sense of separation between those two neighbourhoods would be substantially diminished and the apparent spread of suburban development accentuated. Those harmful effects would strike at a key element in the form and character of the City. Moreover, it is an element that has been long-established and supported by long-established planning policies. Hence, I consider that these environmental and social impacts of the proposal would be very damaging.

46. As the Framework indicates, there are 3 dimensions to the concept of 'sustainable development' played out in economic, social and environmental planning roles. Although this scheme would achieve economic, social and environmental aims, particularly in relation to the provision of market and affordable housing, it would seriously damage the social and environmental objective for 'green wedges' to enhance the urban form and character of the City. In my view such a harmful consequence must render the proposal unsustainable. And, although there would be several benefits emanating from the scheme (as indicated above), I consider that they would not be sufficient to warrant the sanctioning of such unsustainable development.
47. Similar considerations apply to balancing the adverse impacts against the benefits likely to accrue from this proposal. Again the scheme would achieve economic, social and environmental aims. It is agreed that the design and layout would be acceptable and that most environmental effects would be avoided or appropriately mitigated, while the Neighbourhood Park would maintain an open area and the wildflower meadow enhance ecological diversity. The scheme would also contribute to the 5-year supply of housing and meet the policy requirements in relation to the provision of affordable units. But, as indicated above, the scheme would intrude into a visually cohesive open area, significantly undermining the 'green wedge' between Chaddesden and Spondon. Such damage would be irreparable. Moreover, it would undermine a key element in the form and character of the City that has not only been long-established, but also has been supported by long-established statutory planning policies. Hence, I consider such harmful effects to be very damaging and, given that the Council are pro-actively addressing all the necessary tasks entailed in the Framework to 'boost significantly the supply of housing', I find that such adverse impacts of the scheme would significantly and demonstrably outweigh its benefits, so that permission should not be granted.
48. I consider that the planning balance would be firmly against the scheme. For, although there would be environmental, social and economic benefits (as outlined above), particularly in providing a range of house types and tenures, affordable homes and roughly a 2 month supply of housing, there would be serious and lasting damage to the long-established social and environmental objective, supported by statutory planning policies, to enhance the urban form and character of the City with 'green wedges'. In my view, the irreparable harm to that policy objective would not be outweighed by the provision of jobs, the spending power of new residents, a New Homes Bonus or the required mitigation achieved through the section 106 Agreement.

### *Conclusion*

49. I have found that this scheme would intrude into a cohesive area of open land forming part of a 'green wedge' between Chaddesden and Spondon, undermining the perceived separation between those different places as well as the effectiveness of the 'green wedge' here. For the reasons indicated, I consider that Derby's 'green wedges' serve an important planning function by enhancing the urban form and structure of the City and by imparting distinctiveness to the place, in line with elements of the Framework. Moreover, I consider that protection for the appeal site and for this 'green wedge' would not necessarily be inconsistent with the exhortation in the Framework to 'boost significantly the supply of housing'. I find that the scheme would be unsustainable, that its adverse impacts would significantly and demonstrably outweigh its benefits and that the planning balance would be firmly against the proposal. The damaging impact of the

scheme would thus be unwarranted. And, in spite of considering all the other matter raised, I find nothing sufficiently compelling to alter my conclusion that this appeal should be dismissed.

*David Cullingford*  
INSPECTOR

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INTERESTED PERSONS:

Cllr Chris Poulter	Spondon Ward Counsellor
Mr V Kenny	Local resident
Mr Derek Hathaway	Local resident
Mrs Doreen Taylor	Local resident
Kevin Palmer	Local resident



## DOCUMENTS

Document	1	Lists of persons present at the Inquiry (including Derby Telegraph)
Document	2	Summary, proof and appendices 1-10 ~ John Acres
Document	3	Summary, proof and appendices 1-6 ~ Charles Crawford
Document	4	Figures and appendices 7 & 8 ~ Charles Crawford
Document	5	Supplemental information ~ Charles Crawford
Document	6	Summary, proof and appendices 1-7 ~ Nicky Bartley
Document	7	Summary, proof and appendix (see 6.5 & ID5b ~ Sarah Claxton
Document	8	Draft Statement of Common Ground and appendices 1-9, August 2015
Document	9	Draft Statement of Common Ground further appendices 1-4, August 2015
Document	10	Core Strategy, Derby City Local Plan Part 1; pre-submission draft, August 2015
Document	11	Core Strategy: Green Wedge Review, October 2012
Document	12	City of Derby Local Plan Review, 2006
Document	13	Section 106 Agreement, 22 February 2016
Document	14	Draft section 106 Agreement
Document	15	CIL compliance statement
Document	16	Suggested conditions, 4 February 2016
Document	17	Draft list of suggested conditions
Document	18	A Opening submissions for the appellant B Closing submissions for the appellant
Document	19	A Opening submissions for the council B Closing submissions for the council
Document	20	Design and Access Statement ~ LDA Design
Document	21	Landscape and Visual Appraisal ~ LDA Design
Document	22	Statement of Case & submission documents 1-9 ~ John Acres
Document	23	Questionnaire and associated documents

## INQUIRY DOCUMENTS

ID01	Extract from SHLAA relating to appeal site
ID02	Inspector's report into objections to the City of Derby Local Plan Review, January 2005
ID03	<i>Ivan Crane v SoS and Harborough Council [2015] EWHC 425 (Admin)</i>
ID04	<i>Edward Ware Homes Limited v SoS and Bath and North Somerset Council [2016] EWHC 103 (Admin)</i>
ID05	<i>Cheshire East Borough Council v SoS and Richborough Estates Partnership LLP [2015] EWHC 410 (Admin)</i>
ID06	<i>Phides Estates (Overseas) Limited v SoS and Shepway District Council and David Plumpstead, [2015] EWHC 827 (Admin)</i>
ID07	Building for Life 12
ID08	See document 5
ID09	Preferred growth strategy consultation report; Brook Farm and appeal site, in particular
ID10	Summary sustainability appraisal and 'preferred' sites
ID11	Points-based sustainability appraisal of appeal site and other housing sites ~ John Acres
ID12	Report and recommendation to withdraw the Amber Valley Core Strategy from examination pending work to provide a 5-year supply of deliverable

	housing sites
ID13	Signed Statement of Common Ground, February 2016
ID14	Email from Sheena Hill ~ local resident
ID15	Written statement ~ Kevin Palmer
ID16	Letter from inspector examining the Core Strategy, January 2016
ID17	Photos from the rear of properties in Derby Road
ID18	Photos from the rear of properties in Derby Road
ID19	Core Strategy; sustainability appraisal
ID20	Reasons for refusal
	A 125 dwellings, 16 April 2015
	B 250 dwellings, 13 March 2014

#### PLANS

Plans	A	1	Site location	
		2	Site access arrangements	F14148/02, 10 September 2014
		3	Improvements to roundabout	F14148/01, 10 September 2014
Plan	B		Parameters plan	