

**Report on an Inquiry into a Planning Appeal
Held on 18 October 2022
By Mrs Jennifer Vyse DipTP, MRTPI, DipPBM
Site Inspection carried out on 17 October 2022**

Appeal Ref: APP22/0018

Planning Application: 20/01080/B

Appeal Site: Land at Lower Milntown (fields 134278, 134279, 134280, 134281, 134282, 124283, 134284, 134288, and 134289) and a strip of land between Auldyn River and Auldyn Meadows, off Lezayre Road, Lezayre and Ramsey

The appeal is made by Dandara Homes Limited against the decision of the Planning Authority to refuse an application for planning permission for the erection of 138 dwellings with associated drainage, highways works and public open space.

PRELIMINARY MATTERS

1. The description of development set out on the application form refers to 181 dwellings. During discussion with the Authority prior to the application being determined, the number of dwellings was reduced to 138. That change is reflected in the header set out above.
2. Other amendments submitted prior to determination of the application by the Authority included removal of any areas of public open space from the northern part of the site, and repositioning of the proposed junction with Lezayre Road eastwards, into field 134281, increased public open space, diversion of the 33KV cable that currently crosses the site, removal of proposed footpaths and public open space on the northern side of the former railway line, with replacement public open space introduced to field 134281, and revised drainage arrangements. In addition, the results of a breeding bird survey undertaken between April and July 2021 were submitted. My recommendation is based on the revised scheme, which was the scheme discussed at the Inquiry.
3. The application was refused by the Planning Committee contrary to officer recommendation.

THE SITE AND ITS SURROUNDINGS

4. The appeal site, which lies to the west of Ramsey, encompasses nine fields comprising some 31 hectares (ha) of riverside and agricultural land, on the northern side of Lezayre Road, to the west of the Glen Auldyn River and to the south of the Sulby River. The site, which straddles the town boundary,¹ is bisected by the route of a former railway line that runs east to west across the site. The site also includes a narrow finger of land running eastwards towards Auldyn Meadows to facilitate a drainage connection.
5. Open countryside lies to the north and west. The site comprises open fields which appear generally flat in nature, although there is an overall fall of

¹ Fields 134278, 134279 and 134280 (the eastern half of that part of the site to the north of the former railway line that bisects it) lie within the town boundary of Ramsey. The remainder of the site lies within the adjacent parish of Lezayre.

approximately 8.5 metres across the site from the southern to the north-western boundary. The site is also bounded with, and divided by, mature hedgerows and trees.

6. A small, roadside cottage (disused) adjoins the south-western end of the road frontage to the site (Pinfold Cottage), and a row of six dwellings fronts onto the southern side of the road, opposite the site. The northern part of the site excludes a small group of buildings set within their own grounds (Lower Milntown). These buildings are accessed via track off Lezayre Road between the Glen Auldyn River and the western edge of the appeal site.

THE PROPOSED DEVELOPMENT

7. This is a full application for 138 dwellings, including 34 affordable homes, associated drainage, highway works and public open space. The proposed dwellings would be confined to two of the fields to the south of the former railway line (Fields 134282 and 134284). The development would comprise a mix of two-storey terraces, two-storey semi-detached, two-storey detached, two and half-storey semi-detached dwellings, semi-detached bungalows, and detached bungalows.
8. The housing would be accessed via an upgraded field gate entrance off Lezayre Road, within field 134281. It would comprise a priority T-junction with the main road. Provision of the access would require the removal of four trees, plus removal of an estimated 32 trees along the roadside boundary of the site, to the west of the access, to provide the required visibility splays. The footway along the whole of the site frontage would be widened to 2m. Other pedestrian links would also be created.
9. A total of 5.4 ha of public open space would be provided for the development, all within the southern half of the appeal site. It would comprise some 1.5 ha of formal public open space (within the northern half of field 134281) a formal play area (0.033 ha) and other open space, including a large surface water attenuation basin, together with areas of tree planting along the road frontage and along the eastern and south-westerly boundaries to fields 134282 and 134284, plus the route of the former railway line within the site boundaries.
10. No development is proposed for any of the fields to the north of the former railway line, or to field 134288 or the southern half of field 134281 (other than the proposed access) or the remaining areas at the northern end of field 134282. All these areas are shown as private open space (eg farmland).

RELEVANT PLANNING HISTORY

11. In 2007, the whole of the appeal site was previously the subject of an 'in principle' application for residential, industrial and open space uses.² Whilst the Decision Notice cited four reasons for refusal (relating to the land proposed as open space not being zoned for development (field 134281); conflict with the phasing requirements of the West Ramsey Development Framework; a reduction in the number of dwellings then required in the northern part of the Island; and insufficient information in relation to

² Application No 07/02303/A

transport impacts), the subsequent appeal was dismissed solely because of the absence of a Transport Assessment.³ The Minister indicated that his decision was made without prejudice to any subsequent application which included a Transport Assessment and details of the arrangements for accessing the site. He also recommended, that during the preparation of any such application, there should be consultation with the Planning Authority to discuss the inclusion, or otherwise, of Field 134281.

12. Land to the east of the Glen Auldyn River (ie within the town boundary) has been the subject of a number of planning permissions for residential development, including a scheme of 175 dwellings and the creation of a second carriageway on the eastern side of Gardeners Lane and the provision of a section of east-west distributor road. Whilst the area within the town to the south of the proposed distributor road has now been developed with dwellings and a nursing home, the permission included 38 residential plots on the northern side of the distributor road which are yet to be built.
13. Land between Gardeners Lane and the Glen Auldyn River (within the town boundary) has also been developed with housing (Auldyn Walk). A neighbourhood centre and 19 additional dwellings are currently being constructed on the remaining part of that site.

PLANNING POLICY AND OTHER GUIDANCE

The 1982 Development Plan

14. Whilst the Isle of Man Strategic Plan and a number of Local/Area Plans have subsequently been adopted, providing policies and designations which supersede many of those in the 1982 Development Plan, that part of the application site located outwith the Ramsey town boundary is not the subject of any Local or Area Plan. Other than field 132481, which is shown as white land, that part of the appeal site within Lezayre is allocated for 'predominantly residential use' in the 1982 Plan.

Ramsey Local Plan (1998)

15. Whilst many of the Local Plan policies have been superseded by the Strategic Plan, it still provides extant land use zonings for all land within the town boundary. That part of the appeal site within the town boundary is allocated for proposed residential and light industrial development (known as Lezayre Road/Gardeners Lane, Areas C and E⁴).
16. Local Plan Policy R/R/P2 includes a specific Development Brief for Area E. Development is only to be undertaken in accordance with an overall scheme for the area, which should be prepared after examination of the feasibility of providing a second crossing of the Sulby River.⁵ The scheme is to include at least 3ha of land for light industrial use, 2ha for recreation/play and generous landscaped space along the rivers and former railway line.

³ AP09/0084

⁴ As defined on Map No 2 of the Local Plan.

⁵ The later West Ramsey Development Framework sets out that the Highway Authority has since advised that a second crossing is no longer required to be constructed in association with the overall development of the West Ramsey Area.

17. The Housing chapter of the Plan confirms that the general presumption against built development in the countryside adjoining the town boundary will remain, except for those areas between Lezayre Road and Jurby Road which remain zoned for development on the 1982 Development Plan (ie that part of the appeal site outwith the town boundary).

West Ramsey Development Framework (March 2004)

18. The Framework is not part of the development plan for the area. Rather it constitutes supplementary planning guidance in accordance with the provisions of the Local Plan. It provides for the phased development of land to the west of Ramsey, dividing the land into seven areas.
19. Those parts of the appeal site within the town boundary are shown as Areas 5 and 6 on the Key Diagram. The Housing section to the Framework indicates that Area 5 should be developed for medium/high density housing and, if there is sufficient demand, light industrial uses, with Area 6 to be developed for low density housing. It notes that all development in these areas is dependent on the requirements of any flood protection and drainage measures.
20. The Framework also includes provision for a new distributor road running westward from Poylldooey Road, crossing Gardeners Lane and the Glen Auldyn River to serve development in Areas 5-7. The route shown on the Key Diagram is illustrative only. The Framework confirms that a new access road should be constructed from the distributor road to the Lezayre estate. That is shown on the Key Diagram. It also confirms that the former railway line should be formally established as a public footpath, and that links to that footpath should be created from the development of land within the Framework area.
21. The Framework also states that land in the parish of Lezayre, beyond the Town boundary shown as Area 7 on the key diagram (ie fields 134282, 1314283, 134284, 134288 and 134289) would, in the long term, form the edge of Ramsey, adding that development of the area should result in the creation of an attractive landscaped transition between the countryside and the urban area.
22. The Nature Conservation section acknowledges that the existing ecology of the area will inevitably be affected by the development of West Ramsey and that development should be designed to comply with specified criteria, including the need to provide an accurate tree survey with a presumption in favour of retaining and protecting all trees where possible.
23. The Phasing section of the Framework confirms that no development may commence on land to the west of the Glen Auldyn River before the development of Areas 1, 2, 3 and 4 is substantially complete, with development of Area 7 only to commence once the development of Areas 5 and 6 is substantially complete.

Isle of Man Strategic Plan 2016

24. Among other things, Strategic Policy 2 and Housing Policy 4 direct that new development will be located primarily in existing settlements or, where appropriate, in sustainable urban extensions.

25. Strategic Policy 11 and Housing Policy 1 confirm that the housing needs of the Island will be met by making provision for sufficient development opportunities to enable 5,100 additional dwellings over the period 2011-2026. Of these, Housing Policy 3 indicates that some 770 dwellings should be provided in the northern part of the Island (which includes Ramsey and Lezayre). Housing Policy 2 seeks to ensure an adequate supply of housing land, with land that is allocated for housing in the development plan to be kept under review to ensure that it is available for development. Housing Policy 5 requires 25% affordable housing provision on sites of 8 or more units on land zoned for residential development.
26. Spatial Policy 2 confirms Ramsey as one of a number of Service Centres to provide regeneration and choice of location for development including housing, with Spatial Policy 5 confirming that new development will be located within defined settlements.
27. Housing Policy 4 requires that development of land that is zoned for residential development must be carried out in accordance with the brief in the relevant Area Plan or, in the absence of such, in accordance with criteria in General Policy 2. General Policy 2 is permissive of development that accords with the land-use zoning and proposals in the relevant Area Plan and with other policies of the Strategic Plan, subject to specified criteria. Among other things, development is to accord with the design brief in the Area Plan where there is such a brief; is to respect the site and surroundings in terms of siting, layout etc; must not affect adversely the character of the surrounding landscape, protected wildlife or locally important habitats; and should not have an unacceptable effect on road safety.
28. Environment Policies 3, 4, 5, 10, 13, and 14 seek to ensure that development would not have an adverse effect upon woodland, ecological interest, areas affected by flooding, or important agricultural land.
29. Environment Policy 40 resists development that would harm an Ancient Monument, with Environment Policy 41 requiring archaeological evaluations prior to the determination of proposals affecting sites of known or potential archaeological significance and, where necessary, excavation and/or recording of remains in advance of construction work will be secured by means of planning conditions or formal agreement.
30. Transport Policies 1 and 2 require that new development be located, where possible, close to existing public transport facilities and routes, including pedestrian, cycle and rail routes and, where appropriate, make provision for new routes including links into existing systems. Transport Policy 4 seeks to ensure that new and existing highways are capable of safely accommodating the vehicle and pedestrian journeys created by development. In accordance with Transport Policy 7, parking provision should meet the standards set out at Appendix 7.

Area Plan for the North and West

31. An Area Plan for the North and West is currently being prepared. However, this is still at an early stage. Whilst it has been the subject of public consultation, it has not been the subject of formal testing at Inquiry. Among other things, it allocates the majority of the two fields within the appeal site

where the housing is proposed, for predominantly residential use. The remainder of the appeal site to the south of the former railway line, is zoned for open space (including field 132481). Land to the north of the former railway is not allocated for any development.

THE CASE FOR THE APPELLANT (Dandara Homes Limited)

The material points are:

Principle of development

32. That part of the appeal site that is proposed for built development forms part of a longstanding allocation. The 1982 Development Plan identified those fields (together with fields to the north of the former railway line) for predominantly residential use. As confirmed by the 2016 Strategic Plan, the 1982 Plan has effect as an Area Plan and its provisions continue to apply until replaced by new Area Plans. The 1982 allocation has not been amended or replaced by any subsequent plans.
33. Although the Draft Area Plan for the North and West underwent a period of consultation, an Inquiry into the Plan is yet to take place. As agreed by the Authority, it therefore attracts very limited weight in determination of this appeal. In any event, the scheme is entirely in accordance with the emerging Plan, which allocates fields within the appeal site (including the two fields on which housing is currently proposed) for predominantly residential use.⁶ Given its early stage, the Draft Plan cannot attract more than limited weight and it cannot outweigh the provisions of the 1982 Plan or the Strategic Plan. There can be no question of the proposal being premature, a scheme which, in any event, accords with the emerging Plan.
34. The 1998 Ramsey Local Plan does not include that part of the site on which the residential development is proposed, although it does recognise that the land is identified for development in the 1982 Plan. The West Ramsey Development Framework is not part of the development plan, but it too acknowledges that the land beyond the current town boundary shown for development on the Key Diagram is zoned for development on the 1982 Plan and will, in the long-term, form the edge of Ramsey.
35. Against that background, there is no doubt that the principle of housing development as proposed is entirely acceptable. However, the Authority maintains an objection in this regard, arguing that the evidence base for the emerging Plan demonstrates that there is no requirement for additional housing in Ramsey at this scale, and that this is a greenfield site. However, neither the Area Plan, nor its evidence base, have been the subject of examination at Inquiry. Since the Authority accepts that very little planning weight can be afforded to the emerging Plan, the same must apply to the unexamined evidence base.
36. Moreover, the 2016 Census has been followed by the 2021 Census. The draft Plan recognises that the evidence base is subject to change,⁷ underscoring the fact that limited weight should be attached to both the emerging Plan and its evidence base. In any event, the emerging Plan

⁶ Pages 120-121 of the draft Area Plan

⁷ Paragraph 14.2.2 of the draft Area Plan

includes the proposed residential area as part of a draft housing allocation. As such, the evidence base for the emerging Plan as it currently stands can provide no basis for over-turning the in-principle support for the appeal scheme provided by the 1982 Plan.

37. That the appeal site is greenfield provides no possible in-principle objection to the proposal – acceptance of that objection would mean that any allocated site that is not previously-developed land would be fatally undermined. That in turn would undermine the development plan as a whole.

Trees

38. Many of the trees to be removed to facilitate the proposed access and provide adequate visibility splays, are Ash and Elm. The Government's arboricultural officer confirmed that the prognosis for this row of trees is pretty poor in the long-term, with later comments reiterating that the Ash and Elm trees close to Lezayre Road enjoy limited long-term prospects (up to 5-10 years). There is no contrary technical evidence.
39. In any event, significant new planting is proposed, using species less likely to fail (such as oak) the extent of which significantly outweighs the extent of loss, both in terms of quantity and quality.

Biodiversity

40. The reason for refusal refers specifically to impacts on protected birds. The appellant commissioned Manx Wildlife Trust to undertake a breeding birds survey of the site. In light of the findings, the appellant agreed amendments with DEFA and its Ecosystem Policy Team directed at mitigating identified ecological impacts. The Ecosystem Policy Team raises no objections in light of the proposed measures, subject to conditions, supplemented by a Section 13 Agreement.⁸ There is no competing technical ecological evidence to support any other finding.

Access Location

41. Whilst the application was with the Authority for determination, the position of the proposed site access was moved eastwards in order to address concerns raised by existing residents living on the southern side of Lezayre Road. The effect of that, is that the access road would be routed through a small part of a field that does not benefit from allocation in the 1982 Plan. However, there would be no harm as a consequence of that, whether compared with an access onto the main road directly from the proposed residential area, or generally.
42. It is suggested that the location of the access would give an urban impression and would detract from the openness of the field within which it would be sited. However, no analysis within the Authority's case supports that assertion. It does not recognise the proposed landscaping, including the planting of hedgerows and a significant number of trees to mitigate the visual impact of the proposed access, and it fails to reflect the fact that the field on which the access is proposed is sandwiched between the proposed

⁸ Sophie Costain email dated 4 March 2022 (Appendix 9 to the Appellant's Statement)

housing that is on land allocated for residential development in the 1982 Plan, and existing development to the east. The absence of any tangible harm associated with the proposed access cannot justify refusal of the appeal scheme.

Pedestrians and Public Transport

43. Highways Services confirms that the development, including the proposed access and upgrading of the footway along the road frontage, meets relevant Strategic Plan policies, offering mode choice and access on foot to nearby facilities and services, notwithstanding that only some cycle and pedestrian arrangements can be accommodated at this stage (such as along the dismantled railway), concluding that there is no highway or transport reason for refusal. There is no competing technical evidence to support the Authority's objection in this regard.

Public Open Space

44. There is no evidence to support the contention that the proposed open space might not be useable because it could not be properly levelled or drained, assuming such works were required in the first place. The application was supported by a Flood Risk Assessment and none of the bodies with an interest in flooding and drainage issues advanced any objection. In any event, there is no evidence that the area of land in question faces any particular drainage issues. Even if some drainage works were, in the event, required in that location, they are likely to be localised, minor and effective.

Conclusion

45. The appeal scheme is in conformity with the development plan as a whole:
- it comprises the erection of dwellings on land that is identified for such in the 1982 Development Plan;
 - when proper regard is had to the proposed mitigation measures, including landscaping and ecological enhancements, its impacts fall well within the bounds of acceptability;
 - there is no breach of Strategic Policy 10 or Transport Policies 2 and 6 – in essence, the site is well-located in terms of accessing services and facilities by means other than the private car and the access arrangement proposed would be safe;
 - the development accords with General Policy 2 both in terms of reflecting the 1982 Development Plan land-use zoning and meeting the development control requirements of the policy;
 - given the proposed mitigation measures in respect of landscape and ecology, the scheme meets the requirements of Environment Policy 4; and
 - the provision of landscaped amenity areas as an integral part of the design, and the quantum and quality of the recreational and amenity space that would be provided, comply with Recreation Policy 3.

THE CASE FOR THE PLANNING AUTHORITY

The material points are:

Trees and Biodiversity

46. There would be significant impacts to ecology and impacts in terms of the extent of tree loss along Lezayre Road. The Agriculture and Lands Directorate (ALD) advised that the loss of trees was in part acceptable on the basis that many are Ash and Elm, with other such trees in the area suffering from Dutch Elm disease and Ash dieback. It was acknowledged, however, that the ultimate effect on those trees from disease/dieback was uncertain and that some may not, in the event, be affected or need to be removed. The appellant's own tree report indicates that the trees are currently in good health. They could, therefore, provide amenity for another 5-10 years. The ALD also had concerns about the proximity of existing trees and new landscape planting to plots 1, 9 and 10, with a number of conditions required to help mitigate the impact of significant tree loss along the roadside.
47. Updated comments from the ALD confirm that had the planning application been submitted after the Directorate's changes to its tree policy, it would have objected on the basis that the scheme includes the removal of trees worthy of a category B classification (as defined by BS5837:2012).
48. It would be premature to allow a scheme requiring the significant loss of trees of high amenity value, particularly those along the roadside which create a natural tunnel effect on entering/leaving Ramsey, contrary to General Policy 2 and Environment Policy 3. The level of tree loss goes beyond that which is necessary and would adversely affect the countryside, contrary to Environment Policy 1. The unacceptable loss of woodland areas which have public amenity or conservation value would also conflict with Environment Policy 3.
49. Flood risk issues now prevent access to this part of the site from the north, as originally envisaged in the Ramsey Development Framework. However, that does not automatically mean that an access off Lezayre Road is acceptable or appropriate. The draft Proposals Map for the emerging Area Plan for the North and West shows most of the southern boundary of field 134282 and all of field 134281 as open space, i.e. not designated for development.⁹
50. In relation to biodiversity, the Ecosystem Team's primary concerns related to impacts on red list bird species. The mitigation measures proposed (including changes to the layout so that there would be no development within the northern part of the site and no riverside footpath, the development of a biodiversity and habitat enhancement and management plan for the northern part of the site and the redevelopment of the old Tholtan, plus other measures that could be secured by condition, such as boundary planting, low level lighting, and a Construction Environmental Management Plan etc) are all essential. However, this is all unproven mitigation. The impacts of construction, increased light, noise, people, cats,

⁹ **Inspector's Note:** the proposal map for the draft Area Plan for the North and West indicates access being taken from Lezayre Road towards the western end of the frontage (in the position originally proposed but subsequently amended in relation to the appeal scheme).

loss of hunting space etc. are unknown and even with all of the mitigation measures in place, the red list species could be negatively impacted. Therefore, no development in this area, and retention of the habitats as they are, would be much more preferable.

51. Other concerns relate to the effect of removing a large number of old roadside trees with high ecological value, likely to be used by roosting bats. Were permission to be granted, a condition would be necessary requiring re-assessment of the trees along the roadside to determine exactly which ones would actually require removal to facilitate the necessary visibility splays, and which can be retained, with any felling to be done in stages¹⁰ to allow for the preservation of a branched archway across the road and for mitigation planting to establish.
52. Additional comments from the Team confirm that although the amended scheme could avoid and mitigate some impacts upon wildlife (which led to their view that ultimately the development could be considered acceptable subject to a significant number of conditions), that is not to say that the Team was supportive of the proposal. Only that it was acceptable and in line with Government policy.
53. The potential impact on red list bird species brings the development into conflict with Environment Policy 4, although Environment Policy 5 indicates that, in exceptional circumstances where development is allowed which could adversely affect a site recognised under Environmental Policy 4, conditions will need to be imposed and/or Planning Agreements sought. The biodiversity impacts in this case would be so significant that they are not outweighed by any benefits.

Impact on Land to the East

54. Each application is judged on its own merits and what is acceptable on one site, may not be acceptable on another. Generally, an access to a development site would be contained within the land designated for such development. There is a presumption against any development (including access and roads) which extends onto land not designated for development.
55. The extension of the proposed access and estate road into Field 134281 is unacceptable, given that that part of the site is not designated for development. The proposed access arrangement would be very visible from Lezayre Road and would give an impression of 'urban-ness', detracting from the openness of the land, especially if it is lit. This would amount to an unwarranted intrusion into the countryside, contrary to Environment Policy 1 which seeks to protect the countryside for its own sake - clearly there would be a loss of land for the physical footprint of the road/verges etc.

Pedestrians/Public Transport

56. Whilst a condition can secure the provision of a new bus stop on the northern side of Lezayre Road, there is no such provision for the southern side of the road. As such, passengers, especially school children, would need to cross this section of the highway. Moreover, there is no public

¹⁰ As per the Manx Bat Group's Method Statement for Tree Inspection (16 November 2020)

footpath on the southern side of this section of Lezayre Road, meaning that school children would need to disembark onto the main carriageway, putting them at risk. There would be conflict with Transport Policies 2 and 6 in this regard.

Open Space

57. It is the applicant's responsibility to ensure that all necessary information accompanies the planning application. No details were provided in respect of the proposed formal open space within Field 134281. The field is uneven, having been used for agricultural activities in the past, with evidence of surface water flooding/wetland within the north-western section and with a high voltage overhead power line running across it.
58. The northern section of this field, where the formal open space is proposed, is identified as lying within a "Flood Risk from River, Tidal and Surface Water" (low, medium and high risk for surface water flooding), being immediately adjacent to the Glen Auldyn River to the east. No information is provided demonstrating how this area of open space would be drained, leading to concern about the quality and usability of this area for the intended purposes. There would be conflict in this regard, with Recreation Policy 3 of the Strategic Plan, which seeks to ensure the provision of well-designed recreational and amenity space, and the Residential Design Guide, which indicates that it is important that open space provision is sufficient, both in terms of quantity and quality.

Census/Draft Area Plan

59. At the time the application was determined, and based on the 2016 Census, the Cabinet Office indicated that housing need has been met in the North and West, although it was recognised that strategic reserves may need to be identified to build in flexibility to meet the need identified within the Strategic Plan.
60. Since adoption of the 1982 Development Plan, a number of new/different policy considerations have been introduced by the Strategic Plan, including the increased importance of biodiversity, trees, flooding and highway matters. In each of these areas, more recent policy/evidence is in place.¹¹ Moreover, the preliminary publicity for the emerging Area Plan for the North and West raises questions about the overall need for additional housing in the area. In light of these issues, which are new/different from when the site was allocated in 1982, it is appropriate to re-consider the principle of development.
61. Since determination of the planning application, the Cabinet Office has produced a Draft Area Plan for the North and West. It designates that part of the appeal site on which dwellings are now proposed for predominately residential use. However, the written statement recognises that the 2016 Census had a significant influence on the policy approach towards housing numbers and site selection, the overall number of sites and the proportion of sites put into general allocations and the proportion put into Strategic

¹¹ Eg the Biodiversity Strategy, DEFA's Tree Consultation Policy, the Laxey Flood Review, and the Manual for Manx Roads

Reserve. It notes that whilst the Census remains key evidence in development of the Draft Plan (the 2016 Census showed a fall in residential population between 2011 and 2016) the Cabinet Office will await the population projections from the 2021 Census before confirming or revising its position in terms of housing sites ahead of the Public Inquiry.

62. The Draft Area Plan includes a summary of residential land provision, identifying a total of 1,050 dwellings, plus potential delivery on available sites of 147 dwellings, with six sites, including the site of the dwellings now proposed, identified for residential development, providing an additional 318 dwellings - some 1,515 dwellings in total.
63. The Draft Plan includes a Development Brief for this part of the appeal site (RR009), to be refined after public consultation. It indicates that the site is to be allocated for predominantly residential use and open space; that there must be a satisfactory and safe access off Lezayre Road which can sensitively break through the green space/roadside boundary as shown on Map 4; that an Environmental Impact Assessment is to be provided, with the scoping assessment to include impact on trees, biodiversity and protected birds; that any Environmental Statement should include steps to mitigate any impacts; that an Arboricultural Method Statement is required, as is a Travel Plan with a focus, among other things, on supporting safe access to and from local schools; and that any planning application must include a structural landscaping plan which should, where practicable, retain existing hedgerows. The Draft Plan also supports improved public access across Field 134281 and public open space within Field 134281, to enhance community connections and links between the existing community of Ramsey and new residents.
64. As the Draft Area Plan for the North and West is at its infancy, it attracts very little material planning weight. It is more appropriate that a decision on this large urban extension, which comprises a greenfield site with significant environmental constraints and is physically separated from the existing built area, is made through the Plan process, rather than through a planning application that relies on a 40 year old Plan.

Site Being Greenfield

65. As part of the planning process, consultee responses are material planning considerations which need to be taken into account when making any decision. Members were perfectly entitled, after giving the responses careful consideration, to come to a different overall view from that of its officers.
66. The Strategic Plan makes several references to the prioritisation of brownfield sites and constraining the release of greenfield sites.¹² Avoiding unnecessary development of greenfield sites is a well-established planning principle that is reinforced by Our Island Plan which, among other things, seeks to protect and appropriately manage woodland, areas of special interest, uplands and farmland, and carefully consider any proposed development of greenfield sites.¹³ The Plan endorses the use of Comprehensive Treatment Area, Section 13, Community Infrastructure Levy

¹² Eg paragraph 5.27

¹³ Page 12

and other planning policy approaches to encourage urban, rather than greenfield, development.¹⁴ It also confirms that a strategic objective of the Built Environment Reform Programme is to ensure the attractiveness of brownfield development to help protect the Island's green fields and landscape beauty.

OTHER REPRESENTATIONS AT APPEAL STAGE

67. **DoI Highway Services:** whilst the geometry of the proposed access off Lezayre Road is acceptable, use of the land for this purpose was considered by the Committee as having an unacceptable impact on the adjoining field. Access was proposed from Lezayre Road for practical reasons, including the overcoming of flood risk, before its repositioning eastwards into the adjoining field. The proposed relocation was to reduce adverse impacts on the occupiers of existing dwellings opposite, from turning and shining of headlights through windows of these properties. The moving of the access junction eastwards encroaches into land not allocated for development in the 1982 Development Plan, as does the proposed bus stop infrastructure.
68. Upgrades to the footway along the site frontage on Lezayre Road are proposed, to provide a consistent 2m width. The originally proposed walking route along the riverbank has been omitted for ecological and environmental reasons. The footway allows access to the east towards Ramsey and to the bus stops on the Glen Auldyn River bridge, and west towards Sulby. An hourly daytime bus service currently operates Monday to Saturday and every two hours on an evening and Sundays. There is no footway on the south side of Lezayre Road in the vicinity of the site. The present eastbound bus stop is on the bridge where the footway narrows. The westbound bus stop is at the Lezayre Road junction with Glen Auldyn and has no footway or platform. There is no formal road crossing point here.
69. The appellant has agreed to the provision of a new bus stop, shelter and layby on the north side of Lezayre Road between the proposed junction and the bridge, which could be secured by a negatively worded planning condition. That would better cater for the demand associated with the development and likelihood of a predominant movement towards Ramsey, and would enhance the existing facilities by providing shelter even for those travelling westbound who would need to cross the road. At this time however, it is not possible to provide enhanced bus stop provision for westbound bus travel and a formal crossing point is unlikely to meet criteria, but the development would not preclude such facilities coming forward in future.
70. The Government has aspirations to create a cycle/pedestrian link along the former railway line. To that end, the scheme includes a 3m wide cycle and pedestrian link along that part of the track within the appeal site. At present, though, the line is not connected to the remainder of the local transport network. The works would accommodate future provision.
71. Accessibility for new developments is measured from the centre of the site. The current bus stops are 430m walking distance from the mid-point, more than 500m from the northern and north-western extremes. Although that

¹⁴ Page 64

would exceed the recognised maximum walking distance of 400m, the longer walks are to direct services and are considered acceptable.

72. If necessary, larger mini-buses would be able to enter and leave the site to pick up and drop off school pupils, with the main streets designed to an adoptable standard with sufficient width and turning points. The streets have not been designed to be used by conventional large single or double decker buses, but a large vehicle could enter and exit in a forward gear twice a day during school terms if required. The road width would be suitable and the layout does not preclude the introduction of a loop service. Conventional services would continue to run along Lezayre Road.
73. It is unclear whether a boundary change for school catchment for primary school age children may arise on development. The current primary school catchment is in Sulby, the secondary school catchment being the Grammar School in Ramsey. Walking distances for work and education trips up to 500m are considered as desirable, up to 1km as acceptable and up to 2km as the preferred maximum. Based on those, Sulby Primary school would not be accessible on foot, but all parts of the site would be within walking distance of Bunscoill Rhumsaa primary school (550m away - 6mins walk time), Ramsey Grammar School (750m - 9min walk) and Ramsey Town Centre/Hall (1300m - 16min walk). The submitted Travel Plan includes further measures which are acceptable to Highway Services. The combination of measures proposed would meet Transport Policy 6.
74. The TT as well as other races and events lead to road closures on race days and at other times, such as for qualifying and testing. These closures impact on many parts of the Island. Whilst they can be onerous for residents, they are recognised as bringing benefits to the Island. The closures are pre-planned as part of event organisation between the organisers of races and multiple agencies, including the emergency services. The arrangements are publicised in advance through various media and include plans for emergency access when roads are closed. The appeal site would be subject to the same conditions. Additionally, buyers of property should know of this issue prior to purchase. The limitations to access during events are not considered as a significant adverse impact sufficient to warrant a refusal.
75. The proposal complies with Strategic Policy 10 and Transport Policies 2 and 6, offering mode choice and access on foot to nearby facilities and services. If necessary, school buses of various sizes would be able to enter and leave the site, for instance to take children to Sulby Primary. Access during the TT would accord with existing advance event planning arrangements, including for emergency incidents. The significance of the impact of the highway and transport related infrastructure on the preserved land is a matter of judgement. Accordingly, Highway Services consider that there is no highway or transport reason for refusal.
76. **Lezayre Parish Commissioners:** The development is contrary to part d) of General Policy 2 of the Strategic Plan, which requires that development does not adversely affect the protected wildlife or locally important habitats on the site or adjacent land, including water courses. There would be conflict too with Environment Policy 1, which protects the countryside and its ecology for its own sake. Development which would adversely affect the countryside will

not be permitted unless there is an over-riding national need in land use planning terms which outweighs the requirement to protect these areas and for which there is no reasonable and acceptable alternative.

77. The proposed access and visibility splays require the removal of various trees and vegetation which currently provide a well-established natural habitat for wildlife. On this site, and in the surrounding fields, many ground nesting birds raise their young, in particular curlews, a red listed species, the Island population of which has considerably declined over the last few years. Every effort is needed to prevent the curlew population declining further. The development proposed would have a serious impact on their breeding area. These birds use these fields because they provide the necessary habitat. Curlews cannot survive here without this type of habitat.
78. In terms of over-riding national need, attention is drawn to a comment made by the planning officer in refusing another planning application, that *"evidence provided by Cabinet Office suggests there is no housing demand currently"*.¹⁵ We agree with the Planning Committee that the development is contrary to Environment Policies 3 and 4.
79. The indicative flood maps show that land to the north of the development is at risk of flooding. Originally shown for housing, that land is now shown as open space and play area. The Commissioners support the Planning Committee's view that *"it has not been demonstrated that the area to be provided for formal open space and children's play area would be capable of being levelled and drained to be of sufficient quality for those purposes"*. There would be conflict with Recreation Policy 3.
80. The attenuation basin and connected drains have minimal drainage fall levels. These drains would be expected to remove a very large amount of storm water very quickly in the event of prolonged heavy rainfall. In a cloudburst event, water levels would rise very quickly, accelerated by any obstruction in the Glen Auldyn and Sulby Rivers. There is not enough safety margin to allow a blocked drain or power failure to the pumping station to be repaired in sufficient time to prevent serious flooding of the proposed residential development.
81. No provision has been made to meet Transport Policies 2, 4, and 6. Whilst pedestrian links are shown within the site, there is no connectivity to the east, towards Ramsey and the already built community. A bus service would be required for transporting children to and from school, but there is no provision for a bus stop within the development. It would be dangerous for pedestrians, particularly school children, to cross the A3 arterial main road, as there is no pavement. Currently, when waiting for a bus at this location, passengers stand at the edge of the road.
82. Many of the above points also relate to Strategic Policy 10. The site location would not minimise journeys by private car and would not make best use of public transport as the plans do not demonstrate a safe bus stop area, which would affect highway safety for all users. The lack of connectivity of the site

¹⁵ Application No 20/01510/A

would not encourage pedestrian movement off the site. People will/may choose to drive.

83. These fields are not the place to build 138 new homes. The Ramsey Town boundary should not go any further west than the tree lined Glen Auldyn River. The scheme would be an enormous, urban salient into the heart of the countryside. The main A3 road going to Ramsey at Ballakillingan passes through attractive impressive scenic countryside, including mature chestnut trees. As the road skirts Sky Hill and approaches Glen Auldyn bridge, one can see out over farmland to the north. This is the type of countryside with impressive scenery that we should be preserving. A satellite, 138-home residential development does not belong here. Physically the site is not adjacent to the town of Ramsey.
84. There are many brownfield sites within the town that could be developed for housing. For instance, Vollan fields, to the north-west of Bride Road (approximately 27.25 acres) has been designated for future development within the Ramsey Local Plan 1998 and comprises the largest single undeveloped area of land designated for development within the town boundary which is not compromised by flood risk.
85. **Occupiers Ballakillingan:** This appeal site is potentially fertile and productive agricultural land. Food security is of increasing importance, requiring the retention of such land.
86. Whilst the appellant's Flood Risk Assessment refers to the devastating effects of the high rainfall in September 1930, it omits any mention of the devastating effect in Glen Auldyn. The waters destroyed the road and bridge in the Glen and swept across the fields of the appeal site.
87. Lezayre Road already experiences severe congestion, especially in the morning peak and evening peak hours and at school times, with a bottleneck on the section from Gardeners Lane to Parliament Square. The road is also subject to closures during the TT race and practice periods, when there would be no access for emergency vehicles.
88. The 1982 Development Plan refers to an allocation of 26 acres of land "*South of the Sulby River*" for residential development. Inexplicably, the accompanying map shows some 75 acres of land for residential development, including the appeal site. The whole area is still in agricultural use. Until the new Area Plan has been adopted, it would be premature to allow a new dormitory suburb on green fields, detached from Ramsey, to go ahead.
89. Part of the field to the south of the appeal site, some 130m away, has been fenced off for many years as a nature conservation area used by nesting Curlew, a Schedule 1 protected species. This was not recorded in the appellant's survey because the adjoining land owners were not consulted on it.
90. The Health service in Ramsey is already in crisis, with insufficient doctors in the group practice to serve the existing population. Schools are more or less full with little or no capacity in some age groups. Parking in the summer is

at a premium and generally Ramsey is stretched to the limit coping with the current population.

91. **Occupiers Underhill:**¹⁶ This should be a conservation area given the wildlife that it supports - two owl species nest in the vicinity and other red listed bird species breed on the site. The disturbance caused by noise, light etc would prevent rare species remaining in the area, with further development along the Sulby River floodplain preventing re-evaluation of the ecological worth of the floodplain and future restoration. DEFA's Ecosystem Policy Officer states that "*...no development in this area would be preferable*".
92. Our Island Plan refers to the need for a stable and secure food supply. The appeal scheme would result in the loss of flat, agricultural land that also supports rare wildlife, before brownfield sites have been utilised and before the Area Plan for the North and West has been examined. Yes the emerging Plan is in its infancy, but that should not be a barrier when there is no urgency for this type of housing on the Island at this time.
93. Our Island Plan also refers to "*Our vision for an environment we can be proud of is an island that...rich and diverse biosphere that is protected, nurtured and sustained*" and "*carefully consider any proposed development of greenfield sites*". The development proposed conflicts with that, regardless of mitigation attempts which should not be needed because the houses are not needed. Approval would be premature given that there is sufficient land elsewhere with approval and which is not yet developed, is not a greenfield site, and would not be so damaging to the wildlife and ecosystem it supports.
94. Rather than increasing the stress on Ramsey's already stretched infrastructure, additional housing should be encouraged around communities where local schools are struggling. There is not sufficient employment in Ramsey to accommodate this development. Most parents would take their younger children to school by car, dropping them off on the way through Ramsey to work in Douglas. The buses do not allow for ferrying children to various after school clubs etc after work. Just building houses would not create a community or employment, or help the local economy in the long term. Sustainable infrastructure and support is essential. The appellant has not completed the existing development accessed by Gardeners' Lane and has failed to provide access routes and amenities outlined in their planning application.
95. There would be three sizable housing estate roads exiting onto Lezayre Road within a distance of less than 100 metres. Gardeners' Lane /Greenlands Avenue does have a secondary vehicular route that is available at TT time for access only, and permanent pedestrian access to Ramsey via the heritage trail, but the new development would not have a secondary route. A large number of cars and people would need to access their homes before

¹⁶ **Inspector's Note:** Part of the submissions sought to rely on sections 11.2)a)(iii) and 11.2)d)(ii) of the 1982 Development Plan. However, as discussed at the Inquiry, section 11.2)a)(iii) requires regard to be had to whether approval of additional land for development would be premature. The appeal site is not 'additional land'. It is allocated for development in the Development Plan. As such, section 11.2)a)(iii) is not relevant to the appeal scheme. In seeking to safeguard principal traffic routes, section 11.2)d)(ii) requires the provision of service roads to avoid the creation of individual pedestrian or vehicular accesses onto such routes. The appeal scheme proposes a service road, with no individual pedestrian or vehicular accesses onto the main road. Again, that part of the Plan is of no relevance to the appeal scheme.

the roads are closed. Lack of access for emergency services should be considered, as well as day to day access for pedestrians.

96. Pedestrian and public transport provision is inadequate. Very limited space is available to pedestrians along the road at this point. Whilst the footway would be widened along the site frontage, that doesn't address the narrow footway beyond that, over the Glen Auldyn River Bridge, on to where it approaches Gardeners' Lane. The pavement here is narrow and not suitable for pushchairs or wheelchairs especially during the winter months. This would be the only pedestrian route to school for what could be a significant number of children and is not safe. Crossing the entrance to Gardener's Lane is not child-friendly, due to its width, the volume of traffic it services at school times and lack of visibility of traffic approaching from the west.
97. During TT practice week we give our children a lift to school due to the speed and sheer volume of traffic at this point in the road. Indeed the pavement on the Ramsey side of Gardener's Lane has impact protection on it for the TT, and there are warning signs up advising that the pavement is restricted. It is tight on a day to day basis without the padding.
98. Under the 1982 Development Plan, any development on this site is specifically linked to provision of a service road providing alternative pedestrian and vehicular access. If it is not possible to give the development secondary access, the site should not be deemed suitable for development.
99. The appellant refers to the 2021 census to demonstrate that the population is rising. This is not what it says. There was a 0.9% increase between 2016 and 2021, which represented a partial recovery of the population total after a fall between 2011 and 2016. There was significant level of outward migration as well.
100. The risk of flooding will increase over time. There has been no acknowledgement that our garden is frequently under an inch or so of water in the winter months. Moreover, none of the houses here have access to mains drainage.
101. It would be sad to see such beautiful countryside turned into a housing estate, housing that the Island does not currently need and may not need in the future. We frequently see bats, owls, curlew, herons, buzzards, falcons and other birds of prey over these fields. They will disappear when construction starts. The Island is destroying its countryside and valuable agricultural land for future generations. The current application diverges from the Development Plan in significant ways eg vehicle access/safe pedestrian access. Before significant decisions for future development are made, direction from the updated Area Plan for the North and West should be taken into consideration, along with the aims set out in Our Island Plan.
102. **Occupiers Scaffell:** No decision should be made on this proposal until an up-to-date Area Plan is in place. The last plan is more than 40 years old. We are now living in a new situation with global warming, higher volumes of traffic, an energy crisis and global food shortages.
103. The developers suggestion that the site being greenfield is not a legitimate reason for refusal is no longer valid, as world events have proven that

farming land for food production is an extremely valuable asset that must be protected for future generations. Food production capability for the future must be prioritised over the financial wants and gains of the developer.

104. The proposed access would be onto the TT route. Regardless of approvals elsewhere, common sense indicates that an exit onto the main arterial route into Ramsey, at a point where there is already an exit from Glen Auldyn with bad visibility to the right, and an exit from Gardeners Lane that now has increased traffic flow due to the new estate, at a point where not only does the road narrow but is also on a bend, where there is only one narrow footpath over the bridge at a junction that cannot be widened, is unsafe.

105. Ramsey Town Council is disappointed that Dandara's promised amenities and access routes associated with the last development in Ramsey have not been delivered. The developers reference to the 2021 census saying that the population has increased, is incorrect.

106. There is no reference on the plans to EV charging points, heat source pumps or high quality insulation that meets the needs of the energy crisis that we face. The world has changed dramatically over the last 40 years. Any planning decision needs to take this fully into account, attributing sufficient weight to it on behalf of our future generations.

ASSESSMENT BY THE INSPECTOR

107. As agreed at the Inquiry, the main issues in this case relate to:

- whether the principle of the development proposed is appropriate in this location, having regard to planning policy and other material planning considerations;
- the effect of the development proposed on the character and appearance of the area;
- the effect of the development proposed on ecology and biodiversity;
- the effect of the proposal on pedestrian safety, having particular regard to the proposed bus stop arrangement; and
- whether the area of formal open space/play area would be of sufficient quality to make it a useable facility for future occupiers.

Principle of Development

108. The starting point for determination of this appeal is the 1982 Plan. It is clear in this regard, that the extent and location of the built development proposed would not be inconsistent with that Plan. However, the Town and Country Planning Act places no requirement for a planning decision to be made in accordance with the development plan. Rather, it simply requires that regard be had to its provisions (so far as they are material to the application). In effect, it is one of what could be any number of material considerations.

109. It would seem that, in 1982, the allocation of the whole of the appeal site (and adjoining land to the east on the opposite side of the Glen Auldyn River) was envisaged as part of a holistic, planned westward extension of Ramsey,

within and beyond the town boundary. That was reflected, in part, some 16 years later in the Ramsey Local Plan, which continued to allocate development land to the west of Ramsey, on the northern side of the disused railway line (including three fields at the eastern end of the northern half of the appeal site). The western fields in the northern half of the appeal site, and all that part of the site to the south of the former railway, lie outwith the town boundary.

110. In 2004, the West Ramsey Framework perpetuated the allocation of the appeal site as per the 1982 Plan.
111. In coming to a view on the provisions of the 1982 Plan insofar as they relate to this appeal, I am mindful that it is more than 40 years old. A significant material consideration in this case, is the later flood modelling that took place after publication of the 2004 Framework. The modelling indicated that most of the allocated development land to the north of the former railway (including the northern part of the appeal site beyond the town boundary) is at high risk of river and tidal flooding. The effect of that, is that most of the envisaged development, including the proposed distributor road, is now undeliverable, at least at the present time.
112. As a consequence, the built development now proposed through this appeal would be seen as something of an 'outlier' in relation to the settlement boundary for Ramsey. It would be separated from the town by a large field (never envisaged for development in the 1982 Plan and which has never been shown for development in any subsequent plan). It would not be connected, either physically or visually, to any developed land to the north of the former railway line as originally envisaged in the 1982 Plan and subsequent plans, and neither would it be related to the existing pattern of development or to the settlement as a whole.
113. In essence, the site is being brought forward in isolation of the original vision set out in the 1982 Plan, as carried forward in the 2004 Framework. Indeed, the Phasing section of the Framework specifically sought to prevent such development coming forward in advance of the substantial phased completion of other areas identified for development.
114. The appeal scheme would be surrounded on three sides by undeveloped countryside. Whilst a row of six dwellings is located on the opposite side of the road frontage they are, in themselves, quite separate and distinct from the main settlement, with open countryside beyond, including the distinctive Sky Hill. Developed in isolation, the appeal scheme would have no contiguous boundary with existing or planned built development of any substance and would not be well-related to the physical form of the town of Ramsey. Rather, it would appear almost as a self-contained residential estate within an open countryside location as opposed to comprising an integral part of a larger, planned westward extension to the town
115. To conclude on this issue, whilst shown as part of much larger allocation in the 1982 Plan and the later Framework, I consider that the principle of development on the site in isolation, is not appropriate at this time when regard is had to other material planning considerations.

Character and Appearance

116. The well-treed banks to the Glen Auldyn River currently provide a clearly defined settlement boundary to this part of Ramsey. The edge of the town here is visually 'soft' and well concealed, and intervisibility with built form within the town is minimal, the settlement edge only really identifiable on approach from the west by the 30mph signs, as opposed to any obvious built development. In essence, the fields are experienced as an integral part of the open countryside that adjoins this edge of the settlement and are clearly distinct from the town.
117. The erection of 138 dwellings on the appeal site, together with the engineered access arrangement proposed, effectively 'leap-frogging' field 134281, would extend built development beyond that well-defined boundary into an area of countryside where there is currently no such development and which is not physically or visually part of the settlement. Notwithstanding the replacement tree planting proposed, the development would be clearly visible from Lezayre Road, particularly when leaving Ramsey heading west, and would be seen as an unwelcome intrusion into the rural landscape. In my view, it would represent a large, exposed and isolated development in the open countryside, drastically altering the physical settlement pattern and landscape setting of the town.
118. The 2004 Framework envisaged that the site, when developed, would be accessed from the north, off the proposed distributor road. The issues with flood risk referred to above mean that access is no longer feasible from that direction. As a consequence, it is proposed to take access off Lezayre Road. As much is recognised in the Draft Area Plan. As originally proposed, the access was towards the western end of the site frontage. However, in response to concerns of local residents, it was relocated to the existing field entrance to field 134281.
119. Much was made by objectors to the principle of the location of that access within a field that is not allocated on any plan for development. If the Minister were to find the principle of residential development as proposed to be acceptable, I do not consider the proposed access arrangement, given the circumstances outlined above, to be objectionable. In other words, the visual impact of the built development proposed would not be materially exacerbated by the proposed access location.
120. At present, the site frontage is defined by a well-established field hedge and tree belt which, together with trees on the opposite side of the road, create an intimate enclosed, verdant tunnel up until the start of the stone wall along the front of field 134281. The necessary visibility splays would require removal of the hedging and a significant number of trees along the site frontage, as well as removal of the field wall.
121. The wall would be rebuilt behind the visibility splay and I find no harm in this regard. However, whilst a significant number of new trees would be planted to replace those lost, it would be some 15-20 years or so before they made a meaningful contribution in terms of visual amenity. That said, many of the trees that would need to be removed are Ash and Elm and thus are prone to dieback or disease. I recognise that there is no certainty that all, or even some would succumb, but there is a high probability. On balance, it

seems to me therefore, that planned replanting with a more resistant species, such as oak, on a phased basis as suggested by Manx National Heritage, could be beneficial in the longer term. Subject to conditions, I find no harm in this particular regard.

122. Notwithstanding my finding in relation to the proposed tree removal, I conclude that overall, the development proposed would not result in the creation of an attractive landscaped transition between the urban area and the countryside as envisaged by the Framework. Quite the opposite. It would, in my view, have a substantial adverse effect on the character and appearance of the area.

Ecology and Biodiversity

123. The appellant's breeding birds survey, undertaken by Manx Wildlife Trust, identified that the site and/or land immediately adjacent, was used by a number of breeding birds, including red list bird species, namely Barn Owl, Long-eared Owl, Curlew, Stock Dove and Teal.

124. DEFA's Ecosystem Team would prefer to see no development on the land at all, given its ecological interest and biodiversity, in particular impacts on the red list bird species. Indeed, whilst the survey made recommendations to address and mitigate impacts, it confirms that full mitigation is impossible and thus the 'Compensate' principle would also be required in order to provide no net-loss of biodiversity and, ideally, to provide 'net biodiversity gain'. I am mindful, in this regard, that there is no acknowledgement in the 1982 Plan or the Local Plan of the wildlife interest of the site, although the 2004 Framework does recognise that the existing ecology of the area will inevitably be affected by the development of West Ramsey. It would seem, therefore, that the ecological interest of the site may only have come to light after the 1982 designation. That interest is a material consideration of substance.

125. The scheme proposed, as amended in light of comments not only from the Wildlife Trust, but also Manx Bat Group and DEFA, includes all the suggested mitigation measures, which can be secured by conditions and a Section 13 Agreement. These include re-roofing the Old Tholtan and excluding human access, provision of bird/bat boxes, managing the agricultural land to the north of the former railway line for owls/Teal etc, controlling artificial light sources, etc. Nonetheless, there would still be harm, bringing the scheme into conflict with Environment Policy 4. I am mindful, however, that in exceptional circumstances, Environment Policy 5 does allow for development which could adversely affect a site recognised under Environmental Policy 4, provided any disturbance is minimised, that ecological interests are conserved and managed as far as possible, and that new or replacement habitats are provided so that the loss to the total ecological resource is mitigated. On that basis, were the Minister to consider the principle of residential development on the site to be acceptable, the mitigation measures proposed would meet the requirements of Environment Policy 5.

Pedestrian Safety

126. Whilst there is a footway on the northern side of the site frontage to Lezayre Road. A benefit of the scheme is the widening of the northern

footway to 2m for that part of its length along the site frontage. In addition, a new bus layby would be provided on the same side of the road. The new bus layby would not only be for use by future occupiers, but would also benefit existing residents. The widened footway would provide safe access to the bus stop for future residents

127. However, there is no footway on the southern side of the road here. I was advised that those wishing to catch a westbound bus wait (in relative safety) on the northern side of the road. Those disembarking on the southern side of the road, have to alight straight onto the road, albeit protected from passing traffic by the bus itself to some extent. I recognise that bus usage would be likely to increase were the appeal scheme to go ahead, including increased use by school children, but this is an existing arrangement, with no indication that it has resulted in serious accidents in the past.

128. Other concerns relate to pedestrians, especially children, crossing the Gardeners Lane T-junction. I am mindful, however, that DoI Highway Services, the statutory body with responsibility for ensuring the safety of road users, including pedestrians, raises no objection to the proposal, subject to conditions.

129. Objectors raised concerns about highway safety during the TT as well as other races and events which lead to road closures. However, as noted by DoI Highway Services, the closures are pre-planned as part of event organisation between the organisers of races and multiple agencies, including the emergency services. The arrangements are publicised in advance through various media and include a plan for emergency access when roads are closed. The appeal site would be subject to the same conditions. Moreover, future residents would, in all likelihood, be aware of the implications prior to purchase. On that basis, Highway Services raise no objections. I have no reason to disagree. Indeed, whilst not underestimating the disruption, the Inspector dealing with an appeal in Kirk Michael (drawn to my attention by the appellant) considered that future occupiers would be well aware that the TT course ran past the site and would take their decision to purchase or rent a property there with that in mind.¹⁷

Open Space/Play Area

130. Concerns were raised about the usability of the public space proposed within the northern part of field 132481, suggesting that it is poorly drained.

131. The ground was soggy at the time of my site visit. I understand, in this regard, that being immediately adjacent to the Glen Auldyn River, this part of the site is at risk of flooding from river, tidal and surface water. I have no reason to suppose, however, that it would not be possible to incorporate appropriate drainage to ensure that the open space was useable for most of the time. That could be secured by condition were the appeal to succeed. I find no conflict with Recreation Policy 3 in this regard, or with the Residential Design Guide which, among other things, seeks to ensure that open space provision is sufficient not only in terms of quantity, but also quality.

¹⁷ Application No 12/00573/B

Housing Need

132. Those opposing the scheme made reference to recent Census information and the evidence base for the emerging Draft Area Plan for the North and West, which appears to indicate that there is no requirement for additional housing in Ramsey at this time. However, the emerging Plan is still at an early stage and the evidence base in relation to housing need has not been formally tested through the Inquiry process. The Area Plan, and the evidence, base, can therefore only be afforded limited weight at this time. In any event, previous appeal decisions drawn to my attention by the appellant confirm that the principle of providing housing on allocated sites which might result in the 'need' figure being met or exceeded is not, of itself a reason to dismiss an appeal.¹⁸

133. That said, although this is a site that is allocated for development in the 1982 Plan, I have found that development here is not appropriate at the present time. That differentiates it from those other sites.

134. In support of the appeal, the appellant maintains that the housing market on the Island is strong at present, with high demand for new property and with lack of supply cited as one of the principal influences on the market. However, that evidence simply comprises media reports. It is not a robust assessment of housing need at the present time. I am not persuaded therefore, that it demonstrates a housing 'need' as such. That is a matter that would be the subject of detailed evidence at the examination of the Draft Area Plan in due course.

Other Matters

135. In relation to concerns about school buses, as noted by Highway Services, the road layout within the site would allow, if required, for school buses of varying sizes to enter and leave the site.

136. The 1982 Development Plan indicates an Ancient Monument within the southern part of the appeal site, which I understand relates to the 1079 Battle of Sky Hill, the precise nature and location of which is uncertain. A detailed assessment of the site, including a metal detector survey,¹⁹ revealed no metallic artefactual evidence of the battle on the site. Manx National Heritage raised no objection to the proposal in this regard.

137. Whilst some objectors refer to the loss of agricultural land, no evidence was drawn to my attention to the effect that the development proposed would result in the permanent loss of important and versatile agricultural land (Classes 1 and 2) which is resisted by Environment Policy 14.

PLANNING BALANCE

138. Subject to conditions, I have found no harm in terms of pedestrian safety and useability of the proposed open space area. I have, however, found that whilst the built development proposed would not be inconsistent with the 1982 Development Plan, other material considerations lead me to conclude that development of the site in isolation, is not appropriate at this time in

¹⁸ Eg Application No 09/00521/B; 07/023303/A; 11/01250/B; 12/00573/B

¹⁹ Undertaken by Nexus Heritage with advice and guidance from Manx National Heritage

planning policy terms. Moreover, whilst removal of a large number of trees from the site frontage would, in the circumstances, be acceptable, the introduction of built development and its associated access would have a material adverse impact on the character and appearance of the surrounding rural area. Furthermore, whilst impacts in relation to ecology and biodiversity would be mitigated/compensated for to some extent, there would still be harm in this regard.

139. To be weighed against those harms are the benefits associated with the provision of 34 affordable homes, and the economic benefits that attend any development scheme. At the present time, however, when there is no demonstrable need for the market housing proposed, those benefits, substantial though they are, do not outweigh the considerable harm that I have identified.

RECOMMENDATION

140. For the reasons set out above, and having regard to all matters raised, I recommend that the appeal should be dismissed. If accepted, this recommendation would have the effect of upholding the decision of the Planning Authority to refuse the application.

Reason: Notwithstanding that the site is allocated for development in the 1982 Development Plan, other material considerations, including the more recent flood risk modelling for the area, would result in the site being developed in isolation, unrelated both to the originally envisaged westward extension of Ramsey and to the existing settlement boundary. There would be material harm, in this regard, to the established character and appearance of this rural area. Although mitigated to a large extent, there would also be harm to biodiversity and ecology interests. Those harms are not outweighed by the benefits of the development proposed.

141. Should the Minister be minded to allow the appeal, it is recommended that any approval be subject to the appellant first entering into a Legal Agreement under Section 13 of the Town and Country Planning Act 1999 to secure 34 of the homes as affordable units, with a commuted sum payment for 0.5 unit, pursuant to Housing Policy 5 of the Strategic Plan which requires 25% affordable housing provision.

142. The appellant confirms that the proposed areas of public open space, including the drainage attenuation basin, would be offered to relevant public authorities (Commissioners, DoI, MUA). In the event that this is not possible, the Agreement would need to include provisions for ongoing responsibility for maintaining those areas, including the attenuation basin, remaining with the appellant (or their successors in title). To that end, it should include a programme for implementation of the works and ongoing maintenance of the public open space/attenuation basin, whilst retaining the possibility of the areas being adopted by a Local Authority or Government Body (eg Manx Utilities may adopt the attention basin when legislation allows) in the future.

143. The S13 Agreement would also need to provide details of a long-term habitat enhancement and management plan for the fields to the north of the

former railway line, and for field 132288, as well as a scheme for habitat creation and a long-term maintenance plan for the marginal, woodland, attenuation and wildflower meadow areas shown in the Revised Landscape Plan (Drawing No 01.06 Revision H) and the marshy grassland area at the north end of field 134282, in order to protect and enhance biodiversity pursuant to Environment Policy 5 of the Strategic Plan.

144. Should permission be granted, recommended conditions are set out at Annex B below. They are based on the conditions suggested by the Authority at Appendix 2 to its written statement and were discussed in detail at the Inquiry. Among other things, it was agreed that the suggested condition requiring a tree protection plan was unnecessary, since that information was already provided and/or covered by other conditions. A suggested condition relating to the timing of tree planting was also unnecessary, since it duplicated provision in one of the other conditions.
145. Additional conditions were agreed as being necessary to secure agreement in relation to details for external materials, the proposed playspace, the method and timing of construction of the proposed foul water connection across land to the north of the former railway line, submission of a construction method statement and submission of and adherence to an Addendum Travel Plan. The suggested condition securing access provision and footway widening is necessarily re-worded in the negative.
146. In relation to the suggested condition removing permitted development rights and that requiring provision of the drainage attenuation basin, I have not included the 'tailpiece' suggested by the Authority (ie the phrase '*without the prior written approval of the Department.*'). Such wording can create a risk that developers might seek to make significant changes to the development and/or circumvent the statutory routes to vary conditions, depriving those with an interest in the outcome of the opportunity to comment. Without the tailpiece, the recommended wording avoids any ambiguity, with any formal application that might be required being a matter for the Department in the first instance, following appropriate consultation.

Jennifer A Vyse
Independent Inspector

6 February 2023

ANNEX A

Present at the Inquiry

FOR THE APPELLANT:

Ian Ponter, of Counsel
Sue Cannell
David Humphrey

Dandara Homes
Dandara Homes

FOR THE PLANNING AUTHORITY:

Chris Balmer
Sheila Henley
Sophie Costain
Charles Harrison
Mike Cubbon

Principal Planning Officer
DoI Highways
DEFA Ecosystems Officer
DEFA Agriculture and Lands Directorate (Forestry)
Planning Committee Member

OTHER OBJECTORS:

Mr J H Teare
Barbara Wallace
Tim Cowin
Steve Lashley
Kate Lashley
Huw Bevan
Colette Gambell
Julian Edwards

Lezayre Parish Commissioners
Ramsey Town Commissioners
Ramsey Town Commissioners
Underhill, Lezayre Road
Underhill, Lezayre Road
Glen End, Lezayre Road
Glen End, Lezayre Road
Ballakillingan, Lezayre Road

ANNEX B**Schedule of Suggested Conditions in the event that the Minister dismisses the appeal and upholds the grant of planning permission**

C1. The development hereby approved shall begin before the expiration of four years from the date of this decision.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C2. No development shall commence (including works of site clearance and preparation) until a Construction Management Plan (CMP) has been submitted to and agreed in writing by the Department. Development shall thereafter be carried out in accordance with the approved CMP. The CMP shall include, but is not confined to:

- i) site management arrangements, including on-site storage of materials, plant and machinery; location of temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, staff, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
- ii) arrangements for controlling the use of site lighting, whether for safe working or for security purposes, and hours of operation;
- iii) measures to prevent the deposit of mud and debris on the adjacent highway, including wheel washing facilities and sheeting of vehicles transporting loose aggregates or similar materials on or off the site; and
- iv) hours during which works of site clearance, site preparation and construction can take place.

Reason: In order to minimise the impacts of construction on local residents and to protect the environment.

C3. No development shall take place above slab level until details of all external materials and finishes for the dwellings hereby approved, and for all hardsurfacing (including all footpaths, footways and cycleways) have been submitted to and approved in writing by the Department. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

C4. No dwelling hereby approved shall be occupied until all the site parking and turning areas outside the plot of any individual property, as shown on Dwg No Miln_APL_22 Rev E (Overall Site Plan Masterplan Land Usage as Proposed) have been provided in accordance with the approved plans. Such areas shall not be used for any purpose other than the parking and turning of vehicles and shall be retained free for such use at all times.

Reason: In the interest of highway safety.

C5. No dwelling hereby approved shall be occupied until the roads, paths and cycleways shown on Dwg No Miln_APL_22 Rev E (Overall Site Plan Masterplan

Land Usage as Proposed) have been constructed to binder course surfacing level between the dwelling and Lezayre Road, in accordance with a phasing plan that shall previously have been submitted to and approved in writing by the Department.

Reason: In the interest of highway safety and to ensure that each dwelling is provided with a suitable access.

C6. No retained tree or hedge, as shown on Plan No 204 Rev B (notwithstanding that the plan shows group G6 as being removed, the group is to be retained and is to be treated as a retained tree for the purposes of this condition) shall be cut down, uprooted, or otherwise destroyed during the development phase and thereafter within five years from completion of the development hereby approved. In the event that any retained tree or hedge dies, becomes damaged or otherwise defective prior to commencement or during the construction phase, the Department shall be notified as soon as reasonably practicable and remedial action agreed and implemented.

Reason: In the interests of visual amenity and to protect biodiversity.

C7. No development shall commence (including works of site clearance, preparation and enabling works) until an Arboricultural Method Statement (AMS) that accords with the recommendations of BS5837:2012 (Trees in relation to design, demolition and construction - recommendations) has been submitted to and approved in writing by the Department. Development shall be carried out at all times in accordance with the protection measures, construction methods and monitoring set out in the approved AMS. The AMS shall include, but is not confined to:

- a. specifications for the measures required to protect the retained trees and hedges identified in condition C6 above (including group G6), and those adjacent to the site;
- b. specialist construction techniques (if required); and
- c. an Arboricultural Monitoring Programme including details of an appropriately qualified Arboricultural Clerk of Works to conduct the monitoring and supervision; a monitoring and reporting programme of all on-site supervision and checks of compliance on all arboricultural matters; and details of how and when written and photographic records will be submitted to the Department.

Reason: In the interests of visual amenity and to protect biodiversity.

C8. No development shall take place (including works of site clearance, preparation and enabling works) other than in accordance with a Construction Environmental Management Plan (CEMP) that shall previously have been submitted to and approved in writing by the Department. Development shall be carried out only in accordance with the approved CEMP, which shall include details of the roles, responsibilities, training, procedures and monitoring on site to ensure that the environment is protected during all phases of the development and that all environmental legislation and policy is adhered to. The CEMP shall include, but is not to confined to:

- i) details of an appropriately qualified Ecological Clerk of Works to oversee all protected species work and the implementation measures identified within the CEMP and to advise on creation of the habitat management plans, the placement of bat and bird boxes and wildlife enhancements to the old Tholtan;
- ii) a Precautionary Working Method Statement (PWMS) for common frogs, which demonstrates how construction and site operations would avoid and mitigate detrimental impacts on frogs, including the creation of hibernacula features;
- iii) a PWMS for viviparous lizards, which demonstrates how construction and site operations would avoid and mitigate detrimental impacts on lizards, including the creation of hibernacula features;
- iv) a PWMS for birds, which demonstrates how construction and site operations would avoid and mitigate detrimental impacts on birds, including a timetable for vegetation removal, checks by an appropriately qualified ecologist, and mitigation should breeding birds be found, or issues be encountered in relation to red list species;
- v) a PWMS for bats, which demonstrates how construction and site operations would avoid and mitigate detrimental impacts on bats, including pre-felling inspections and tree felling in line with the recommendations in the Manx Bat Group's 'Method Statement for Tree Inspection prior to felling at Lower Milntown' (16 November 2020) as well as the measures to be taken if bats, or evidence of bats, is found, including the erection of additional bat boxes;
- vi) a PWMS for Schedule 8 invasive plant species to ensure that they are not spread via the works and for responsible eradication from the site;
- vii) measures for the exclusion of any works during construction within that part of the site to the north of the former railway line, apart from the drainage pipeline route;
- viii) a working method statement for clearance along the former railway line to ensure that a vegetated boundary to the north and south of the railway is maintained; and
- ix) measures to be taken to prevent water, sediment and pollution runoff from site.

Reason: In order to protect environmental interests.

C 9. Prior to commencement of development, a phased planting plan containing details of selective boundary planting to be undertaken prior to the construction of any dwelling, shall be submitted to and approved in writing by the Department. The planting plan is to comply with the approved landscaping plan 01.06 REV H. The planting is to be carried out in accordance with the approved details. Any trees planted in accordance with this condition that are removed, die or become, in the opinion of the Department, seriously damaged or defective within five years of planting shall be replaced with specimens of a similar size and species as originally required, unless the Department gives written consent to any variation.

Reason: In order to protect environmental interests.

C10. Prior to any tree clearance on the site, details of a re-assessment of the trees along the southern, Lezayre Road boundary shall be submitted to and approved in writing by the Department. It shall identify exactly which trees require removal to facilitate the necessary visibility splays and those that can be retained and felled in stages (as per the Manx Bat Group's Method Statement for Tree Inspection dated 16 November 2020). Development shall be carried out only in accordance with the approved details.

Reason: To and to allow for the preservation of a branched archway across the road and for mitigation planting to establish in the interests of visual amenity and biodiversity.

C11. No dwelling shown on drawing 203.02 REV C and drawing 203.01 as having a bat and/or bird box installed shall be occupied unless the required bat and/or bird box has been installed in accordance with the approved details. Any bat/bird box so installed shall be retained in perpetuity.

Reason: To safeguard statutorily protected species and in the interest of biodiversity.

C12. No development shall take place until a scheme for the re-roofing, creation of internal cavities and installation of bird boxes in the Old Tholtan, and for the erection of protective fencing around the Old Tholtan, has been submitted to and approved in writing by the Department. The scheme shall be completed in accordance with approved details prior to first occupation of any of the dwellings hereby approved. The wildlife enhancement measures installed shall be retained thereafter.

Reason: To safeguard statutorily protected species and in the interest of biodiversity.

C13. With the exception of domestic curtilages, no external lighting shall be installed or operated other than in accordance with a scheme that shall previously have been submitted to and approved in writing by the Department. The scheme to be submitted shall accord with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12 September 2018) including timing of operation.

Reason: To safeguard statutorily protected species and in the interest of visual amenity.

C14. No external lighting shall be installed on plots 1 to 4, 10, 14, 15, 23 to 28, 38 to 40, 54 to 65, 84 to 99, 113 to 114 and 134 to 138.

Reason: To safeguard statutorily protected species.

C15. No development shall commence (including works of site clearance, preparation and enabling works) until a timetable for the implementation of Revised Landscape Plan (Drawing No 01.06 Revision H - albeit with the retention of group G6 trees) and as per the Revised Planting Schedule (Miln_PAL-31@A1), including the surfacing of paths and cycleways, has been submitted to and

approved in writing by the Department. Development shall be carried out only in accordance with the approved timetable. Any trees or plants which die or become seriously damaged or diseased must be replaced in the next planting season with others of a similar size and species.

Reason: In the interest of visual amenity.

C16. No development shall take place (including works of site clearance, preparation and enabling works) other than in accordance with a Development Phasing Plan for development of the site that shall previously have been submitted to and approved in writing by the Department. Development shall be carried out at all times in accordance with the Development Phasing Plan which shall include, but is not confined to:

- i) installation of a pedestrian kissing gate onto Lezayre Road (as shown on Dwg No 12/112/TR/006 Revision D);
- ii) surfacing of all paths and cycleways within the site; and
- iii) the provision of passive electric vehicle charging points to each plot.

Reason: In the interests of highway safety and the promotion of sustainable travel modes.

C17. None of the dwellings hereby approved shall be occupied until the vehicular access onto Lezayre Road, its associated visibility splays and the footway widening along the site frontage (as shown on Dwg No 12/112/TR/006 Revision D) have been completed in accordance with the approved plan.

Reason; In the interest of vehicular and pedestrian safety.

C18. Once provided, the visibility splays to be implemented pursuant to condition C17 above shall thereafter be kept permanently clear of any obstruction exceeding 1050mm in height above the adjoining carriageway level.

Reason: In the interest of highway safety.

C19. None of the dwellings hereby approved shall be occupied until a new bus stop layby and associated infrastructure has been provided on the north side of Lezayre Road between site access and Glen Auldyn Bridge, in full accordance with details that shall previously have been submitted to and approved in writing by the Department. Once provided, the bus stop layby shall be retained for its intended purpose thereafter.

Reason: In the interest of vehicular and pedestrian safety and to promote sustainable travel.

C20. Prior to the commencement of development, details shall be submitted to and approved in writing by the Department of the upgrading works to create a footpath/cycleway along the former railway line, including a timetable for implementation and arrangements to allow for future connection to those parts of the route to the east and west of the site boundaries. Development shall be

carried out in accordance with the approved details and implementation timetable. Once provided, the route shall remain clear of obstruction.

Reason: In order to promote safe and sustainable modes of travel

C21. Prior to commencement of development, details of the boundary treatment for any plot that faces a footpath/footway, public open space, private open space (other than domestic curtilages) or a highway/public highway shall be submitted to and approved in writing by the Department. The details shall not include solely timber fencing. The approved boundary treatments shall be completed prior to first occupation of the related dwelling and shall be retained thereafter.

Reason: In the interest of visual amenity.

C22. Notwithstanding the provisions of the Town and Country Planning (Permitted Development) Order 2012 (or any Order revoking and/or re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected or placed within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a highway.

Reason: In the interest of visual amenity.

C23. None of the dwellings hereby approved shall be occupied until the attenuation basin shown on drawing ADR-500/4 has been completed in accordance with details that shall previously have been submitted to and approved in writing by the Department and made ready for use. Once operational, it shall be retained thereafter.

Reason: In order to reduce the risks associated with flooding and in the interest of visual amenity.

C24. Prior to first occupation of any dwelling, the play space shown on Dwg No Miln_APL_22 Rev E shall be laid out, surfaced and equipped in accordance with details that shall previously have been submitted to and approved the Department. Once provided, the play space and associated equipment shall be retained thereafter.

Reason: To ensure that sufficient and appropriate play space provision is available to meet the needs of future occupiers.

C25. Prior to commencement of development, a working method statement for the construction of the drainage pipeline and river crossing, including details of the timing of construction across that part of the site to the north of the former railway is to be submitted to and approved in writing by the Department. Development shall be carried out in accordance with the approved details.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

C26. Prior to the commencement of development, an updated Travel Plan shall be submitted to and approved in writing by the local planning authority. The

Travel Plan shall be implemented as approved. The Travel Plan shall include, but is not confined to:

- i) arrangements for the appointment of a Travel Plan coordinator for a period to be agreed;
- ii) objectives, targets, mechanisms and measures to achieve the targets;
- iii) timescales for implementation; and
- iv) monitoring and review provisions together with an enforcement mechanism for failure to meet the Travel Plan targets.

Reason: In the combined interests of highway safety and in order to promote more sustainable travel choices.

-----End of Schedule-----