



**Dorset Council**

**Annual position statement – 5 year housing land supply**

**SDo6a – Responses received from Stakeholder Engagement in June 2024**

**Responses APS01 to APS03**

**July 2024**

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Tor&Co on behalf of Dudsbury Homes  
(Southern) Ltd

**From:** Nia Powys [REDACTED]  
**Sent:** 04 July 2024 15:07  
**To:** Christopher Lee; planningpolicy  
**Cc:** Jacqueline Mulliner; Imogen Wall  
**Subject:** Dorset Council draft Annual Position Statement - Representations

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Sir/Madam,

On behalf of our client, Dudsbury Homes (Southern) Ltd, please find via the link below our response to the Dorset Council draft Annual Position Statement which concludes on 4<sup>th</sup> July 2024.

Link - <https://we.tl/t-EznmcWA8z9>

The submission pack includes the following documents:

- Tor&co Dorset 5 Year Housing Land Supply Assessment
- Appendices pack
- Completed form

We would be grateful for confirmation of receipt and that you are able to download the material.

Kind regards,  
Nia

**Nia Powys MRTPI**  
Senior Planner

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# Dorset Council Draft Annual Position Statement Consultation

Written representations on behalf of  
Dudsbury Homes (Southern) Ltd

## 5 Year Housing Land Supply Assessment

4 July 2024

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&CO

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## 1.0 Introduction

- 1.1 The representations on Housing Land Supply (HLS) have been prepared on behalf of Dudson Homes (Southern) Limited in response to Dorset Council's (DC) draft Annual Position Statement (APS) stakeholder engagement which concludes on 4th July 2024. The APS, once examined by a Planning Inspector and adopted, will establish the housing land supply position across Dorset Council's area for a full year, base-dated 1 April 2024, but the current draft is the Council's untested position and until adopted it can carry no weight in decision taking.
- 1.2 The draft APS asserts that DC can demonstrate a supply of 9,573 homes, representing 5.34 years across the former districts/boroughs covering East Dorset, North Dorset, Purbeck, West Dorset and Weymouth and Portland. This is measured against a capped standard methodology local housing need (SM LHN) requirement of 1,793 dpa.
- 1.3 The uncapped requirement for the Dorset authorities is 1,844 dpa, with the supply only needing to be reduced by some 353 homes to fall below five years. This demonstrates that the council's margin is fragile, and easily stressed. The failure to deliver on two or three larger sites within the APS could easily result in an unmet five-year supply.
- 1.4 These representations provide a critique and re-assessment of the HLS position as set out within this document, with reference to:
  - The background in terms of HLS requirements, including the Dorset context and past delivery;
  - A review of the five-year requirement;
  - An assessment of the claimed deliverable five-year supply; and
  - A recalculation of the current HLS position.
- 1.5 The evidence below confirms that Dorset Council can only demonstrate a HLS position of circa 4 years, based on the deliverability definition within the NPPF and precedent appeal decisions.

## 2.0 Background

### National Policy

2.1 The following provisions, relating to both five-year supply and requirement are most relevant to the APS, covering SM LHN, Housing Delivery Test (HDT), and the definition of deliverable:

- NPPF (December 2023): paragraphs 11 d), 75, 76, 77, 226; footnotes 8, 42, 43; and Annex 2 Glossary ‘Deliverable’.
- NPPG: section 68 ‘Housing supply and delivery’ (particularly sub-sections on ‘demonstrating a 5 year housing land supply’ and ‘confirming 5 year housing land supply’); and section 3 ‘Housing and Economic Land Availability Assessment’, and section 2a ‘Housing and economic needs assessment (particularly paragraph ‘How is a minimum annual local housing need figure calculated using the standard method? Step 3 - Capping the level of any increase’.

### Past performance across Dorset

2.2 The APS seeks to portray that the combined HDT ‘suggests good performance’, but looking at each of the legacy authorities this is clearly not the case. As shown, all bar one legacy authority (West Dorset, Weymouth & Portland) have significantly underprovided against the number of homes needed.

Legacy Authority	HDT Results				
	2018	2019	2020	2021	2022
West Dorset, Weymouth & Portland	129%	124%	109%	114%	113%
Purbeck	132%	70%	74%	76%	93%
North Dorset	82%	71%	59%	96%	75%
Christchurch and East Dorset	75%	82%	91%	94%	90%

2.3 It is clear that the undersupply of housing across Dorset has persisted over many years, which has led to increasing levels of unaffordability.

### Past land supply positions

2.4 This delivery performance is unsurprising and was to be expected.

2.5 The previous annual housing land supply assessments for the legacy authorities, still available on the Council’s website, identified the following land supply positions. The majority identify less than a five-year supply. The record of past delivery and future supply in Dorset is poor.



Legacy Authority	5YHLS Position (years)				
	1 <sup>st</sup> April 2018	1 <sup>st</sup> April 2019	1 <sup>st</sup> April 2020	1 <sup>st</sup> April 2021	1 <sup>st</sup> April 2022
West Dorset, Weymouth & Portland	4.83	4.93	5.85	5.34	5.28
Purbeck	-	5.7	1.23	3.66	3.78
North Dorset	4.0	3.3	5.17	4.27	5.02
Christchurch and East Dorset	4.77	4.91	5.36	5.20	4.77

### Housing Delivery Test Action Plan

2.1 Combined, Dorset Council have achieved 97% of their housing delivery targets across the legacy authorities. However, East Dorset, North Dorset and Purbeck failed to achieve over 95% in the 2022 HDT. PPG Guidance (ref. Paragraph: 042 Reference ID: 68-042-20240205) states that “an authority should publish an action plan if housing delivery falls below 95%”.

2.2 Dorset has produced an Action Plan (HAP) dated March 2024 and which states: *“An Action Plan is intended to be a practical document, focused on effective measures aimed at improving housing delivery within an area.”* (para 1.1.4).

2.3 Table 3 identifies ‘key actions and responses’. This places a clear emphasis on progress with the Local Plan to increase the supply of housing sites, providing a link to the Local Development Scheme (LDS) October 2022:

Table 3: Key Actions & Responses

1. **Council Teams:** A number of measures have been put in place by the Implementation Team, Development Management and the Housing Enabling Team, as follows:

No.	Type of Measures	Description
A	The Review of the Local Plan	<p>The role of the Planning Policy Team is to produce and revise planning policy for the area including allocating sufficient development sites to meet the housing and economic needs of the area whilst protecting those areas of high environmental sensitivity:</p> <ul style="list-style-type: none"> <li>The Council are currently working towards replacing the predecessor adopted Local Plans, with one adopted Local Plan for Dorset Council. This will be the first Local Plan for the Dorset Area. Consultation has taken place on Issues</li> </ul>

9 | Dorset Council Housing Delivery Test Action Plan

		<p>and Options in 2021, which identified a housing supply sufficient to meet and exceed the housing requirement to 2040 by some 30,481 dwellings.</p> <ul style="list-style-type: none"> <li>The Purbeck Local Plan 2018 – amended) requires the delivery of 2,976 residential units throughout the lifetime of that plan (2018-2034), once adopted.</li> </ul> <p>Work is ongoing to progress these plans to increase the supply of housing sites to meet the requirement<sup>9</sup>.</p>
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<sup>9</sup> Please use the following link to access the current timetable Local Development Scheme for the emerging Dorset Local Plan: [Dorset Council Local Development Scheme - October 2022](#)

2.4 The 2022 LDS envisaged submission of the Plan in April 2025, with adoption Spring 2026. The current LDS includes the following timetable:

- *Scoping and Early Engagement [September 2024]*
- *Sustainability Appraisal Scoping Report [November 2024]*
- *Project Initiation Document and Gateway 1 Assessment [November 2024]*
- *Visioning and Strategy Engagement (8 weeks) [May 2025]*
- *Gateway 2 Assessment [December 2025]*
- *Draft Plan Engagement (6 weeks) [March 2026]*
- *Gateway 3 Assessment [October 2026]*
- *Examination [November 2026]*
- *Adoption [May 2027]*

2.5 There are only two years remaining in the current five-year period beyond adoption of the local plan, allowing for lead-in times (planning applications, reserved matters, discharge of pre-commencement conditions, on-site works, provision of up-front infrastructure) reliance on delivery from any sites to be allocated in a document that has yet to be produced is ineffective, further noting that the HAP makes no mention of the positive interim ability of the Council to permit development under the tilted planning balance.

2.6 Whilst the APS makes a fleeting reference to the presumption under NPPF 11 d) (at paragraph 4.4), the APS should clearly state the need to apply the presumption as a positive measure to redress the land supply position.

### 3.0 The Housing Requirement

- 3.1 The APS housing requirement is set according to the standard method local housing need (SM LHN). Section 7 of the APS sets out how this is calculated.
- 3.2 Because the baseline data is referenced to the 2014 household projections there is no single figure for Dorset. The figures are separated to the former legacy authorities. The approach that Dorset Council has taken is to identify the 10 year household growth for each of these authorities and add them together, whereas the affordability ratio is a single figure for Dorset.
- 3.3 Step 3 – capping the increase is then addressed. This introduces a 40% cap on the SM LHN, which must be referenced to whichever is the higher of, a) the projected household growth, or b) annual housing requirement set out in the most recently adopted strategic policies.
- 3.4 The reason for the cap, is to help ensure that the minimum LHN figure is as deliverable as possible (see NPPG ID: 2a-007-20190220). The PPG further clarifies that whilst the cap reduces the minimum number generated by the SM it does not reduce housing need itself.
- 3.5 The Council has stated that there is no adopted housing requirement for Dorset thus the cap can only be referenced to the household projections. However, because the household projection are subdivided to the legacy authorities the local plan requirements can be considered in all cases, other than in the case of East Dorset (which was combined with Christchurch – now within BCP).
- 3.6 Further, whilst all of the legacy authorities within the Dorset Council area have local plans that were adopted more than five-years ago, the Purbeck Local Plan is expected to be adopted on 18th July 2024, having been found sound by the examining Inspector on 7 May 2024 (see APS para 1.1). The APS fails to acknowledge that, for Purbeck, the housing requirement across the 16 year plan period 2018 – 2034 is 2,976 homes (186 dpa) (see appendix 1 – para 72). Note that the Purbeck Local Plan housing requirement is the SM LHN.
- 3.7 The annual most recently adopted requirements for the authorities are as follows:

	<b>Annual figure based on 10-year household projection</b>	<b>Annual figure from most recently adopted local plan</b>	<b>Highest annual figure</b>
East Dorset	325	-	325
North Dorset	254.8	285	285
Purbeck	128.5	186	186
West Dorset	383.5	775	775
Weymouth and Portland	188.9		
<b>Total</b>			<b>1,571</b>

- 3.8 A 40% cap on the highest figure would be 2,199 homes. This is the level of housing that the combined authorities have been expected to deliver since 2015/2016 when the plans were adopted (other than Purbeck which is to be adopted and East Dorset which is set at the household projection). In terms of the purpose of the cap, to consider the highest deliverable outcome, then clearly this is the reference figure.
- 3.9 The uncapped requirement for the Dorset authorities is **1,844 dpa** (see APS para 7.9). Given that this is below the 40% cap level shown above, the full SM LHN should be used as the requirement for the 5-year HLS position in Dorset, not a capped figure of 1,793 dwellings per year.
- 3.10 It is agreed that there is no need to add a buffer to the requirement. The five-year requirement is 9,220.

## 4.0 Supply Assessment

### Testing housing site deliverability

- 4.1 The starting point of the HLS assessment is DC's HLS trajectory, as set out in the APS. The HLS Report identifies a supply of 9,575 homes.
- 4.2 In all cases, to be considered deliverable sites must be, *“available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years.”* (NPPF definition).
- 4.3 The PPG (3-020-20190722) confirms that a site can be considered achievable if there is a reasonable prospect of development on site at a particular time, that being a judgement as to the capacity of the developer to complete, let or sell the development over a certain period of time. Constraints and lead in times / build out rates are relevant (ID 3-021-20190722 & 3-022-20190722).
- 4.4 In terms of suitability, constraints and how they might be mitigated are important (ID 3-018-20190722). The High Court Judgment of Wainhomes (South West) Holdings Ltd and the Secretary of State for Communities and Local Government et al [2013] EWHC 597 (Admin) clarified:

*“Where sites without planning permission are subject to objection, the nature and substance of the objections may go to the question whether the site offers a suitable location; and they may also determine whether the development is achievable with a realistic prospect that housing will be delivered on the site within five years. Even if detailed information is available about the site and the objections, prediction of the planning outcome is necessarily uncertain. All that probably need be said in most cases is that where sites do not have planning permission and are known to be subject to objections, the outcome cannot be guaranteed. ....”* (paragraph 34iv)

- 4.5 It should be highlighted that, for major sites without detailed planning permission the onus is on the LPA to present **clear evidence** that housing completions **will** begin within 5 years. Also to present evidence of lead in times and build out rates.

### Clear evidence: Relevant appeal decisions

- 4.6 The following provide an indication as to how clear evidence can be demonstrated:
- The Woolpit decision dated 28 September 2018 (3194926) particularly paragraphs 65, 67, 72 & 73 93 (Appendix 2), confirmed that:
    - a) The onus is on the LPA to provide clear evidence for outline permissions and allocated sites
    - b) The definition of deliverable does not relate to sites that are not subject to an allocation but had a resolution to grant

c) There is a clear cut-off date to the assessment.

- The Bures Hamlet, Braintree, decision dated 27 March 2019 (3207509) (Appendix 3) further elaborates:

*“However, I agree that new planning permissions after the base date should be excluded **and that would include permissions subject to a resolution to grant subject to a Section 106 obligation**. Uncertainty about when such an obligation would be completed could put back a potential start date by months or even years.”* (para 62, emphasis added)

*“Where there is to be reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. .... The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached.*

*The information published here in the AMR is minimal and relies heavily on unsupported assertions that a site will be delivered. That does not amount to evidence. ....”* (paras 66 & 67)

- West Bergholt, Colchester, Inspector decision dated August 2019 (APP/A1530/W/18/3207626) (appendix 4):

*“I concur with the agreed position of the parties that where planning permission is granted after the base date for a site not already included in the deliverable supply it cannot subsequently be added until the next Annual Position Statement is published.”* (para 41)

- Little Sparrows, Sonning Common, Oxfordshire (3265861), June 2021 (Appendix 5), where the Inspector confirmed at paragraphs 20 and 21 that something more than a developers ‘say so’ is required to provide clear evidence, speculation and assertion is not sufficient:

*“I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on ‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:*

*“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”*

*“Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed proforma from a developer or agent does not in itself constitute ‘clear evidence’.*

*Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.”*

- Mount Royal, Four Marks, Hampshire (ref: 3329928), 10 April 2024 (Appendix 6) which addresses the inclusion of windfalls:

*“The Ppg also states a windfall allowance may be justified. Paragraph 72 of the Framework confirms the need for compelling evidence and any allowance should be realistic having regard to strategic land availability assessment, historic windfall and expected future trends. The Council include 112 dwellings as a foreseen windfall allowance. However, this is in addition to small sites with planning permission. In the two years 2026/27 and 2027/28 this would indicate 102 dwellings which far surpasses the windfall completions to date which the Appellant quantifies at 58 dwellings per year<sup>11</sup>. I therefore find that there is not compelling evidence to assume greater than historic delivery and therefore 53 dwellings should be deleted from the supply.”*  
(para 62).

### **Lead-in times and delivery rates**

- 4.7 Whilst the onus is on Authorities to establish indicative lead-in times and delivery rates from developers and agents on individual sites as part of the ‘evidence of deliverability’ gathering process, APS provides no such evidence with respect to major sites.
- 4.8 Evidence gathered on a national basis, with published research by Lichfields ‘Start to Finish – Third Edition’ (March 2024), highlights the following averages:
- 6.7 years is the median from validation of first planning application to first completion on sites of 2,000 plus dwellings
  - Circa 4 years from outline application to first completions on sites of 50 – 99 dwellings, with the first 1.5 years addressing planning approval and 2.3 years addressing planning delivery (post detailed approval to first completion)
  - Circa 6 years from validation of the first planning application to the first dwelling completion on schemes of +100 -499 dwellings
  - Build out rates of 100 – 187 dpa on schemes of 2,000 dwellings
  - Build out rates of 44 – 83 dpa on schemes of 500 - 999 dwellings
  - Build out rates of 35 – 60 dpa on schemes of 100 – 499 dwellings
  - Build out rates of 16 – 22 dpa on schemes of less than 100 dwellings
  - Build out rates of 69 dpa per outlet on sites with one outlet; 62 dpa per outlet on sites with two outlets; and 55 dpa per outlet on sites with three outlets.

### **Context to site assessments**

- 4.9 The APS, base-dated April 2024’ identifies a supply of 9,573 dwellings comprised of the following:

- Major sites with planning permission (5,860 dwellings)
- Sites allocated in the local plans (964 dwellings)
- Sites allocated in neighbourhood plans (263 dwellings)
- Specified large sites (426 dwellings)
- Minor sites with planning permission (1,295 dwellings)
- Minor sites windfall allowance (709 dwellings)
- Rural Exception Sites (56 dwellings)

#### 4.10 The APS includes appendices A – G:

- Appendix A is a list of major sites with detailed and outline planning permission. The total is 5,860; 100% of homes are included in the deliverable supply (i.e. a 5% non-delivery rate has not been applied). When applying this, 5,367 homes should be included. The non-delivery rate has been applied as follows:

*“Historically, from the point of the grant of planning permission, just under 96% of these minor sites have been built within five years. It is of course impossible to identify which sites will not deliver within five years so to allow for this, the total stock of minor sites with extant consent are discounted by 5%.” (para 4.2.2).*

- Appendix B and C is a tabulated list of sites allocated within the Local Plans and neighbourhood plans. The total is 964 dwellings for Local Plans, and 263 for neighbourhood plans. Text at paragraphs 8.11 confirms that a case-by-case assessment has been undertaken to understand deliverability including feedback from the developer as to their programme for developing the site for Local Plan allocations. For neighbourhood plans, the draft APS does not outline how they have included these sites in the HLS.
- Appendix D relates to a list of specific large sites, which contains sites that have either been identified through the strategic housing land availability assessment, are on the Council’s brownfield register, have permission in principle or are sites where planning permission is likely to be granted imminently (i.e. sites with resolution to grant permission subject to a section 106 agreement). These total 426 dwellings.
- Appendix E is a list of minor sites with planning permission, totalling 1,295 dwellings.
- Lastly, Appendix G is a tabulated list of rural exception sites which totals 56 dwellings. Paragraph 8.28 states *‘The Inspector for the adopted West Dorset and Weymouth & Portland Local Plan recommended that rural exception sites that benefit from grant funding and a housing needs survey can be included within the five-year supply. This is the approach we have taken. Using the advice from the Council’s housing enabling experts we have also included sites that have registered providers on board.’*

#### 4.11 The following looks in further detail to provide a robust re-assessment of the Council’s claimed supply position. It is anticipated that, on the basis of this



evidence, the Inspector will be able to agree to some, if not all, of the deductions identified.

### **Nutrient Neutrality**

- 4.12 Nutrient neutrality has been a major constraint to development across Dorset. Whilst the Government has required upgrades to various Waste Water Treatment Works in 2030 and 2035, many schemes remain subject to mitigation involving the purchase of credits from off-site schemes, which do affect viability – as noted by a number of developers.

### **Appendix A Sites: Major Sites with Detailed Planning Permission**

- 4.13 The following provides clear evidence that these sites will not deliver as stated in the APS, and support a number of deductions from the HLS.

#### **West of Frome Valley Road (ref. P/RES/2021/01645)**

- 4.14 The site has reserved matters approval for 140 dwellings as of October 2021, the APS includes all 140 dwellings in the five-year supply. However, Appendix H 14.2 provides an email and a proforma from the developer dated 23 April 2024. It states:

*“In summary, the planning permission has been implemented but phosphate mitigation requirements remain a constraint on the delivery of housing and there are potential viability concerns in light of the current cost of credits. Accordingly, for the time being we cannot confidently state that any dwellings are deliverable in the next five years.”*

- 4.15 Subsequently, a non-material application (ref. P/NMA/2024/02979) was submitted and validated in June 2024, to amend the phasing of the scheme, indicating that there are further planning amendments to be made prior to commencing on site, also delaying deliverability.
- 4.16 Whilst the phosphates issue has been resolved, the trajectory assumes the delivery of 20 homes in 2025/26. In reality, allowing for site commencement, up front infrastructure etc the site is unlikely to achieve first completions until 2026/27, pushing the development back and, **removing 40 homes from the HLS.**

#### **Crown Gate, Sectors 3.46/47/48, Northern Quadrant, Poundbury (ref. WD/D/17/001480)**

- 4.17 Land at Crown Gate includes 76 homes within the APS, following the grant of detailed planning permission in February 2018. However, Appendix H 15.2 of the APS, states:

*“We are currently working on a revised scheme for Crown Gate. We are hopeful to have pre-app discussions with the Duchy and the LPA prior to working up the full scheme and making submission this summer. Depending on the duration to secure planning permission and any nutrient restrictions we would be hopeful to*

*commence works on site in May 2025. First units would be delivered from around February 2026”*

4.18 At the current time, it is clear that the developer has no intention of delivering the permitted scheme. They also raise uncertainty with respect to securing an alternative planning permission and phosphate mitigation.

4.19 As such, a total of **76 homes should be removed from the HLS.**

#### **Land east of New Road, West Parley (P/RES/2022/03505 & 3/17/3609/OUT**

4.20 This site is included in the APS under 2 entries of 148 homes and 238 homes (total 386 homes).

4.21 Outline planning permission for 386 homes was granted 18 February 2021, Bellway has reserved matters consents for two phases, and the development has commenced. First occupations, located around the show home, were secured towards the end April 2024, as confirmed verbally by the sales office on 12 May 2024. The sales office also confirmed that the main phases of completions will start July/August 2024.

1.9 The APS loads the development into the first four years, but taking a spread across the full five-year period, this represents a completion / build rate of 77 dpa. The developer had previously indicated a build rate of 80 dpa based on two developers being active on site (two outlets). But that correspondence was in December 2022 (see appendix 7), before Bellway made their second RM submission, consented May 2023. Both RMs are made in the name of Bellway Homes – a single developer/outlet. It would appear that circumstances have changed, and the single developer will build out in two consecutive/sequential phases, rather than in parallel.

4.1 In the absence of local evidence, and at the current time, there is no evidence to confirm this enhanced build-out rate. National evidence suggests a build rate of 35 – 60 dwellings per annum on schemes of 100 – 499 dwellings. Taking a mid-range point, of 50 dwellings per annum, the site will deliver 250 homes within the five-year period.

4.2 There is no information from the developer (Bellway) at appendix H of the APS, but Bellway has responded with respect to a site in Blandford (H 6.1) indicating a build rate of less than 50 dpa.

4.3 ***This removes 136 homes from the HLS.***

#### **A T S Euromaster site, New Road (ref. P/FUL/2021/01338)**

4.4 Full planning permission for 24 dwellings was granted in March 2023, with the HLS trajectory accounting for 24 homes to be delivered in 2028/29.

4.5 A google search has revealed that the site is currently for sale through Savills since May 2024 as a development opportunity (<https://search.savills.com/property-detail/gb0457s150140>).

4.6 As the site is for sale, it is clear that the current landowners and Applicants do not intend to build out the homes themselves. This uncertainty, with a lack of developer on board, and no certainty with regards to viability, provides clear evidence that the site will not deliver when anticipated.

4.7 **24 homes should be removed from the HLS.**

**Land south of Howe Lane (ref. 3/19/0019/RM)**

4.8 This site is included in the APS, for 29 dwellings. The site had outline planning permission (3/13/0674/OUT) and subsequent reserved matters approval for 29 dwellings, the latter being granted 4th July 2019 (3/19/0019/RM). However, the site is constrained by trees, with a single unit located in front of a tree belt and the remaining behind the tree belt. A non-material amendment was granted in July 2022 as follows:

*'Non material amendment to approved P/A 3/13/0674/OUT (granted on appeal) for construction of 29 residential dwellings. Non material amendment to conditions 5, 6 and 9 to allow the commencement of plot 1 only.'*

4.9 Plot 1 has commenced, but no other plots can commence until pre-commencement conditions 5, 6 and 9 have been discharged (nb there is no condition 19 on the RM consent). All of these conditions relate to the impact on existing trees.

4.10 There has been no positive activity with respect to discharging these conditions since the NMA. As highlighted by a snapshot from the RM application page (RM 3/19/0019 was granted 04/07/2019), the last correspondence related to the partial discharge of conditions in 2021.

4.11 Given that the NMA was granted post 2021, no progress is being made towards the discharge of pre-commencement conditions associated with the remaining 28 dwellings. No progress is being made towards the site's delivery, and there is no correspondence from the developer. See appendix 8 for details.

4.12 The permission is not deliverable, and **28 units should be removed** from the HLS.

**South of Louviers Road (ref. P/RES/2021/02802)**

4.13 This site is included for 65 homes within the HLS trajectory between 2024 to 2027. However, the reserved matters application was withdrawn in May 2023 (see Appendix 9) and no new reserved matters application has been lodged.

4.14 The site does not meet the definition of deliverability within the NPPF as no detailed planning permission has been granted, and no evidence has been provided by the landowner/developer with respect to its delivery intentions.

4.15 **65 homes to be removed from the HLS.**

#### **Curtis Fields (Phase 4) (ref. WP/19/00635/RES)**

- 4.16 The site was granted reserved matters approval in May 2021 for 68 dwellings, the APS confirms that there have been 29 total completions with the remaining 39 to be completed within 5 years counting towards the trajectory.
- 4.17 The developer, on 15 May (APS 32.4) confirmed the intention to complete the development over the next two years. However, an application to modify the S106 agreement to reduce the portion of the affordable housing requirement from 30% to 26.24% was refused at planning committee in June 2024 (ref. P/MPO/2023/03270) (see appendix 10). No updated delivery information has been provided.
- 4.18 However, this clear highlights issues with viability, which is a material consideration in assessing deliverability. As such, deliverability is in doubt according to the clear evidence. As such, **39 homes are to be removed from the HLS.**

#### **Curtis Fields Phases 2A, 3A, 3B (ref. WP/19/00693/RES)**

- 4.19 The APS includes 214 homes from these phases of development, to be delivered across five years following the approval of reserved matters in October 2022.
- 4.20 However, as above, an application to modify the S106 of the outline planning permission was refused in 2024 (ref. P/MPO/2023/03270). At the current time, the clear evidence is that there are viability constraints and therefore uncertainty over deliverability.
- 4.21 Due to the uncertainty, **all homes 214 should be removed from the HLS.**

#### **Brewers Quay, Hope Square DT4 8TR (ref. WP/14/01064/FUL)**

- 4.22 Full planning permission was approved in November 2016 for 39 residential units (see appendix 11). The APS includes 47, which is clearly incorrect if referenced to this planning application.
- 4.23 **8 units should be removed from the HLS.**

#### **20-23 East Street (ref. 3/17/3058/FUL)**

- 4.24 The APS includes 15 homes in the trajectory, being delivered in 2024/25. However, the planning permission referenced was approved in May 2018 for 7 homes, not 15 (see appendix 12).
- 4.25 There have been further minor amendments to the site (ref. P/VOC/2022/02982, P/VOC/2022/04526, P/NMA/2022/01387) although none of these alter the number of units approved.
- 4.26 **The HLS should be reduced from 15 to 7.**

## Appendix A Sites: Major Sites with Outline Planning Permission

4.27 Firstly, a number of sites accounted for in the HLS have outline planning permission only and whilst in all cases reserved matters applications have been made (currently undetermined), the evidence indicates that there are constraints to deliverability. So contrary to there being clear evidence of their deliverability, the evidence suggests that they are not currently deliverable within the next five years. The deliverable definition within the NPPF states:

*'Where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years.*

4.28 Further, the planning inspector from the Little Sparrows, Sonning Common, Oxfordshire appeal (3265861), June 2021 (Appendix 5), confirmed at paragraphs 20 and 21 that something more than a developers 'say so' is required to provide clear evidence, speculation and assertion is not sufficient, and *'securing an email or completed proforma from a developer or agent does not in itself constitute `clear evidence`'.*

4.29 The sites affected include the following.

4.30 **Land To North and West Of, Cockroad Lane**, Beaminster (ref. WD/D/19/000613) with the developer commenting that there are viability issues and planning delays (APS Appendix H 4.1) (**58 homes**).

4.31 **Ham Farm** provides a total commitment of 539 homes, with three reserved matters applications under consideration. Phases 1b and 3 (ref. P/RES/2022/04960 & P/RES/2023/05868) remain under consideration, for both it is the same applicant, Redrow Homes (see appendix 13). Phase 2 (ref. P/RES/2022/07898) received an approval on 4 June 2024, the applicant is Places for People. No developer information has been provided to indicate delivery intentions, but it is reasonable to assume first completions some 18 months after approval of the RMs, allowing for the discharge of pre commencement conditions and on-site work.

4.32 Given the lead-in times, and with the Redrow RMs still undetermined, Phase 1b is unlikely to achieve first completions until 26/27, aligning first completions 6 months after the Places for People development starts completions – which does now have an RM approval.

4.33 Then, it is reasonable to assume that Redrow will build 50 dpa (in accordance with the national evidence), and the delay provides a revision to the trajectory as follows:

	24/25	25/26	26/27	27/28	29/30	Total
Phase 1b Redrow		<del>26</del>	<del>50</del> 26	<del>32</del> 50		<del>108</del> 108
Phase 2 Places for People			50	50	50	150
Phase 3 Redrow				<del>18</del>	<del>50</del> 18	<del>68</del> 18

- 4.34 Delivery is currently over-estimated in the APS, **removing 50 homes** from the HLS.
- 4.35 **Land south of Milborne Business Centre**, Blandford Hill, Milborne St Andrew (ref. 2/2019/0403/OUT), whilst reserved matters are submitted, they remain undetermined and the developer has highlighted uncertainty given the nutrient neutrality issue and cost of credits (APS H 21.2) (58 homes). The developer has recently corresponded with Dorset Council stating that they are still updating nutrient budgets, suggesting that this matter has not concluded (appendix 14).
- 4.36 **Land south of Station Road** (ref. 2/2019/1799/OUT) (40 homes), this is an outline permission for 130 homes with no information indicating developer intentions. Whilst there is a reserved matters application submitted, this subject to significant objections from landscape and urban design officers. Further there is an objection from the LLFA which has not been addressed – a holding objection is in place as at February 2024 (appendix 15). At the current time the evidence is not clear that this site will deliver homes in the five-year period.
- 4.37 As such, those sites listed above with outline planning permission and no substantive evidence to support their deliverability, should be removed from the supply.

**Land at Newtons Road, Newtons Road, Weymouth (Former QinetiQ Site, Bincelaves) (ref. P/OUT/2022/00852).**

- 4.38 The outline was only approved in March 2024. Reserved matters applications have not been submitted, however a phasing plan (appendix 16) has been approved in April 2024 indicating the need for sea-wall upgrades and cliff stabilisation works. Allowing for the submission of reserved matters and abnormal on-site work pre-commencement, the trajectory pushes forwards out of the five year period. With no evidence to support the developers trajectory, including a detailed programme of work, given the infrastructure required, the site is not deliverable. **131 homes** should be removed from the HLS.

**BRID5: St Michaels Trading Estate (ref. 1/D/11/002012)**

- 4.39 The site has been included within the HLS for 60 dwellings. There is a live outline planning application for 83 dwellings in total, however there is only a resolution to grant, and no decision notice has been issued.
- 4.40 A review of the planning application webpage shows a holding objection from the Environment Agency via a letter dated 28 June 2024 (see appendix 17).
- 4.41 The outline planning application is therefore not granted, and not considered to be deliverable. **Remove 60 homes from the HLS.**

**Portland Lodge Hotel, Easton Lane DT5 1BW (ref. WP/17/00270/OUT)**

- 4.42 The site has an outline planning approval for 24 dwellings which was granted in December 2021. There is a live reserved matters application (ref. WP/20/00932/RES) which is currently being considered by Dorset Council and which was validated in December 2020.
- 4.43 The reserved matters application shows an ongoing objection from Natural England which has been ongoing since 2021, with a recent letter from April 2024 still confirming this position (see appendix 18). The issue is permanent loss of land designated as SAC, and no strategy to compensate for that loss at the present time. This provides no certainty that this issue will be resolved, jeopardising the deliverability of the site within five years.
- 4.44 This, along with the lack of clear evidence from the developer, results in the site not meeting the definition of deliverable as per the NPPF. **24 homes to be removed from the land supply.**

**Land at Beverley Road (ref. WP/19/00993/OUT)**

- 4.45 The site currently has outline planning permission for 17 dwellings which was granted in December 2021. Further, the site has a draft allocation within the Weymouth Neighbourhood Plan (ref. WNP27).
- 4.46 Condition 2 of the outline planning permission decision notice states:
- ‘An application for approval of any ‘reserved matter’ must be made not later than the expiration of three years beginning with the date of this permission.’*
- 4.47 At present, there has been no reserved matters application submitted with the reserved matters deadline fast approaching in December 2024. The HLS Report fails to provide clear evidence with respect to the sites with outline permission, and simply refers to the site and provides a permission number. It contains no evidence of developer delivery intentions. In the absence of substantive evidence from the Council, the site, with only outline planning permission cannot be assumed deliverable.
- 4.48 Lastly, the site is currently being marketed for sale as a development opportunity on Right Move

([https://www.rightmove.co.uk/properties/149046512#/?channel=COM\\_BUY](https://www.rightmove.co.uk/properties/149046512#/?channel=COM_BUY)), suggesting the landowner has no intentions of bringing the development forward. **All 17 homes to be removed from the HLS.**

## **Appendix B: Sites allocated within Local Plans**

- 4.49 Dorset Council includes 13 sites within its HLS that have been allocated in adopted local plans, accounting for a total of 964 homes. Albeit these sites are allocated, and some have planning applications under consideration, as clarified in the Woolpit appeal decision, dated 28 September 2018 (3194926), particularly paragraphs 65, 67, 72 & 73 93 (Appendix 2), the onus is on the LPA to provide clear evidence that the sites will deliver. The APS presents no such evidence.
- 4.50 Particularly in relation to those sites that have not been progressed to planning application stage yet, given lead in times (circa 4 years for sites of 50-99 homes, and 6 years from sites of 100 – 499 homes), there is no evidence that these sites will be able to deliver in the current five year period, allowing for the planning approval process and pre-completion site works. This applies to the following sites.
- 4.51 **Vearse Farm (20 homes)**, this is allocated within the West Dorset, Weymouth & Portland local plan (adopted 2015) with an outline application WD/D/17/000986 granted in May 2019. The permission has lapsed, with no RM submitted. The agent's email (H 7.2) provides no information with respect to work towards applications, site investigations, planning application timeline, delivery intentions etc, merely an assertion that the homes will be delivered from 2026. This does not constitute clear evidence to meet the test of being deliverable.
- 4.52 **East of Bredy Vets Centre (20 homes)**, the landowner's email (H 7.1) provides some information with respect to ecology survey and an intended pre-app, but the latter has yet to be requested and is merely an assertion that the planning application will be progressed and homes will be delivered from 2026. This does not constitute clear evidence to meet the test of being deliverable.
- 4.53 **Land at Green Worlds (24 homes)**, was allocated in the East Dorset Local Plan in 2014. The agent's email (H 16.1) provides no information with respect to work towards applications, site investigations, planning application timeline, delivery intentions etc, merely an assertion that the homes will be delivered from 2026. Further, Dorset Council's HLS update in 2019 confirmed the landowner had undertaken pre-application discussions but nothing came of this. The update states the site has now become heavily covered in trees and could prevent a higher density development (see appendix 19). This provides uncertainty over the deliverability and capacity of the site. It does not constitute clear evidence to meet the test of being deliverable.
- 4.54 **East of Flowers Drove (28 homes)**, the developer states that a full application is being prepared (H 20.2) but at this stage, and given lead in times, this does not constitute clear evidence to meet the test of being deliverable.



- 4.55 **East of Wareham Road (35 homes)** (6/2021/0282). A full application has been submitted but there has been no activity since February 2023 (appendix 20). It is understood that the planning context will change with the adoption of the Purbeck Local Plan in July, but allowing then for agreement of the s106, discharge of pre commencement conditions, site works etc, the trajectory is delayed, providing for first completions in 2027/28 & 2028/29 with the last 35 homes pushed outside the five-year period.
- 4.56 **Redridge Pit (35 homes)**, there is no information from the developer/landowner/site promoter with respect to this site and simply no indication of delivery timescales or progress with planning applications. This does not constitute clear evidence to meet the test of being deliverable.
- 4.57 **Land at Policemans Lane Phase 2 (27 homes)**. This is a full planning application for 95 homes, but there has been no submissions from the applicant on the application since January 2020, following which there has been a substantial amount of objections, including an objection from urban design (appendix 21).
- 4.58 It is understood that the planning context will change with the adoption of the Purbeck Local Plan in July, but allowing then for resolution of objections, agreement of the s106, discharge of pre commencement conditions, site works etc, the trajectory is delayed, providing for first completions in 2027/28 & 2028/29 with the last 27 homes pushed outside the five-year period.
- 4.59 **Council Offices North Quay (75 homes)**, this site is subject to a non-material amendment to planning permission P/FUL/2023/01846 (for the demolition of buildings and alterations to the existing car park) which was approved in April 2024. The temporary car park onsite will be in place for three years until July 2026, and a restoration scheme in place by October 2026 (see condition 3 appendix 22).
- 4.60 The Council (as applicant and landowner) has confirmed they expect to procure a development partner this year. However, in the context of the current permission and with no developer on board as yet, and no detailed planning application submitted, the delivery assumptions provided are unrealistic.
- 4.61 Even if a full application is submitted in due course, once a developer is appointed, given lead in time, there is no clear evidence to concluded that the site will deliver in the five-year period.
- 4.62 **West of Chalk Pit Lane (120 homes)** there is no application and no other evidence to support the delivery assumptions provided in the APS, particularly noting national evidence on lead in times. This does not constitute clear evidence to meet the test of being deliverable.
- 4.63 **North East of Burton Cross Roundabout (50 homes)**, there is no live planning application and no developer information. This does not constitute clear evidence to meet the test of being deliverable.

- 4.64 **North West of Burton Cross Roundabout (30 homes)**, there is no live planning application and no developer information. This does not constitute clear evidence to meet the test of being deliverable.
- 4.65 There are a number of sites with live applications submitted but a number of these are undeliverable at the current time, as follows.
- 4.66 **Chickerell Urban Extension (148 homes)**, whilst there is a live outline planning application under consideration, application WD/D/20/002569 is subject to a landscape objection, which has been ongoing since December 2020, as well as an ongoing objection on ecology and on design (see appendix 23). Further there are extensive local objections to the scheme. There is no evidence that these objections can be resolved within the confines of the existing application.
- 4.67 Given uncertainty with the current scheme, and then lead in times etc to gain the further planning approval necessary, there is no clear evidence that the site is deliverable.
- 4.68 **Land at Crossways (99 homes)** (WD/D/16/000378), is subject to a hybrid planning application, but this was lodged in 2016. A Planning Committee report in late 2019 indicated an amendment to the phasing of the development, with the delivery timescales currently uncertain. There was a resolution to grant outline permission in 2019, but the decision notice has never been issued. The Council's web-site still shows no recent activity with respect to the application (appendix 24).
- 4.69 There is no outline planning permission.
- 4.70 No additional information has been provided to date by the landowner applicant, with no developer appointed, there is no evidence of further correspondence. Therefore there is no evidence submitted to demonstrate guaranteed deliverability.
- 4.71 **Four Paddock, Dorchester (68 homes)** (P/FUL/2021/02623), a full application was submitted in August 2021 and remains under consideration. Application P/FUL/2021/02623 had received several major objections from Conservation (ongoing since late 2021 into mid 2022), Landscape and Urban Design, with no subsequent evidence that these matters can be resolved within the confines of the existing application (see appendix 25).
- 4.72 There is no planning permission, and significant constraints are in play. No information has been provided by the site promoter. There is no clear evidence to demonstrate deliverability.

### **Appendix C: Sites allocated within Neighbourhood Plans**

- 4.73 The APS includes 263 homes that have been allocated in Neighbourhood Plans. Most of these are relatively small sites, of 30 homes or less. Some have applications progressing, making their delivery within the five-year period likely. However, there are a number included that have no applications progressing

and inclusion in the HLS is reliant on a developer assertion alone, with no clear evidence to demonstrate their deliverability. These sites are as follows.

- 4.74 **Back Lane, Bere Regis** (51 homes) – the developer email dated April 2023 (H 5.3) states that a full planning application is being prepared for submission Q2 2024 but is reliant on the resolution of nutrient neutrality issues. Whilst nutrient neutrality has now been addressed for the Poole Harbour catchment, no planning application has been submitted, and there can be no confidence at this time that an application will be successful or secure delivery within the current five-year period.
- 4.75 **North Street, Bere Regis** (15 homes) – the same developer is involved (Wyatt Homes) as for Back Lane, and merely repeats that a full planning application is being prepared for submission Q2 2024 but is reliant on the resolution of nutrient neutrality issues ((H 5.4). No application has been submitted, and the Council’s evidence relies solely on the developers, now unsubstantiated, assertions.
- 4.76 **Former School Site, Bere Regis** (21 homes) – this is a Council owned site, the response (H 5.2) was provided by the Senior Housing and Enabling Officer, who says, *“They are waiting on the Nutrient Neutrality to be sorted and then hopefully they can put in for planning permission.”* (my emphasis). He goes on to confirm that the school needs to be demolished, all subject to planning, and whilst the site has been marketed in 2022, there is no confirmation that a developer/construction team has been appointed. Demolition of the school certainly will extend the delivery programme and could raise many issues currently unknown. In the absence of any planning application, and little confidence from the Council in terms of delivery programme, this falls short of the clear evidence necessary to demonstrate deliverability.
- 4.77 **Clakes Yard Bath Road** (30 homes) – this site is allocated in the Sturminster Newton Neighbourhood Plan. Appendix C under the status column for the site states:
- ‘Permission lapsed in Nov 2023. Email in April 2024 states that full app will be submitted in summer 2025’.*
- 4.78 Whilst the developer asserts an intention to submit a full planning application in summer 2025, avoiding pre-commencement conditions, but also highlights that the site is on made ground (former railway cutting). The application timetable is some way off, and the trajectory provided by the developer’s consultant, assuming delivery in 2025/26 and 2026/27, allows absolutely no time for the consideration of the application and signing of the s106 agreement, or any on-site remediation work that might be necessary. It is entirely unrealistic. This falls short of the clear evidence necessary to demonstrate deliverability.

#### **Austral Farm**

- 4.79 Additionally, this site is allocated within the Piddle Valley Neighbourhood Plan (ref. NP\_PV1). A full planning application for 9 residential units is currently

under consideration, which was validated in January 2021 (ref. WD/D/20/003302).

- 4.80 Whilst this is a small site, The planning application webpage shows there to be several objections, including ongoing objections from the landscape architect and AONB teams despite several amendments to the application (appendix 26). On this basis the current evidence that planning permission is likely to be refused, **as such, 10 units are to be removed from the HLS.**

#### **Appendix D: Specific large sites**

- 4.81 The APS defines these 13 sites (426 homes in total) as ‘not identified in the development plan’. They are major windfall sites. As such they have no status under the definition of delivery, and whilst they can be introduced into the HLS once planning permission has been granted, until that point there is no clear evidence to introduce them. Planning permissions granted after the base-date should be excluded.
- 4.82 Notwithstanding, there are a number of sites that have no evidence of deliverability, other than they have been included in the SHLAA or are subject to pre-application discussions. This provides non clear evidence that they will come forward in the current five-year period. These sites are as follows.
- 4.83 **Brewery Site, Blandford St Mary**, LA/BLSM/003 (21 homes), whilst pre-application advice has been sought, the landowners agent provides no information to support the delivery of the site within the five-year period (H 6.2).
- 4.84 **Holt, Land off Dean Lane** (55 homes), where the developer (Wyatt Homes) confirms that “*Housing delivery of c. 50 units (private and affordable) could take place towards the end of the 5 year trajectory period, and into the years beyond (please see table above). However, this would likely be subject to a housing allocation within the emerging Dorset Local Plan and a subsequent planning permission.” (my emphasis). The local plan timescale, noted above, and lead in period (circa 4 years – see para 4.5 above), does not support the inclusion of this site in the HLS.*
- 4.85 **Holt, Land off The Orchard** (30 homes), no application has been progressed and the developers agent comments, ‘*30 units anticipated for delivery by 2028/29 or if later, by 2034.*’ (H 24.4). The site is still in agricultural use, and it is clear that no developer is involved – again noting the agent’s comment that “*most likely that site would be delivered by a developer via option agreement.*” This is not clear evidence that the site is deliverable and should feature in the HLS.
- 4.86 **Weymouth, Lakeside Superbowl** (65 homes), is going to be used as a car park, no scheme has been decided and no site capacity has been confirmed (see H 32.7). Further, the Interim Development Manager states, “*Use of this site will be influenced by other regeneration sites in Weymouth.*” No further information is presented in this respect to support the delivery of the site.

Clearly this falls short of the clear evidence necessary to confirm the deliverability of this site.

- 4.87 **Furzehill - Previous Council Offices** (35 homes), is supported by a response from the Interim Lead Manager Developments in the Assets and Property section of Dorset Council (H 33.3) The response provides little confidence that the site is deliverable (within the five-year period). It confirms that the previous purchaser withdrew due to viability, and that the site has only recently been re-marketed, but no developer has been selected. The capacity, and development rates are all 'assumed', assumptions of "*what might be achieved*". No further information is provided, but given that a developer has still to be selected and viable scheme still to be formed, before applications can progress etc, this site is not deliverable within the five-year period.
- 4.88 Noting the Bures Hamlet and Little Sparrow appeal decisions; "*The information published here in the AMR is minimal and relies heavily on unsupported assertions that a site will be delivered. That does not amount to evidence.*" and "*Securing an email or completed proforma from a developer or agent does not in itself constitute `clear evidence..`*" Matter such as a lack of developer on site, and certainly a lack of any progress towards planning applications/permissions, are relevant. Such sites do not meet the definition of deliverable. The above are all affected in this way.

#### **Appendix G: Rural Exception Sites**

- 4.89 This Appendix accounts for 56 homes which are rural exception sites, contributing to the HLS. The APS states, "*the Inspector for the adopted West Dorset and Weymouth & Portland Local Plan recommended that rural exception sites that benefit from grant funding and a housing needs survey can be included within the five-year supply*", which is the approach Dorset has taken in this case.
- 4.90 However, the West Dorset Inspector considered the matter during 2014 and reported on 14 August 2015. At that time, the definition of deliverability was contained in a footnote to the NPPF 2012, and did not provide the clarification that the current NPPF does in terms of the different categories of sites. Further, the NPPG has since been updated (ID: 68-007-20190722 – July 2019) providing further clarification of the evidence required to demonstrate deliverability. Planning status is key, as has been confirmed through many more recent appeal decisions.
- 4.91 Those sites that are not subject to planning applications, let alone permission, even if they are small sites, do not meet the definition of deliverable. They do not fall within category a or b and have no planning status. Of further note, the Corfe Castle site is subject to legal issues (H 11.1).
- 4.92 In any event, the minor sites would be covered by the windfall allowance (Pageants Close, Orchards Close and Brymer Road), and their inclusion here is double counting.

## 5.0 Reassessed HLS Position

5.1 The reassessed HLS position is set out in the table below, based on the rational for deductions in Section 4 of this report:

Site	Deductions	Deduction Sub totals	APS supply	Revised HLS
<b>Major sites with detailed planning permission</b>				
West of Frome Road	40			
Crown Gate	76			
West Parley	136			
A T S Euromaster	24			
Howe Lane	28			
Louviers Road	65			
Curtis Fields Phase 4	39			
Curtis Fields Phases 2A etc	214			
Brewers Quay	8			
20-23 East St	8	638	5009	4371
<b>Major sites with outline planning permission</b>				
Cockroad Lane	58			
Ham Farm	50			
Milborne Business Centre	58			
South of Station Road	40			
QinetiQ	131			
BRID5	60			
Portland Lodge Hotel	24			
Beverley Road	17	438	851	413
<b>Sites allocated in local plans</b>				
Verse Farm	20			
Bredy Vets	20			
Green Worlds	24			
Flowers Drove	28			
East of Wareham Road	35			
Redridge Pit	35			
Policemans Lane	27			
Council offices	75			
West of Chalk Pit Lane	120			
North East of Burton Cross	50			
North West of Burton Cross	30			
Chickerell Urban Extension	148			
Crossways	99			
Four Paddocks	68	779	964	185
<b>Neighbourhood plan sites</b>				
Back Lane	51			

North Street	15			
Former School	21			
Clarkes Yard	30			
Austral Farm	10	127	263	136
<b>Specific large sites</b>				
Brewery Blandford St Mary	21			
Dean Lane Holt	55			
The Orchard Holt	30			
Lakeside Weymouth	65			
Furzehill Council Offices	35	206	426	220
<b>Rural exception sites</b>				
Pageants Close	5			
Orchards Close	5			
Corfe Castle	22			
Brymer Road	4	36	56	20
<b>Totals</b>		<b>2224</b>	<b>7569</b>	<b>5345</b>
<b>Resultant HLS</b>			<b>9573</b>	<b>7349</b>

- 5.2 The total available supply, from all sources is reduced by 2,224 homes.
- 5.3 Starting with a supply of 9,573 homes, the revised supply is 7,349 homes:
- Against the Council's capped requirement of 1,793 dpa the HLS is 4.10 years (shortfall of 1,616 homes)
  - Against the higher uncapped requirement of 1,844 dpa the HLS is 3.99 years (shortfall of 1,871 homes)

## Appendix 1: Purbeck LP Inspector Report Extract





The Planning Inspectorate

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## **Report to Dorset Council**

**by Beverley Doward BSc BTP MRTPI  
Susan Heywood BSc (Hons) MCD MRTPI  
Gareth Wildgoose BSc (Hons) MSc MRTPI**

Inspectors appointed by the Secretary of State

Date 7 May 2024

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Purbeck Local Plan (2018 - 2034)**

The Plan was submitted for examination on 28 January 2019.

The examination hearings were held between 2 July 2019 and 11 October 2019, and on 19 July 2022.

File Ref: PINS/B1225/429/4

### Issue 3 - Is the housing need figure robust?

70. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national policy. The associated guidance in PPG sets out the approach to calculating a minimum annual local housing need figure using the standard methodology. It also indicates that strategic policy-making authorities will need to calculate their local housing need figure at the start of the plan-making process but that this number should be kept under review and revised where appropriate. In addition, it is clear that the local housing need calculated using the standard method may be relied upon for a period of two years from the time that a plan is submitted for examination<sup>26</sup>.
71. Policy H1 of the Purbeck Local Plan, informed by the 2018 Strategic Housing Market Assessment (SHMA) update for Purbeck<sup>27</sup>, identifies an annual local housing need figure of 168 homes which for the period covered by the Plan (2018 to 2034) equates to a figure of 2,688 homes. This was calculated using a base date of 2016 to calculate the projected average annual household growth over a 10-year period, together with the 2014-based household projections and the 2016 affordability ratio. However, at the time of this report, it is more than two years from the time that the Plan was submitted for examination and therefore, it is necessary that a more up-to-date calculation of the local housing need figure is undertaken.
72. With regard to the above, the preparation of the Purbeck Local Plan took place during a period of change and uncertainty in relation to guidance on calculating housing need. In that context, the Council set out a revised calculation in its evidence<sup>28</sup> that is calculated with a base date of 1 April 2022 for household growth over a 10-year period using the 2014-based household projections. It also includes the most up-to-date affordability ratios for Purbeck District published for 2022 that are consistent with the base year and therefore, that we have reasonably identified as the most robust from the evidence. This produces a figure of 187.4 dwellings per annum [dpa] which, when capped as indicated in the PPG (Step 3) results in a minimum local housing need figure of 185.5 dpa or 186 dpa (rounded), which is equivalent to 2,976 homes for the period covered by the Plan.
73. The PPG advises that there is an expectation that the standard method will be used for assessing local housing need and that any other method will be used only in exceptional circumstances<sup>29</sup>. Having regard to the Framework and PPG,

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<sup>26</sup> PPG Reference ID:2a-008-20190220

<sup>27</sup> Document SD20

<sup>28</sup> Document SMMCD5

<sup>29</sup> PPG Reference ID:2a-003-20190220

**Appendix 2: Woolpit appeal decision 3194926**



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## Appeal Decision

Inquiry held on 31 July, 1, 30 and 31 August 2018

Site visit made on 2 August 2018

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

an Inspector appointed by the Secretary of State

**Decision date: 28<sup>th</sup> September 2018**

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**Appeal Ref: APP/W3520/W/18/3194926**

**Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Landex Ltd against the decision of Mid Suffolk District Council.
  - The application Ref 2112/16, dated 2 May 2016, was refused by notice dated 6 September 2017.
  - The development proposed is the erection of 49 dwellings (including 17 affordable dwellings) and construction of a new access.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 49 dwellings (including 17 affordable dwellings) and construction of a new access at Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF in accordance with the terms of the application, Ref 2112/16, dated 2 May 2016, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matters

2. The application was supported by a number of reports and technical information including a Design and Access Statement (DAS), a Planning Statement, a Revised Transport Assessment, a Planning Statement, a Contamination Report Part 1 and Part 2, an Ecology Report and Skylark Survey, a Flood Risk Assessment, a Foul and Surface Water Drainage Strategy, an Archaeological Report and a Landscape and Visual Appraisal.
3. At the Inquiry, a S106 Unilateral Planning Obligation was submitted by the Appellant.<sup>1</sup> This addresses all of the matters sought by the District and County Council in connection with the provision of community and other services arising from the development. The Planning Obligation is signed and dated 29 August 2018 and is a material consideration in this case. A Community Infrastructure Compliance Statement has been submitted by Suffolk County Council (SCC).<sup>2</sup> I return to the Planning Obligation later in this decision.
4. In addition, the Appellant submitted an Agreement with Flagship Housing Group Limited, conditional upon planning permission being granted, to enter into a Deed of Easement<sup>3</sup> to secure pedestrian and cycle access to the north

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<sup>1</sup> APP8

<sup>2</sup> INQ5

<sup>3</sup> APP7

via Steeles Close. I shall return to the proposed easement later in the decision.

5. Statements of Common Ground (SoCG)<sup>4</sup> between the Appellant and SCC were agreed and have been signed by both parties in respect of: (i) Archaeology Matters; (ii) Drainage Matters; (iii) Early Years and Education Matters; and (iv) Highways and Transport. An additional SoCG on Planning Matters including Housing Land Supply was agreed between the Appellant and Mid Suffolk District Council (MSDC).
6. The main parties confirmed the List of Drawings on which the appeal should be determined and this is set out at Document APP1. The List of Drawings includes the House Types (1-9), a Site Location plan PA33, a Site Layout Plan PA31 Rev H and an Offsite Highways Works Plan 112/2015/04 - Rev.P2.
7. The revised National Planning Policy Framework (NPPF 2018) was published on 24 July 2018 shortly before the Inquiry opened and was addressed by participating parties both during the event and in closings. I have taken it in to consideration in my conclusions.<sup>5</sup>
8. Following the close of the Inquiry I sought the views of both main parties in respect of the revisions made to the PPG<sup>6</sup> on 13 September 2018 on Housing and economic land availability assessment. The comments received have been taken into account in my consideration of the appeal proposal.

### **Main Issues**

9. In the light of the above I consider the main issues are:-
  - the effect of the proposed development on highway and pedestrian safety;
  - the impact of the proposed development on designated heritage assets including the setting of listed buildings and the character and appearance of the Woolpit Conservation Area; and
  - whether the Council is able to demonstrate a five-year supply of deliverable housing sites sufficient to meet the full objectively assessed need (OAN) for housing and the implications of this in terms of national and local planning policy.

### **Reasons**

#### *The proposed development and appeal site*

10. The appeal proposal is for 49 dwellings including 17 affordable dwellings (35%) together with a new access to be constructed to serve the development of Green Road. The dwellings would have associated garages and parking areas and pedestrian access from the site onto Green Road and pedestrian/cycle access to Steeles Close. There is a dedicated on-site play area proposed as well as extensive on-site open space and linking footpaths.

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<sup>4</sup> INQ3

<sup>5</sup> Paragraph 212 Annex 1: Implementation

<sup>6</sup> Planning Practice Guidance

11. Woolpit is the third largest village in Mid Suffolk and has a good level of local services and infrastructure including health care, education and two business parks/employment sites and is designated as a Key Service Centre in the Council's settlement hierarchy. The appeal site is located on the southern edge of Woolpit village, to the south of its centre but with access to facilities which are in close proximity – a primary school, health centre, village shops and services are within walking distance.
12. Whilst, for planning policy purposes, the site is located in the designated 'countryside', its northern and eastern boundaries adjoin the defined settlement boundary for the village in the Mid Suffolk Local Plan 1998 (Woolpit Village Inset Map). There is existing residential development on the eastern side of the site on Steeles Road and immediately adjacent to the north lies Steeles Close and the main body of the village; on the opposite side of Green Road, but at the northern end of the appeal site lies residential development in the form of Priory Cottage, a Grade II Listed Building. There is therefore residential development on two sides of the appeal site. Land to the south and west comprises open agricultural land.
13. The appeal site comprises a total site area of about 2.3 hectares. It consists of a rectangular shape block of land which is part of an agricultural field. It is enclosed with an existing tree/hedge line on three sides. The appeal site is broadly level but there is a gentle slope west to east. There is an existing tree/hedge line to a part of the site's Green Road frontage and there are trees to the northern boundary which separate the site from Steeles Close. A public footpath passes north to south along the site's eastern boundary. This footpath connects to the southern part of the village and then to the wider countryside to the south.
14. There is a designated Conservation Area in Woolpit Village its nearest boundary being located about 250m to the north from the appeal site at the junction of Drinkstone Road and Green Road. The appeal site is not within the boundary of a protected landscape and there are no designations which apply to it. No Listed Buildings about the application site but the listed Grade II, 17<sup>th</sup> century, Priory Cottage is situated on the west side of Green Road opposite the north-west corner.

#### *Planning policy*

15. The statutory development plan includes the following documents:
  - (i) The Mid Suffolk District Local Plan 1998 (MSDLP) which was saved in accordance with the Secretary of State's Direction dated 14 September 2007;
  - (ii) The Mid Suffolk District Core Strategy 2008 (CS), as adopted in September 2008 covering the period until 2025; and
  - (iii) The Core Strategy Focused Review 2012 (CSFR) as adopted on 20 December 2012 covering the period until 2027.
16. The Council is in the course of preparing a new Joint Local Plan with Babergh District Council which will replace the CS and will be used to manage development in both districts up to 2036. The Councils have published the Joint Local Plan for consultation (Regulation 18) but the emerging Plan is in its very early stages and thus carries limited weight in the context of this appeal.

A Neighbourhood Plan is currently being prepared for Woolpit. It too is in its very early stages and draft policies have not yet been published so no weight can be attached to the Neighbourhood Plan.

***First Issue - Highway and pedestrian safety***

17. SCC, as Highway Authority, does not object to the proposal subject to conditions being attached to a grant of planning permission. The Council did not refuse the proposal on the basis of highway and pedestrian safety grounds because a highway improvement scheme at the pinch point on Green Road was proposed as part of the development and was to be secured by means of a planning condition. Rather, the Reason for Refusal (RfR) indicates that the proposed development would increase vehicular traffic in the village centre and require the provision of highway works to the north of the site in the vicinity of a number of unspecified listed buildings and within the Conservation Area. The Council then argues firstly, that the nature of the works and the increase in traffic would neither preserve or enhance the character of this part of the Conservation Area and secondly, would not preserve or enhance the setting of the unspecified listed buildings causing less than substantial harm to both.
18. The areas of debate at the Inquiry comprised:
  - Increase in vehicular traffic through pinch point
  - Increase in pedestrian flow through pinch point
  - Personal Injury Accidents (PIA) Analysis
  - Accessibility

*Increase in vehicular traffic*

19. North of the appeal site between Drinkstone Road and just beyond Mill Lane, Green Road narrows significantly to about 4.3m creating a pinch point about 60m long. On the western side there is no footway as the buildings and fences are hard against the edge of the road. On the eastern side there is a narrow footway measuring less than 1m in width, reducing to only 0.85m in parts. This road width is insufficient for two vehicles to pass with pedestrians on the footway being vulnerable to being hit by vehicles. The footway at this width is insufficient to allow pedestrians to pass each other without stepping into the road. It is also too narrow for wheelchair users and pram use so the only alternative for many is to walk along the road.
20. The footway here is also vulnerable to being driven over by vehicles as the kerbed separation is too low to offer sufficient protection. The kerb upstand is between 20mm and 60mm – this does not prevent or deter vehicles from driving over the kerb onto the footway. The Parish Council and others are concerned that at times Green Road can become congested. Both highway experts agree that Green Road is relatively lightly trafficked but this does not mean at times it cannot become congested.
21. I see no reason to doubt the underlying validity of the Appellant's Traffic Assessment (TA) as considered by the Highway Authority. The TA estimated that the proposed development would generate, overall, 33 vehicular trips in the AM peak hour and a total of 38 trips in the PM peak hour which would give

rise to 295 additional trips over a 24 hour period. The majority of this traffic would travel northbound through the pinch point to the transport links and facilities in the village beyond. Based on these TA figures, two-way traffic on Green Road would increase by 15% in the AM peak and by 16% in the PM peak as a result of the development traffic. This equates on average during the AM and PM peak hours to an additional vehicle passing through the pinch point every 2 minutes. In my view this represents at worst, a very modest increase in vehicular traffic through the pinch point.

#### *Increase in pedestrian flow*

22. The Council has assessed the additional pedestrian flows associated with the development: an additional three pedestrians walking northwards in the AM peak and 2 in the PM peak and an additional one pedestrian walking southwards in each of the AM and PM peak hours. The Council's assessment determines the theoretical likelihood of a northbound vehicle, a southbound vehicle and a pedestrian negotiating the pinch point together at any one time during the peak hour for both the existing scenario and that with the proposed development. It concludes that such events would increase threefold with the development in place, which equates to ten additional pedestrian injury risk events per year. These figures were accepted by the Appellant.
23. I appreciate that the Council's assessment is a theoretical risk analysis and that the ten additional pedestrian injury risk events compared to the baseline is relatively small – not even one per month. Nevertheless that increase is significant when considered over time, and it is noteworthy that any conflict between vulnerable road users (pedestrians) and motor vehicles will often result in an injury requiring hospital attention, even allowing for the slight reduction in vehicle speeds through the pinch point. In my view there would be a modest increase in the number of pedestrian injury risk events.

#### *Personal Injury Accidents (PIA) Analysis*

24. The TA demonstrates that there is no recorded accident data for Green Road itself, but there were four accidents which led to injury in the period between 2010 and 2015 (Appendix I). The Appellant accepted that when considering accident data, it is relevant to look more widely than the road on which the development is proposed, and that it is not just about the overall number of accidents but the details of them. Two of the accidents involved pedestrians being struck by passing cars (on The Street and on Heath Road) and that in one of those accidents the narrow width of the road was recorded as a causation factor by the police. Another accident involved a driver striking a line of cars in The Street during the hours of darkness. In my view the circumstances of the accidents which have occurred in the wider area are not inconsistent with a highway safety concern.

#### *Accessibility*

25. I accept that the proposed pedestrian and cycle link via Steeles Close and Steeles Road is likely to be used for a good percentage of pedestrian trips to give access to village services. It would be used for: (i) dropping off and collecting children from the primary school and pre-school as well as after school clubs; (ii) to access childcare services in the grounds of the primary school, such as a "Holiday Club" during school holidays; (ii) attending health appointments; (iv) picking up prescriptions from the dispensary; (v) shopping



at Costcutter Convenience Store with its extended opening hours (0600-2230 hours) and (vi) accessing the Brickfields Business Park, where around 25 companies are based. Moreover, the proposed easement to the north<sup>7</sup> would be entirely adequate for the purposes of guaranteeing access at all times. The terms on which it is granted make it entirely enforceable and I cannot foresee any circumstances which would lead to the grantor being in a position to restrict or prevent its use.

26. Nevertheless, it is noteworthy that the proposed development provides a footpath link from the Green Road access on the west of the appeal site which links to the pavement outside Vine Cottage. Anyone seeking the shortest route to walk to the village centre, to access facilities including the village shop (Co-op), the post office within it, the bus stops, the village pubs, the bakery, the tea room, the hairdressers, the Village Hall, the Church and the petrol filling station would have to negotiate the pinch point and the increased traffic going through it. Even with the Steeles Close access, anyone using it to take the shortest route to the village centre would still travel through the pinch point on Green Road. Use of the access via the Greenway at the south east of the site onto the public footpath would be far from desirable for anyone accessing facilities in the village centre.
27. Taking all of these matters into account I consider that the increase in vehicular and pedestrian traffic from the new development having to negotiate the pinch point on Green Road would exacerbate highway dangers unless appropriate safety improvements can be made. I conclude on the first issue that the off-site highway works specified in Drawing 112/2015/04 Revision P2 are necessary to mitigate the increased safety risk as a result of the development. If an appropriately worded planning condition(s) is imposed to secure the off-site highway works then there would be no unacceptable residual highway or pedestrian safety impact arising from the proposed development.

### ***Second Issue - Heritage Assets***

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA) requires that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the LBA requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
29. Paragraph 193 of the NPPF 2018 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
30. Whilst there is no statutory protection for the setting of conservation areas, paragraph 194 of the NPPF 2018 requires that consideration be given to any harm to or loss of significance of a designated asset, which includes conservation areas, from development within its setting. The main parties confirmed that no harm would be caused to the setting of the Conservation

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<sup>7</sup> APP7

Area in this case and I agree.

*Woolpit Conservation Area*

31. The Woolpit Conservation Area Appraisal (2012) tells us that the Conservation Area covers the historic core of the village and was first designated by the Council in 1972. The Appraisal notes that the built form is marked by a variety of dates, architectural styles and building materials including a variety of roof finishes. The Conservation Area includes the Grade I listed Church of St Mary with its flint and stone chequered flushwork. The remaining listed buildings, the majority being Grade II, are identified as *'timber-framed houses, many now re-fronted in brick'*. The variety of building materials is noted, with exposed timber-framing and bricks from the local brickworks, comprising *'Suffolk whites'* and *'soft red brick'*.
32. In terms of its plan form and layout, Woolpit village has a distinct central triangular island, which *'is a well defined focal point'* which forms the focus for three *'important vistas'* identified on page 11 of the Appraisal. In vista (1) looking north along Green Road towards the village triangle, the view is eroded somewhat by the presence of street signage and the extent of parked cars around this *'island'*. Each important vista contributes to the character and appearance of the Conservation Area.
33. I consider the significance of the Conservation Area derives from its character interest which includes a mixture of medieval, post medieval and later buildings, of a variety of styles and material finishes, arranged around a central village *'triangle'* which is laid out and maintained as a green-edged *'island'*, from which radiate outwards three main thoroughfares; Green Road, Church Street and The Street; and from there extends a wider network of smaller sub-roads. In connection with this, the vehicular traffic is regular enough to be noticeable particularly along the three main roads, but it is not an overbearing element. It contributes to the appearance of the Conservation Area, as does the traffic control measures that form part of the street scenes, most obviously in the form of a variety of bollards.
34. The Council alleges that there would be a significant impact on the appearance of the important vista along Green Road towards the central market place at the centre of the Conservation Area and that the important historical character of the southern *'gateway'* and the important historic street scene would be harmfully altered by the introduction of the highway improvements, resulting in a more urban appearance. In particular, reference is made to the kerbed build out with bollards, the footpath widening with raised kerbs, the erection of a TSRGD 516 sign on the pavement between Pepys House and Tyrells, the disruption of sightlines which have a natural downward slope and the noticeable increase in both vehicular and pedestrian traffic which it is said would detract from the perception of relative tranquillity. I disagree.
35. The changes such as they are would only be appreciable in relatively limited views north and south along Green Road from about the area of the village triangle to the southern edge of the Conservation Area. The proposed off-site highway works would only bring about a change to a limited and localised part of this designated heritage asset. In terms of the revision of road markings, when taken in the context of the existing roadway and indeed the appearance of the wider network of roads within the Conservation Area that are generally

of 'black tarmac with white network markings'; it would not be out of character and would not harm its special interest.

36. In terms of footpath widening, the existing pathway is a standard kerbed tarmac path, about wide enough for one person to traverse. The appeal proposals envisage the widening of this footpath to 1.8m with the kerb face raised to 125mm. Again, whilst this would represent a change to the current situation, it would not be incongruous with the character and appearance of the Conservation Area which includes a large number of kerbed footpaths of varying widths. The final form and finish of these proposals would be subject to detailed design at a later stage and there is an opportunity to include a higher quality surface finishing such as sandy bedding gravel to improve the appearance of this stretch of footpath, more in keeping with the current character of this area of the asset.
37. In my view, the proposed widening of the footpath would also allow better appreciation of the character and appearance of the Conservation Area by providing a more convenient means of accessing the asset to enjoy the quality of the historic built environment.
38. In terms of road signage there are currently numerous examples of instructional road signs elsewhere within the Conservation Area, not least within the village 'triangle' itself. The introduction of a new road sign would be needed at the southern end of the highways works to forewarn drivers heading north into the Conservation Area of the narrowing roadway. The exact location of this sign is not yet fixed and is subject to future agreement. It could, for instance, be located outside the southern boundary of the Conservation Area. Even if located within the asset I see no reason why it could not be sympathetically integrated into the street scene.
39. The kerbed build out with bollards adjacent to Model Cottage would be the most evident change resulting from the proposals, as the current location for this is a featureless part of the black tarmac roadway. However, the use of a variety of bollards for such traffic calming/building protection measures is already widely evident within the wider Conservation Area, with others also used to control parking. In my view, the use of bollards in this location and for this purpose, employing a sympathetic design to be agreed with the Council, would plainly not be intrusive or incongruous with the character and appearance of the wider Conservation Area and would not result in any harm.
40. In terms of the built form of the off-site highway works, the appeal proposals would only be evident from a small part of the wider Conservation Area, would not be incongruous with its current character and appearance, and, with regard to the widened footpath, could actually deliver an enhancement.
41. In relation to the increase in vehicular traffic and any effect on the character and appearance of the Conservation Area, I have identified that there would be a *very modest* increase in the amount of traffic using the immediate road network and on Green Road leading into the village centre. This very modest increase in vehicular traffic would not introduce an element into the Conservation Area that is not already present within the designated area and neither would it increase that existing element of the Conservation Area's character and appearance to any more than a modest degree. The very modest increase in traffic flow would have no effect on the special interest of the Conservation Area and no harm would be generated.

42. I consider there would be no harm caused to the Woolpit Conservation Area as a result of the appeal proposals. The proposals would as a minimum 'preserve' the character and appearance of the Conservation Area, if not actually enhance it through the improvement of the footpath.

#### *Listed Buildings*

43. When assessing the indirect impact of proposals on heritage assets such as those beyond the boundary of a development site, the question which should be asked is whether change within its wider 'setting' would result in a loss of (or damage to) its 'significance' as a heritage asset.
44. The NPPF 2018 defines significance in Annex 2: Glossary as: '*The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting*'.
45. The current Historic England (HE) guidance<sup>8</sup> is clear in stating that change within a heritage asset's setting need not be harmful; the implementation of development proposals within a heritage asset's setting can be positive, negative or neutral. The HE guidance presents an approach to setting and development management based on a five-step procedure. The key issue is whether and to what extent, the proposal would affect the contribution that setting makes to the significance of the heritage asset in question. In the following analysis I give considerable weight and importance to the desirability of preserving the settings of Listed Buildings.

#### *Mullions, Tyrells and The Cottage*

46. These three Grade II Listed Buildings are closely associated with each other and are all late medieval or early post medieval houses and should be considered as a group in terms of the contribution which setting makes to their significance. They also share this group value with those other listed buildings within this same historic core area. Such associations provide positive contributions to the significance of these buildings by providing context in which to appreciate the layout and hierarchy of the earlier settlement. In particular, Tyrells and The Cottage derive significance from their historic and functional associations, as two parts of the same original late medieval dwelling.
47. Insofar as the setting of these three listed buildings contributes to their significance, it does so in terms of (i) their associative relationships within the group, as well as with other surrounding aspects of the historic built environment defining the street scenes around and south of the triangle; (ii) in respect of historic, functional and aesthetic relationships with the positions and alignments of both Green Road and Mill Lane; and (iii) in respect of their historic and functional inter-relationships with spaces forming their garden enclosures.
48. In terms of Mullions, Tyrells and The Cottage, the Council alleges that their settings would experience change as a result of the off-site highway works and increased vehicular traffic. In terms of the off-site highway works, as

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<sup>8</sup> The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) Historic England 2017

previously stated, these can be broadly divided into the following elements: (i) revision of road markings; (ii) footpath widening; (iii) new road signage and (iv) a kerbed build-out with bollards, adjacent to Model Cottage.

49. The proposals would effect physical change to only a short stretch of Green Road, which is already experienced as a modern tarmac road with white markings and street furniture. Although these three listed buildings are identified as deriving some significance from their association with this road, in terms of historic and functional associations, this is in no way dependent on its current appearance.
50. The three listed buildings would be broadly opposite where the kerbed build-out and bollards would be located. However, such a change would not reduce the ability to appreciate these buildings from Green Road or alter their evidential, historic or functional relationships with it. Moreover, the footpath widening adjacent to Mullions, would also be a noticeable change, particularly if the quality of finish was improved from tarmac to a more sympathetic surfacing, but in the context of the tarmac path already present, it would be inconsequential to the significance of the listed building. There is no substance to the allegation that the highway works would have an impact on the structural integrity of Mullions. The other changes, comprising new road signage and revised road markings, in the context of the existing setting would be such a marginal peripheral change as to be all but unnoticeable.
51. It is noteworthy that Dr Duck, the Council's Heritage Officer, did not raise the possibility of harm accruing to the listed buildings within the Conservation Area - including any of these three listed buildings as a result of the implementation of the off-site highway works. Given the very limited change and the existing context of these listed buildings I consider that the off-site highway works would preserve the setting of these listed buildings and would not harm their significance.
52. The appeal proposals would result in a very modest increase in traffic on average in the peak morning and evening hours. This increase would evidently be so marginal as to be barely perceptible and would not result in an apparent change to the experience of these listed buildings. As such, the traffic generation, such as it is would also not harm the significance of any of these listed buildings.

#### *Priory Cottage*

53. The Grade II listed Priory Cottage is the most southerly property in Woolpit and forms the southern gateway to the village. It comprises a cottage dating from the early 17<sup>th</sup> century, with 19<sup>th</sup> century additions. It is assessed as drawing its significance mostly from its architectural and historic interest, as evidenced in its built form. There is also some limited artistic and archaeological interest, which is derived from the few architectural embellishments and limited phasing which it possesses and exhibits. The building is set within private and well-tended gardens that provide an attractive space in which to appreciate its significance.
54. The property is adjacent to Green Road and the regular traffic along this roadway is also a notable feature within its setting. The roadway possesses historic and functional links with Priory Cottage and it forms the predominant means whereby the structure is appreciated. As the Cottage is located on the

edge of the village, there is some limited relationship with the street frontage immediately to the north, which represents pre-20<sup>th</sup> century dwellings. To the south and west, the wider setting of the building comprises open agricultural land, as it is also on the east side of Green Road (i.e. the appeal site).

55. The appeal site is assessed as falling within the setting of Priory Cottage, given that it is possible to experience the Grade II listed building from the farmland it comprises through a gap at the north end of the otherwise bushy and robust hedgerow. This hedgerow largely encloses the east side of Green Road and contains and curtails eastward views outwards from the listed building to the confines of this north-south thoroughfare of Green Road, thus separating the asset from the appeal site.
56. Therefore, whilst the appeal site does fall within the asset's setting, it makes only a very limited contribution to the significance of this building because of the screening effect of the boundary hedgerow and the concentration of the asset's relationships on (i) its garden enclosure (ii) the Green Road frontage north and south and (iii) the agricultural farmland that adjoins it to the west and south. All of these relationships are focussed to the west of the road.
57. The appeal proposals envisage two dwellings (Plots 15 and 16) in the north west corner of the development site served by a private drive that would run parallel to Green Road. A new footpath link with Green Road would run between Green Road and the private drive and thread through a gap in the roadside hedge opposite Priory Cottage. The hedgerow would be retained albeit on a slightly set back alignment.
58. Therefore, the change to the setting of Priory Cottage would only be noticeable as a change from partial views of an agricultural field to partial views of modern properties in the north west corner of the site. This would cause some erosion to the rural context of the area albeit limited by the partial retention of the hedgerow and the setback of the new properties from the Green Road frontage. Otherwise it would not affect the rural setting to the west and south, the relationships with its well-tended private gardens, Green Road or those properties in close proximity to it.
59. I consider that this limited change would result in a very low level of harm to the significance of this listed building at the lowest end of '*less than substantial harm*'. This conclusion is broadly in agreement with Dr Duck's original consultation response on the planning application where he states that the '*overall impact on the setting of Priory Cottage is notably less than substantially harmful*'.<sup>9</sup> No further mitigation is suggested.
60. In line with statute, policy, and case law<sup>10</sup>, considerable weight and importance must be given to the presumption against granting permission for development that would harm the character or appearance of a conservation area or the setting of a listed building. If less than substantial harm is found of whatever magnitude, the decision maker needs to give considerable weight to the desirability of preserving the setting of the asset. In this case I have found a lack of identifiable harm to the Woolpit Conservation Area and the proposals would, as a minimum 'preserve' its character and appearance. However, the overall impact of the proposal needs to take into account the

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<sup>9</sup> Mr Crutchley's Appendix AC5

<sup>10</sup> East Northamptonshire DC v SSCLG [2014] 1 P & R 22 at paragraph 29

less than substantial harm to Priory Cottage and this harm should be weighed against the public benefits of the proposals.

61. The public benefits of the appeal proposals comprise:

- An increase in the provision of housing numbers at a time of pressing need (see my conclusion on the following main issue)
- An increase in choice and type of homes
- 35% affordable housing provision
- Employment opportunities during the construction phase
- Residents would be likely to use the local shops and services within Woolpit making a positive contribution to their vitality and viability
- Provision of 0.5 ha of community open space with green infrastructure features – delivering high quality green spaces available to all
- Footpath improvements to the village centre and the wider countryside
- Highway works in the village centre would deliver benefits to the Listed Buildings and the Conservation Area.

62. In accordance with the test set out in paragraph 196 of the NPPF 2018, I find that the clear public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset.

### ***Third Issue - Housing Land Supply (HLS)***

63. It is common ground that the Council's strategic policy for housing numbers is more than five years old and has not been reviewed. Accordingly, paragraph 73 of the NPPF 2018 indicates that the Council's housing land supply is to be assessed against the standard method for calculating local housing need. The Council's local housing need is 585 dwellings per annum (dpa) and a 20% buffer is to be applied. This amounts to 3,510 dwellings for the next five years, or 702 dpa. The difference between the parties is solely down to supply.

64. No under supply/previous under delivery is taken into account when using the standard method. Therefore, no 'backlog' of unmet need should be taken into account when calculating the Council's housing land supply position.

65. The NPPF 2018 provides specific guidance in relation to the calculation of the five years supply but specifically with regard to qualifying sites, the Glossary definition of 'Deliverable' in Annex 2 goes further than its predecessor. Small sites and those with detailed permission should be considered deliverable until permission expires unless there is clear evidence that they will not be delivered. Sites with outline permission, or those sites that have been allocated, should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years. The onus is on the LPA to provide that clear evidence for outline planning permissions and allocated sites.

66. The Council relies upon the same sites in its supply as were contained in its

Annual Monitoring Report (AMR) dated 11 July 2018. The only new site referred to at the Inquiry was that known as Land on the West of Barton Road, Thurston which was missed out of the AMR in error and for which planning permission was granted on 5 July 2018. The Council has carried out a sense check of the supply against the terms of the NPPF 2018 and referred to events that have occurred after the base date of the AMR.

67. In my view the definition of 'deliverable' in the Glossary to the NPPF 2018 does not relate to or include sites that were not the subject of an allocation but had a resolution to grant within the period assessed within the AMR. The relevant period is 1 April 2017 to 31 March 2018.<sup>11</sup> There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council's supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council's supply. The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need. Indeed that is why there is a clear cut-off date set out in the AMR. Moreover, the site West of Barton Road, Thurston, should be removed from the supply as its permission postdates the cut-off for the relevant period of assessment.
68. Sites with outline planning permission make up a very large proportion of the Council's claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years. I accept that there was clear evidence of what was necessary on one site provided in Mr Robert's evidence<sup>12</sup> and so the 200 dwellings in respect of that site should be added to the Appellant's supply calculations. As for the other 1,244 dwellings with outline permission, the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites.
69. The up-dated PPG on Housing and economic land availability assessment sets out guidance on what constitutes 'deliverable sites' and covers the evidence that a site with outline planning permission is expected to have in support of its inclusion in the supply. The PPG places great weight on the adequacy and sufficiency of consultation with those responsible for delivering dwellings. It is noteworthy that in this case, the Council has failed to adequately demonstrate it has done so. An assessment of the Council's AMR against the updated PPG reveals that the AMR falls substantially short of producing the evidence that a LPA is expected to produce.<sup>13</sup>
70. Furthermore, the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published. The site at Union Road, Onehouse is one amongst others, which was only an allocation at the time the AMR was published. Although planning permission was granted 17 August 2018<sup>14</sup> it does not alter

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<sup>11</sup> Paragraph 1.1 of the Annual Monitoring Report

<sup>12</sup> Mr Robert's POE A4 Build out rates for Chilton Leys

<sup>13</sup> See paragraphs 36 (ID:3-036-20180913); 047 (ID:3-047-20180913) and 048 (ID3-048-20180913)

<sup>14</sup> LPA4



the fact that the site was only subject to an allocation at the cut-off date but the Council did not have any clear evidence that it would provide housing within 5 years.

71. Paragraph 73 of the NPPF 2018 requires the Council's housing supply to be made up of 'specific sites'. The Council was presented with three opportunities to demonstrate that the figure of 858 dwellings recorded in its trajectory table for small sites is robust. Firstly, on production of the AMR. Secondly, the Appellant asked for a list of sites on 30 July 2018 and was supplied with a list of 561 planning permissions, which the Council said made up its 858 dwellings. In this list there was insufficient evidence to either accept or challenge this figure, although a number of defects quickly became apparent to the Appellant. The Council was asked to provide more information but failed to do so. Finally, the Council indicated that it was going to submit a final rebuttal proof of evidence on HLS but it did not do so.
72. The Council argues that the St Modwen case<sup>15</sup> continues to provide sensible guidance on the context, as applied to NPPF 2018 and claims that it can demonstrate a 5 year HLS of 5.39 years. However, I cannot accept that the 858 is a robust figure. I agree that it would be a time consuming exercise for the Appellant to review 561 planning permissions. This is an exercise which the Council should have done before it produced its AMR. The Appellant has completed a partial review and from the evidence that is before me it appears that there are at least 108 defective planning permissions within the list of 561 permissions<sup>16</sup> but does not know by what number one should discount the figure of 858. As the NPPF 2018 carries a presumption that small sites are deliverable until there is clear evidence that they will not be delivered, the 858 has been left in the Appellant's HLS calculation but I consider it is likely to be an overestimate.
73. Drawing all of these threads together I consider that the Appellant's assessment of supply, set out in Mr Short's rebuttal proof of evidence, is the more realistic taking into account the St Modwen judgment. The only change is that the site West of Barton Road, Thurston should now be removed from the supply. This leaves the Council's HLS at 3.4 years. If the small sites problem is taken into account, it is highly likely that the Council's HLS is less than 3.4 years. I conclude on the third issue, therefore that the Council cannot demonstrate a five year supply of deliverable housing sites.

### **Other Matters**

74. I have taken into account all other matters raised including the representations from the Woolpit Parish Council, the Suffolk Preservation Society, the landscape assessment of Woolpit by Alison Farmer Associates and other interested persons. I have also taken into account the various appeal decisions submitted by the main parties. The proposed development has generated a significant amount of public interest and many of the representations which have been submitted relate to the impact on the local highway network or the heritage impact which I have dealt with under the main issues.

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<sup>15</sup> St Modwen Developments Ltd v SSCLG et al [2017] EWCA Civ 1643 paragraph 35

<sup>16</sup> APP6

75. The issue of landscape impact was raised in the representations. However, the Appellant has provided a comprehensive Landscape & Visual Impact Appraisal (LVIA) and the Council takes no issue with this. It is proposed to reinstate the former field boundary to the southern part of the site which would include a mixture of trees and hedging and a landscaped Greenway directly to the north of it which would form part of the pedestrian links throughout the site. The existing trees and hedging along the northern boundary and eastern boundaries of the site would be retained with some new planting proposed along the most southern part of the eastern boundary. Within the site itself, trees and hedging are proposed between dwellings and the public spaces to provide an attractive soft environment.
76. The appeal site would result in the loss of an agricultural field to development and whilst this would have some direct landscape impact, it would not be significantly adverse given its suburban backdrop. The proposed landscape framework would screen and filter views of buildings from the surrounding countryside. The visual impact of the development would be successfully mitigated into the rural edge of Woolpit and would provide an attractive environment for both new residents and those living in the surrounding locality. I therefore find no harm in this regard.
77. Reference is made to alternative housing sites identified in the emerging Joint Local Plan which are located to the north of the village centre. However, as I noted at the start, the emerging Joint Local Plan is in its very early stages and any conflict with this plan carries limited weight at this time and in the context of this appeal.
78. Concerns have been raised in relation to drainage, archaeology and ecological matters. However, it is noteworthy that the Council has not raised any objections in relation to these matters. In my view the concerns which have been raised can be adequately dealt with through the use of planning conditions in accordance with the advice in paragraph 54 of the NPPF 2018.

### **Planning Obligation**

79. The S106 Unilateral Planning Obligation includes the provision of 17 affordable units on site which broadly equates to the Council's requirements for 35% provision. In this respect the Obligation is in line with both paragraph 62 of the NPPF 2018, which requires on-site delivery of affordable homes and Altered Policy H4 of the MSDLP.
80. With regard to open space covenants within the Obligation, the appeal scheme provides open space and a 360m<sup>2</sup> play area with play equipment within the site which meets the Council's policy requirements, notably Policy RT4 of the MSDLP.
81. With regard to covenants with SCC, the Obligation includes contributions in relation to primary school and Early Years provision and Public Rights of Way Improvements. A SoCG on Early Years and Education Matters has been agreed between the Appellant and SCC. There is also a Community Infrastructure Levy (CIL) Compliance Statement submitted by SCC.<sup>17</sup>

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<sup>17</sup>INQ5

82. The Obligation includes the following matters in respect of SCC functions:

- Primary School Construction contribution – £180,719 (equates to £3,688.14 per dwelling). This is necessary if there are no surplus places available at the time of commencement, and if expansion of the existing primary school is confirmed, this Obligation would cease or be returned.
- Primary School Land contribution - £12,936 (equates to £264 per dwelling)– as above; and
- Contribution towards the build costs of a new Early Years setting - £33,332 (equates to £680.24 per dwelling).

83. The proposed development is estimated to generate up to four pre-school children. The proposed development should make a proportionate contribution towards the build cost of the new Early Years setting which in total would cost £500,000 and provide 60 places. The proposed development would generate 11 primary aged pupils but the Woolpit Primary Academy does not have enough places to accommodate all of the development being proposed in Woolpit. Due to the layout of the current school site it is not possible to add further permanent accommodation unless additional land is acquired.

84. Therefore the SCC strategy for primary school provision is to deliver a new 420 place primary school for Woolpit to ensure that there is adequate provision to support housing growth and basic need. The proposed development should make a proportionate contribution to the land and build costs of the new primary school in respect of the 11 pupils generated by it.

85. There are currently forecast to be surplus places available at the current secondary schools serving the proposed development, so no secondary or sixth form contributions would be required from the proposed development.

86. Paragraph 98 of the NPPF 2018 promotes the need to protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users for example by adding links to existing rights of way networks. The anticipated increased use of the PROW network from the development would result in the need for offsite improvement work involving heavy clearance on Woolpit Public Footpath 4. The total financial contribution required is £915. The requirement for the footpath improvement arises directly from the increased population which would be generated by the development in the local area and it would also meet Council policies.

87. The Council has confirmed that none of the obligations would conflict with Regulation 123 requiring that no more than five contributions are pooled towards any one specific infrastructure scheme.

88. In my view, all of the provisions set out in the Section 106 Planning Obligation are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore they all meet the tests with CIL Regulations 122 and 123 and should be taken into account in the decision.

### **Planning Balance**

89. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with

the development plan, unless material planning considerations indicate otherwise. Whilst the RfR cites only a limited number of policies which are said to be breached I deal with all policies that have a bearing on the proposals and in line with the new approach of the NPPF 2018<sup>18</sup> identify those which are most important for determining the appeal and whether they should be considered to be out-of-date.

90. The CS was adopted in 2008 and the MSDLP in 1998. Both plans predate the publication of the NPPF 2012 and the more recent NPPF 2018. The CSFR has had little impact on the saved or CS policies that remain in place and Policy FC1 really only and unnecessarily repeats what was in paragraph 14 of the NPPF 2012. It is now out-of-date because of the test it employs. Policy FC1.1 is policy of a very broad nature with one requirement that development must conserve and enhance the local character of the different parts of the district. It is up-to-date but is not otherwise of significance. The appeal proposal complies with these policies.
91. Policy CS1 of the CS merely sets out the settlement hierarchy. However, it includes the words "*the rest of Mid-Suffolk, including settlements not listed in the above (hierarchy) will be designated as countryside ... renewable energy*". By virtue of this latter requirement it offends paragraphs 77 and 78 of NPPF 2018. It perpetuates the theme of protection of the open countryside for its own sake and its limitations are inimical to the balanced approach which the NPPF 2018 exhorts. It is one of the most important policies and it is out-of-date. The appeal proposal complies with the hierarchical requirements of Policy CS1 but it conflicts with the latter part of this policy as the site is located outside the settlement boundary.
92. As the proposed development is in open countryside, it also offends the requirements of Policy CS2. Policy CS2 is a most important policy and it is out-of-date. The NPPF has never and still does not exhort a restrictive approach to development outside settlements in this manner. It does not protect the countryside for its own sake or prescribe the types of development that might be acceptable. The policy as worded obviates a balancing exercise and precludes otherwise sustainable development by default and thereby defeats the presumption in its favour. It is also contrary to paragraphs 77 and 78 of NPPF 2018.
93. Policy CS5 provides that all development will maintain and enhance the environment including the historic environment, and retain local distinctiveness. It requires development actually to maintain and enhance the historic environment which exceeds the statutory duty (LBA 1990) and goes further than paragraph 192 of NPPF 2018 which requires decision makers to "take account of the desirability of sustaining and enhancing the significance of heritage assets" (my underlining). This is a most important policy and it is out-of-date. It does not make enhancement a requirement where no such requirement is reasonably possible or appropriate to the nature of the proposed development. The policy also fails to acknowledge the balancing exercise which the NPPF 2018 requires to be undertaken in circumstances where the harm is less than substantial.
94. Moreover, I have found that the appeal proposal would accord with national policy advice in the NPPF 2018, notably paragraph 192, and there would be no

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<sup>18</sup> Paragraph 11

conflict with Policy CS5. The proposed development constitutes a high quality design as it proposes a form of development that reflects the character and appearance of the surrounding streetscape. The DAS provides details on materials and finishes. The materials selected for the new dwellings reflect the colours and shades of the Suffolk vernacular buildings of Woolpit in their simple forms and thus retain local distinctiveness in accordance with Policy CS5 and the NPPF 2018 in Section 12. Nor would there be any conflict with Policy CS5 in relation to the off-site highway improvements works in the Conservation Area.

95. Policy GP1 is a most important policy and it is up-to-date. The proposal complies with its requirements. Policy HB8 is also a most important policy and it is up-to-date despite the fact that it predates its CS equivalent. As I disagree with the Council's case on the impact of the proposal on the character and appearance of the Conservation Area, the proposal complies with its requirements. Policy FC2 is the Council's strategic housing policy within the development plan. However, in the light of paragraph 73 of the NPPF 2018, this policy is out-of-date, which is accepted by Mr Roberts.<sup>19</sup>
96. Drawing all of these threads together I find that being outside the settlement boundary and within the countryside, the appeal proposal is not in accordance with the development plan taken as a whole.
97. However, in the context of paragraph 213 of the NPPF 2018, I have found that some of the most important policies for determining this appeal are out-of-date, notably Policy CS1 and Policy CS2. I have attached only moderate weight to the conflict with these policies which lessens the significance of that conflict.
98. At paragraph 62 of this decision, I found that the clear public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset.
99. The tilted balance in paragraph 11 of the NPPF 2018 is engaged because firstly, policies that are most important for the determination of this appeal are out-of-date and secondly, the Council cannot demonstrate a five year supply of deliverable housing sites.
100. Balanced against the identified conflict with the development plan I give substantial weight to the provision of 32 market dwellings and 17 affordable dwellings on a site which is visually and functionally well related to the existing village. Paragraph 59 of the NPPF 2018 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. This comprises a substantial social benefit.
101. I have attached moderate weight in terms of the economic benefits that would arise from the provision of employment opportunities during the construction phase and the spending power from 49 new households within the local area.
102. Furthermore I am satisfied that the proposed development would fulfil the aims of the NPPF 2018 by promoting a high quality design of new homes and

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<sup>19</sup> Proof of evidence paragraph 2.3

places. I find that the provision of on-site community open space with green infrastructure features, the footpath improvements to the village centre and the wider countryside and the highway works in the village centre would all provide environmental benefits. I apportion moderate weight in terms of the environment.

103. Taking all of these matters into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the NPPF 2018 as a whole and that the proposal represents sustainable development. On this basis a decision, other than in accordance with the development plan is justified and therefore the appeal should be allowed.

### **Planning Conditions**

104. I have considered the conditions suggested by the Council<sup>20</sup> in the light of the advice in paragraphs 54 and 55 of the NPPF, the model conditions retained at Appendix A of the cancelled Circular 11/95 and the Government's PPG on the use of planning conditions. I have made minor adjustments to the suggested conditions in the interests of clarity. Condition 1 imposes a shorter timescale than the normal three years but this is justified given the pressing housing need and the advice in paragraph 76 of the NPPF 2018. Condition 2 is necessary for the avoidance of doubt. Condition 3 is required to safeguard heritage assets of archaeological interest. Condition 4 which relates to Construction Management is necessary to ensure minimal impact on the public highway and residential amenity but I have deleted the element relating to haul routes as this relates to land outside the site and thus cannot be controlled by condition. Conditions 5-7 are necessary in the interests of ecology, safeguarding habitats/species and visual amenity. Conditions 8 -10 are required to ensure the development does not cause increased flood risk or increased pollution to the water environment.
105. Conditions 11-23 are necessary in the interests of highway safety, traffic management, safe and suitable facilities for pedestrian and cycle movement and to comply with paragraph 110 of the NPPF. Condition 24 is required in the interests of safeguarding ecology, biodiversity and amenity within the site. Condition 25 is required to ensure the site is suitably served by fire hydrants in the interests of public safety and fire prevention. Condition 26 is necessary to ensure that the development is equipped with access to high-quality telecommunications in accordance with paragraph 112 of the NPPF.
106. Condition 27 is required to ensure that recycling bins are not stored on the highway in the interests of highway safety. Condition 28 which relates to screen walls and/or fences is required in the interests of residential amenity. Condition 29 is required to ensure the appropriate recording and analysis of archaeological assets. Condition 30 is required to ensure the provision and long-term maintenance of adequate on-site space for the parking and manoeuvring of vehicles. Condition 31 relates to a Residents Travel Pack to reflect the national policy aim of achieving the fullest possible use of public transport, walking and cycling.

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<sup>20</sup> INQ4

**Conclusion**

107. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

*Harold Stephens*

INSPECTOR

## **SCHEDULE OF PLANNING CONDITIONS (1-31)**

### **TIME LIMIT FOR IMPLEMENTATION**

- 1) The development hereby permitted shall be begun not later than the expiration of two years from the date of this permission.

### **LIST OF APPROVED DRAWINGS**

- 2) The development hereby permitted shall be carried out in accordance with the following drawings:

5018 PA01 House Type 1  
5018 PA02 House Type 1  
5018 PA03 Single Garage  
5018 PA04 House Type 2  
5018 PA05 House Type 2  
5018 PA06 House Type 3  
5018 PA07 House Type 3  
5018 PA08 House Type 3  
5018 PA09 Rev. A House Type 3  
5018 PA10 Rev. A House Type 4  
5018 PA11 House Type 4  
5018 PA12 Rev. A House Type 4  
5018 PA13 House Type 5  
5018 PA14 House Type 5  
5018 PA15 House Type  
5018 PA16 House Type 6  
5018 PA17 House Type 6  
5018 PA18 Rev. A Cart Lodge  
5018 PA19 House Type 7  
5018 PA20 House Type 7  
5018 PA21 House Type 7  
5018 PA22 Rev. A House Type 8  
5018 PA23 House Type 8  
5018 PA24 House Type 8  
5018 PA28 House Type 9  
5018 PA29 House Type 9  
5018 PA31 Rev H Site/block roof plan  
5018 PA32 Rev C Street Elevations  
5018 PA33 Site Location Plan  
5018 PA34 rev A Typical Elevations  
5018 PA35 rev B Street Elevations  
5018 PA36 ASHP SIZES

### **PRE - COMMENCEMENT CONDITIONS**

#### **Archaeology**

- 3) No development shall take place within the site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has previously been submitted to and approved in writing by the Local Planning Authority.



The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

### **Construction Management**

- 4) Prior to the commencement of development details of a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall incorporate the following information:
  - a. Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
  - b. Details of the storage of construction materials on site, including details of their siting and maximum storage height.
  - c. Details of how construction and worker traffic and parking shall be managed.
  - d. Details of any protection measures for footpaths surrounding the site.
  - e. Details of any means of access to the site during construction.
  - f. Details of the scheduled timing/phasing of development for the overall construction period.
  - g. Details of any wheel washing to be undertaken, management and location it is intended to take place.
  - h. Details of the siting of any on site compounds and portals.
  - i. Monitoring and review mechanisms.

The construction shall at all times be undertaken in accordance with the agreed methodology approved in writing by the Local Planning Authority.

### **Landscaping and Biodiversity**

- 5) All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological report (MHE Consulting August 2015) as already submitted with the planning application and agreed with the Local Planning Authority prior to determination.
- 6) No development shall commence until a detailed 'hard' and 'soft' Landscaping Scheme, which shall include any proposed changes in ground levels, has been submitted to, and approved in writing by, the Local Planning Authority.

The 'hard' landscaping shall include details of all hard surface materials and boundary treatments to be used within the development with a timetable for implementation, including all means of enclosure and boundary treatments, residential screen walls and fences.

The 'hard' landscaping shall be implemented and completed in accordance with the approved details and agreed timetable.

The 'soft' landscaping shall include details of the existing trees and plants on site to be retained together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication 'BS 5837:2012 Trees in relation to design, demolition and construction'.

The 'soft' landscaping shall include details (including species, size of stock at time of planting, location) of all new plants and trees to be provided as well as any areas for seeding. The new landscaping should comprise of native species only as defined in Schedules 2 and 3 of the Hedgerow Regulations 1997.

The 'soft' landscaping shall be implemented in accordance with the approved details within the first planting season (October - March inclusive) following the commencement of development.

Any trees, hedges, shrubs or turf identified within the approved Landscaping Scheme (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species.

The approved Landscaping Scheme shall be carried out in its entirety and shall accord with the approved drawings under this permission.

- 7) Prior to the commencement of development on the site a skylark mitigation strategy, including a timetable for implementation, shall be submitted to, and agreed in writing by, the Local Planning Authority. The agreed strategy shall be implemented in full to mitigate the loss of potential nesting habitat.

### **Site Drainage**

- 8) No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.
- 9) No development shall take place until a surface water drainage scheme for the site, including a timetable for implementation, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 100 year + Climate Change storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be

implemented in accordance with the approved details and timetable before the development is completed. Details of which will include:

- a. Details of further infiltration testing on site in accordance with BRE Digest 365 to verify the permeability of the site (trial pits to be located where soakaways are proposed and repeated runs for each trial hole). Borehole records should also be submitted in support of soakage testing.
  - b. Infiltration devices should be no more than 2m deep and will have at least 1.2m of unsaturated ground between base of the device and the groundwater table.
  - c. Dimensioned plans illustrating all aspects of the surface water drainage scheme including location and size of infiltration devices and the conveyance network. A statement on the amount of impermeable area served by each infiltration device should also be illustrated on the plans and should be cross referenceable with associated design calculations.
  - d. Full modelling results (or similar method) to demonstrate that the infiltration device has been adequately sized to contain the critical 100yr+ Climate Change event for the catchment area they serve. Each device should be designed using the nearest tested infiltration rate to which they are located. A suitable factor of safety should be applied to the infiltration rate during design.
  - e. Infiltration devices will have a half drain time of less than 24 hours.
  - f. Modelling of conveyance networks showing no above ground flooding in 1 in 30 year event, plus any potential volumes of above ground flooding during the 1 in 100 year rainfall + Climate Change.
  - g. Infiltration devices shall only be used where they do not pose a threat to groundwater. Only clean water will be disposed of by infiltration devices due to the site being inside a Source Protection Zone. Demonstration of adequate treatment stages for water quality control shall be submitted - SuDS features should demonstrate betterment to water quality, especially if discharging towards a watercourse or aquifer.
  - h. Topographic plans shall be submitted depicting safe exceedance flow paths in case of a blockage within the main surface water system and/or flows in excess of a 1 in 100 year rainfall event. These flow paths will demonstrate that the risks to people and property are kept to a minimum.
  - i. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
  - j. Arrangements to enable any surface water drainage within any private properties to be accessible and maintained including information and advice on responsibilities to be supplied to future owners.
- 10) No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the Local Planning Authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:
- a. Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or offsite flood risk associated with construction.

## **Highways**

- 11) No development shall commence until details of the estate roads and footpaths (including layouts, levels, gradients surfacing and means of surface water drainage, lighting and traffic calming measures), have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and completed in accordance with the approved details and agreed timetable.
- 12) No development shall commence until a detailed scheme for highway improvements to Green Road, comprising traffic calming measures and footway widening provision which shall be in general accordance with those details as shown on Drawing no. 112/2015/04 Revision P2, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 13) No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority, of the means to prevent the discharge of surface water from the development onto the highway. The development shall be carried out and completed in accordance with the approved details and agreed timetable.

## **PRIOR TO OCCUPATION OR OTHER STAGE CONDITIONS**

### **Highways**

- 14) No part of the development shall be commenced above slab level until the new vehicular access onto Green Road has been laid out and completed in all respects in accordance with Drawing No. 5018 PA31 Rev H Site/block roof plan and with an entrance width of 5.5 metres and been made available for use. Thereafter the access shall be retained in the specified form.
- 15) Prior to the access from Green Road into the site being constructed, the ditch beneath the proposed access shall be piped or bridged in accordance with details which previously shall have been submitted to and approved in writing by the Local Planning Authority and shall be retained thereafter in its approved form.
- 16) The new estate road junction with Green Road, inclusive of cleared land within the sight splays to this junction, must be formed prior to any other works commencing or delivery of any other materials.
- 17) No development shall commence above slab level until a scheme for the provision and implementation electric car charging points for the development has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the occupancy of the development. The scheme

shall be implemented, and the measures provided and made available for use, in accordance with such timetable as may be agreed.

- 18) Details of the gateway feature identified on drawing 5018 PA31 Rev H to be located to the southwest corner of the site shall be submitted to and agreed with the Local Planning Authority and shall be completed prior to occupation of the first dwelling and thereafter retained in the approved form.
- 19) Before the access onto Green Road is first used, visibility splays shall be provided as shown on Drawing No. 5018/PA31 Revision H, as submitted, and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays at any time.
- 20) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least binder course level or better.
- 21) No dwelling shall be occupied until the area(s) within the site, shown on approved drawing 5018 PA31 Rev H for the purposes of loading/unloading, manoeuvring and parking of vehicles, including electric charging points and secure cycle storage, serving that dwelling has been provided and thereafter that area(s) shall be retained and used for no other purpose. Thereafter those areas applicable to that dwelling shall be retained and remain free of obstruction except for the purpose of manoeuvring and parking of vehicles.
- 22) A metalled footway/cycleway, as shown on Drawing 5018 PA31 Rev H of a minimum 2.0 metres width, shall be provided from the site into Steeles Close, northwards to connect with the existing access in Steeles Close. The metalled footway shall be provided and made available for use prior to the first occupation of any dwellings in the development.
- 23) No dwelling shall be occupied until the highway improvements secured under Condition 12 above have been constructed in strict accordance with the approved details and made available for public use and thereafter retained post construction in the approved form.

### **Site Infrastructure/Other**

- 24) Within three months of the commencement of development a detailed lighting scheme for all public areas to be lit shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show how and where external lighting will be installed, (through technical specifications and the provision of appropriate lighting contour plans which shall include lux levels of the lighting to be provided), so that it can be:
  - a. Clearly demonstrated that areas to be lit have reasonably minimised light pollution, through the use of minimum levels of lighting and features such as full cut off cowls or LED.
  - b. Clearly demonstrated that the boundary vegetation to be retained, as well as that to be planted, will not be lit in such a way as to disturb or

prevent bats using their territory or having access to their breeding sites and resting places or foraging areas, through the use of minimum levels of lighting and features such as full cut off cowls or LED.

All external lighting shall be installed in accordance with the specifications and locations as set out in the approved scheme and shall be maintained thereafter in accordance with that scheme.

- 25) Within three months of the commencement of development details of the provision of fire hydrants for the development, including a timetable for installation, shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrants shall be installed in accordance with the approved details in their entirety and in accordance with the agreed timetable.
- 26) Within three months of the commencement of development, details of how superfast or ultrafast broadband infrastructures will be delivered to every household in the development, subject to network capacity being available, shall be submitted to and approved in writing by the Local Planning Authority. The approved superfast broadband infrastructures for each dwelling shall be installed prior to first occupation of that dwelling.
- 27) Within three months of the commencement of development, details of the areas to be provided for the storage of refuse/recycling bins shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the first occupation of the dwelling to which it relates and shall be retained thereafter and used for no other purpose.
- 28) The residential screen walls and/or fences as may be approved pursuant to the Landscaping Scheme under Condition 6 above, shall be erected prior to the dwelling/s to which they relate being first occupied and thereafter shall be retained in the approved form.
- 29) No dwelling shall be occupied until the archaeological site investigation and post investigation assessment, secured under Condition 3 above, has been completed and submitted to, and approved in writing by, the Local Planning Authority.

#### **POST OCCUPANCY MONITORING/MANAGEMENT**

- 30) Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development shall be carried out in such a position as to preclude vehicular access to those vehicular parking spaces and no alterations shall be carried out to the approved garage units that would preclude the parking of vehicles within them without planning permission being granted in that regard.
- 31) Within one month of the first occupation of any dwelling, the occupiers of each of the dwellings shall be provided with a Residents Travel Pack (RTP). Not less than three months prior to the first occupation of any dwelling, the contents of the RTP shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority and shall

include walking, cycling and bus maps, latest relevant bus and rail timetable information, car sharing information, personalised travel planning and a multimodal travel voucher. The RTP shall be maintained and operated thereafter.

End of Conditions Schedule

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Asitha Ranatunga of Counsel	Instructed by the Council
He called:	
Luke Barber HND BSc FD C Eng.	Principal Engineer Suffolk CC
Nicholas Joubert MSc	Heritage Consultant
Andrew Ryley BA (Hons) MSc MRTPI	Associate Director DLP Planning Ltd
Alex Roberts BSc (Joint Hons) Associate RTPI	Director DLP Planning Ltd

### **FOR THE APPELLANT:**

Mr Paul Shadarevian QC	
He called:	
Gerry Bullard C Eng. MICE	Partner GH Bullard & Associates LLP
Andrew Crutchley BA (Hons) PG Dip (Oxon) MCiFA	Director The Environmental Dimension Partnership Ltd
Leslie Short BA MRICS MRTPI	Director Artisan Planning and Property Services Ltd

### **INTERESTED PERSONS:**

John Guyler	Chairman of Woolpit Parish Council
John Christie	Local Resident
Susan Eburne	Local Resident

### **DOCUMENTS SUBMITTED AT THE INQUIRY**

- INQ1 Notification Letter
- INQ2 Letters of Representation
- INQ3 Statements of Common Ground
- INQ4 Suggested Planning Conditions
- INQ5 Suffolk County Council Community Infrastructure Levy Regulations (CIL) Compliance Statement dated 27 March 2018



### **DOCUMENTS SUBMITTED BY THE LPA**

LPA1 Opening Remarks

LPA2 Pytches Road, Woodbridge – Traffic Calming scheme with buildout

LPA3 Letter from Storey Homes dated 13 August 2018: Land at Gardenhouse Lane, Rickinghall

LPA4 Mid Suffolk District Planning Permission: Reference 4455/16

LPA5 List of sites disputed by the Appellant

LPA6 Closing Submissions

### **DOCUMENTS SUBMITTED BY THE APPELLANT**

APP1 List of Drawings

APP2 HCC Decision *CPRE v Dover DC* [2015] EWHC 3808 (Admin) [APP2]

APP3 Agenda Document for MSDC Development Control Committee A 29.8.2018

APP4 Appeal Decision APP/N1730/W/17/3185513

APP5 Hart District Local Plan 1996-2006 Saved Policy RUR2

APP6 MSDC Minor Sites Outstanding Planning Permissions (April 2018)

APP7 Agreement to enter in to an Easement conditional on Appeal dated 29 August 2018 between Flagship Housing Group Limited and Landex Limited

APP8 Certified Copy of Unilateral Undertaking dated 29 August 2018

APP9 Letter from Burgess Homes Limited re site at Back Hills, Botesdale

APP10 Closing Submissions

### **INTERESTED PERSONS' DOCUMENTS**

IP1 Statement by John Guyler

IP2 Statement by John Christie

IP3 Statement by Susan Eburne

**Appendix 3: Bures Hamlet appeal decision 3207509**



## Appeal Decision

Inquiry Held on 12-15 and 19-20 February 2019

Site visit made on 21 February 2019

**by Robert Mellor BSc (Est Man) DipTRP DipDesBEnv DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> March 2019**

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**Appeal Ref: APP/Z1510/W/18/3207509**

**Land off Colchester Road, Bures Hamlet, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Braintree District Council.
  - The application Ref 17/02291/OUT, dated 21 December 2017, was refused by notice dated 26 June 2018.
  - The development proposed is for the erection of up to 98 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline and all matters are reserved for subsequent determination apart from the principle of the development and the means of access.

### Main Issues

3. Having regard to the provisions of the development plan and to other material considerations, including national policy, I consider the main issues to be:
  - What effect the development would have on the landscape character and appearance of the area.
  - What effect it would have on the significance of heritage assets.
  - Whether adequate provision would be secured for affordable housing and for necessary infrastructure to support the development.
  - What effect the development would have on biodiversity including whether any likely significant effect on the Blackwater Special Protection Area/RAMSAR site would require that an Appropriate Assessment be made of such impacts before determining the appeal.
  - Whether there is a 5-year supply of housing land in Braintree District.

- Whether, having regard to the planning balance and to the provisions of paragraph 11 of the National Planning Policy Framework, if the most important development plan policies for determining the application are out-of-date, or if there is not a 5-year supply of housing land, should the proposal trigger a presumption in favour of this development of market and affordable housing or do any of the listed exceptions to that presumption apply here?

### **The Policy Context**

4. Statute requires that the appeal be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan includes the saved policies of the Braintree Local Plan Review (2005) (the RLP) and the Braintree Core Strategy (2011) (the CS). Material considerations here include: the National Planning Policy Framework (2019) (the Framework); national Planning Practice Guidance (PPG); the emerging Braintree Local Plan (eLP); and the Dedham Vale Area of Outstanding Natural Beauty and Stour Valley Management Plan (the MP).

### **The Site and its Surroundings**

5. Bures Hamlet in Braintree District, Essex, is on the western side of the River Stour and faces Bures St Mary in Babergh District, Suffolk, on the eastern side of that river. The built-up areas of the 2 settlements meet at the main river bridge and the 2 parishes function as a single village with many shared services.
6. The appeal site is an L-shaped open arable field to the south of Bures Hamlet. It fronts Colchester Road to the north east and is raised above the level of that road. To the south east the site boundary runs along the Cambridge Brook which joins the River Stour to the east of Colchester Road. To the south west the site is bounded by the embankment that carries the Marks Tey-Sudbury branch railway line across the valley of the Cambridge Brook. To the north west the site in part adjoins a smaller arable field owned by Braintree District Council and otherwise adjoins an area of mixed 20<sup>th</sup> century suburban residential development.
7. Each village has a designated conservation area. That at Bures Hamlet is limited to the village core. It excludes the appeal site and the adjacent 20<sup>th</sup> century housing which separates the appeal site from that village core. The Bures St Mary Conservation Area extends beyond the core of that settlement to include open land in mainly open recreational use on the east bank of the river opposite the appeal site.

## **REASONS**

### **Landscape character and appearance**

8. The appeal site lies outside but adjoining the development boundary of Bures Hamlet as currently defined in the development plan by RLP Policy RLP2 and CD Policy CS5 and also as defined in the emerging Braintree Local Plan by eLP Policy LPP1. Each policy treats the areas outside development boundaries as countryside where proposals are subject to a policy restriction on development that would exclude the proposed type of housing development. The proposed development would thereby be in conflict with both the current and emerging

development plan policies. However, the weight to be attached to the policies is disputed by the parties and is addressed below under the Planning Balance.

9. RLP Policy RLP 80 provides amongst other things that development will not be permitted that would not successfully integrate into the local landscape. However, it lacks more specific criteria for the assessment of proposals. CS Policy CS8 is a wide-ranging policy for the Natural Environment and Biodiversity. It applies both within and beyond the development boundary. Amongst other things it provides that development: *'must have regard to the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment'*. This provision remains applicable notwithstanding that, whilst there has been an assessment of landscape character, the further definition of Landscape Character Areas and guidance as envisaged in the policy (and in the text relating to Policy RLP 80) has not come forward.

#### *Landscape Baseline*

10. The Braintree Landscape Character Assessment (LCA) [ID12] is helpful in assessing the baseline situation on the Essex side of the River Stour. The site falls within the A2 Stour River Valley Landscape. That landscape type covers an extensive area and the LCVA is inevitably broad brush in its scope. However characteristic features identified in the LCA and found on and around the appeal site include, as identifiable landscape qualities: a broad flat valley floor; a patchwork of pasture and arable farmland on the valley sides; plantations of cricket bat willows on the floodplain; traditional settlements with limited modern development; panoramic views of the valley; and church towers as distinctive features. Visual characteristics include: the river as a focal point; churches as key landmarks; and panoramic views from valley slopes and along the valley floor.
11. Of particular relevance to the appeal proposal, the LCA identifies the skyline of the valley slopes as visually sensitive with potential new development being highly visible within views across and along the valley floor. Views to the valley sides from adjacent landscape character areas (such as here from the Suffolk side of the river) are also cited as sensitive. Overall the character area is assessed as having relatively high sensitivity to change.
12. Key planning and land management issues are identified as including: *'small urban extensions of the larger settlements within the valley'*. Suggested landscape planning guidelines include: *'Consider the visual impact of new residential development ... upon valley slopes'*, *'Maintain cross-characteristic views across and along the valley'* and *'Ensure any new development on valley sides is small-scale, responding to historic pattern, landscape setting and distinctive building styles.'*
13. Although near views of the appeal site are available from the adjacent road, railway, dwellings, and some agricultural land within Essex, there are also medium and long views of the appeal site from the valley floor and valley sides within Suffolk. From there the site is currently seen as rising open arable land on the valley side, partly enclosed by hedges and trees, and set against a backdrop of woodland along the railway embankment which disguises the man-made character of that feature. There are some long views from the valley floor within the Conservation Area across the site which in winter can include

- glimpses of the distant church tower at Mount Bures. From higher ground on the Suffolk side the site reads as a continuation of the similar rolling farmland to the south and also to the west beyond the railway. It contributes with that other land to what has been described as the green nest setting of Bures.
14. The landscape on the Suffolk side of the river is part of the baseline of the wider area around the appeal site and is important to its context. It shares many landscape and visual characteristics with that on the Essex side. In the Babergh landscape guidance (2015) [ID11] the adjacent landscape character areas are the 'Valley Meadowlands' on the valley floor and the 'Rolling Valley Farmlands' above. Relevant characteristics of the latter area include: '*From elevated locations ... substantial views are obtained*'; and '*Historic villages blend with the valley landscape, with the buildings complementing a landscape of the highest visual quality.*' An objective for both character areas is to: '*maintain and enhance the distinctive landscape and settlement pattern*'. The guidance warns in relation to the Valley Meadowlands that: '*The sense of tranquillity of this landscape ... can ... be impacted by development of the adjacent Rolling Valley landscapes which are often a focus for settlement and development*'. As the landscape on both sides of the valley share similar characteristics that effect would also apply to development on the Essex side.
  15. The appeal site lies close to the Dedham Vale Area of Outstanding Natural Beauty. However, there is little direct inter-visibility and no harm to the setting of the AONB has been alleged by the Council. Nevertheless, there is a long-standing ambition shared by the relevant local Councils and amenity groups to extend the AONB to include more of the Stour Valley. To that end a Report entitled: '*Special Qualities of the Dedham Vale AONB – Evaluation of the Area between Bures and Sudbury*' was commissioned from Alison Farmer and produced in 2016 (The Farmer Report).
  16. The Farmer Report concluded that only part of the extensive area evaluated was of a quality to merit designation as an extension to the AONB. It identified a potential candidate area for the AONB extension that includes Bures and the surrounding area. Amongst other things the Farmer Report commented on the relatively intact pattern of the landscape north and south of Bures and that a conservation area includes the valley floor. However, it also notes that peripheral development in Bures has altered the way in which the settlement sits in the landscape. Before defining a boundary for the AONB the Report cited a need for further scrutiny at Bures and two other settlements regarding whether the settlements should be included in the AONB or excluded. The Report noted on the one hand that the settlement is surrounded by high quality landscape but on the other that there have been housing estate extensions to the south west (adjoining the appeal site) and to the south east (in Bures St Mary). Particular scrutiny was recommended as to: '*the extent to which modern housing effects [sic] the intact character of the settlement and its relationship with the valley floor*'.
  17. I saw that whereas the two village conservation areas are mainly characterised by local vernacular buildings, often built in rows or terraces close to the road, the peripheral 20<sup>th</sup> century extensions referred to in the Farmer Report are made up of a mixture of ribbon and estate development in a variety of different contemporary styles and materials that are generally not characteristic of the Stour Valley. They are more suburban in layout than the historic village cores.

18. The appeal site adjoins some of that modern housing on part of its northern boundary but is otherwise buffered by an intervening field. The remaining boundaries adjoin woodland and the brook or Colchester Road, beyond which is an area of meadowland and the river. In its open and gently sloping condition as arable land I consider that the appeal site is part of the intact high quality landscape described in the Farmer Report and that its landscape character has not been significantly affected by the adjacent modern housing.
19. Unusually, the statutory Management Plan for the Dedham Vale AONB also includes the whole of the Stour Valley Project Area, although only part of that area is recommended in the Farmer Report for consideration for inclusion in an extension to the AONB. The Project Area lies outside the AONB boundary and does not itself have any statutory landscape or other designation. It is thus not subject to the statutory requirement to prepare a management plan. Nevertheless, the Management Plan is a material consideration. It does not seek to preclude housing development in the AONB or the Stour Valley. However, it qualifies support for such development as applying to that which: sits well with the patterns of historic villages; contributes to the architectural patterns of the area; and which seeks to meet the needs of the community in terms of affordable housing.
20. Paragraph 127 of the Framework provides amongst other things that planning decisions should ensure that developments are: *'sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'*. Paragraph 170 of the Framework provides amongst other things that planning decisions should contribute to and enhance the natural and local environment by: *'a) protecting and enhancing valued landscapes, ... (in a manner commensurate with their statutory status or identified quality in the development plan)'* and *'b) recognising the intrinsic character and beauty of the countryside ....'*
21. I consider that recognition of the intrinsic character and beauty of the countryside would have little practical effect without an assessment of the particular qualities of the countryside and the landscape setting where development is proposed and the effect of that development upon them. Neither, having regard to Paragraph 127, do I consider that the exhortation to protect and enhance *'valued'* landscapes is necessarily limited to landscapes that have either a statutory designation or a local designation in the development plan.
22. The Framework does not provide a definition of a valued landscape. However, I consider it improbable that the addition of the words in brackets to paragraph 170(a) which occurred in July 2018 was intended to encourage policy makers to revive the practice of creating local *'Special Landscape Areas'* or similar designations in development plans as a means of identifying a valued landscape. Previous advice had sought to discourage such designations in favour of landscape character assessment which would identify the distinctive and valued qualities of landscapes. That is of particular relevance here where the RLP designations of Special Landscape Areas including in the Stour Valley were superseded in the CS by policies which referred to the use of landscape character assessment.

23. Had the creation of new local designations been the Government's intention then I consider that it would have been highlighted in the public consultation on the changes to the Framework and made explicit in the new text. Moreover, even if that were the intention there would be a long hiatus whilst all the necessary work was carried out to identify, consult upon, examine, and adopt the necessary policies as part of the statutory development plan framework, during which sensitive landscapes would remain vulnerable to insensitive development. In any event, whether or not the site qualifies as a 'valued landscape' in the terms of the Framework, the Framework at Paragraph 127 requires development to be sympathetic to its landscape setting. Such consideration must necessarily have regard to the sensitivity of that landscape.

*Landscape Value*

24. In this case I consider that there is ample evidence that the landscape around Bures, including the appeal site, is not ordinary countryside of no value but is of high sensitivity and is locally valued. That evidence encompasses: its inclusion in the Stour Valley Project Area and the Management Plan; the commissioning and conclusions of the Farmer Report; the submissions to Natural England to review the AONB designation; and the related text of the emerging Local Plan at paragraph 8.27 which highlights the sensitive nature of the upper Stour Valley and supports the aims of the Management Plan whilst also seeking to avoid prejudicing the expressed long term aim to extend the AONB to this area.
25. The appeal site itself displays many of the characteristics of the A2 character area. It is arable farmland on the rolling valley sides. It is visible both from within and across the valley. It contributes positively to the setting of Bures within the valley, notwithstanding that other nearby development may have had an adverse impact in that regard.

*Landscape Effects*

26. The planning application was accompanied by a Landscape and Visual Impact Assessment (LVIA). This focussed most attention on the site itself and its landscape features. These were assessed as of only medium landscape quality, sensitivity and value. The LVIA did not acknowledge the conclusions of the LCA that the landscape of the wider character area is of high sensitivity or the Farmer Report conclusions that the landscape south of Bures is of high quality (and similar to that of the AONB). I therefore consider that the LVIA understates the sensitivity and value of the appeal site as part of that landscape. Neither did it acknowledge the conclusions of that Report that the peripheral housing estate extensions had altered (and by inference harmed) the way in which the settlement sits in the landscape such that further scrutiny may conclude that the settlement would not itself merit inclusion in the AONB.
27. Where the LVIA does refer to the impact of the proposed development on that wider landscape it was seen only in the context that it would be an incremental addition to the existing settlement to the northwest. This led to a conclusion that there would be no significant adverse landscape effects and no more than moderate adverse visual effects in the near vicinity. I disagree.
28. The application is in outline and thus no design details have been submitted for determination. However, the lower part of the site to the south adjacent to Cambridge Brook is in a flood zone which would not be suitable for built



development. The proposal is for 98 dwellings and the illustrative layout indicates that this would probably be 2 storey development with a suburban style road layout. A respect for traditional architectural styles in the area as indicated in the Design Statement would imply relatively steep gabled roofs. Together with the raised level of the site above Colchester Road the overall effect would be a marked change from an open field visible from the valley floor as part of an area of open countryside to a relatively dense and homogenous block of suburban development without significant visual gaps. It would be of different townscape and visual character to the characteristic street scenes to be found in the village cores of the two conservation areas and also different in style, materials and form from the adjacent 20<sup>th</sup> century development.

29. Whilst the LCA and Management Plan preferences for 'small-scale' development are not defined, I do not consider that this proposal could be so described. That a similar preference is included in the guidelines for many other landscape character areas in Braintree is unsurprising given that this is a mainly rural area where most existing development has occurred organically and at a small scale. The development would add considerably to the peripheral extension of Bures Hamlet towards the south in the form of a large housing estate, exacerbating and extending the adverse effect that the 20th century development has already had on the historic settlement pattern, including in views from higher ground in Suffolk.
30. The development would contain views from the valley floor which would then be surrounded by built development on 3 sides. Panoramic cross-valley views would be restricted and there would be a loss of outward views from the valley floor to the open countryside. Even were the buildings to be limited in height to 2 storeys (or 9m) they would still break the skyline in views from the valley floor, a matter highlighted in the LCA. The development would also appear urban and intrusive as seen in near views from the Colchester Road and from the recreational cycle routes along that road. The indicated landscaping, which may be different in the final scheme, would take time to establish and would only partially mitigate these effects in the longer term by softening but not screening the edges of the development.

#### *Visual Effects*

31. Many of the landscape effects, including the loss of open landscape character and the restriction of views, would be perceived visually by neighbouring residents, persons using Colchester Road (including recreational cyclists), walkers on the network of local and longer-distance footpaths on the valley floor (including permitted paths), users of the open space opposite the site, and by both commuters and leisure users of the adjacent railway line. The sensitivity of these users would vary according to the reason for their presence as well as other factors such as distance from the development. The most sensitive users would be those using the public footpaths and the recreational cycle routes and the neighbouring residents. However other road and rail users would include those visiting the area for leisure purposes who can be expected to be more sensitive. All would experience some negative visual effects from the loss of longer views and the change in landscape character.

### *Conclusion*

32. Paragraph 48 of the Framework provides amongst other things that existing development plan policies adopted prior to the publication of the Framework should be given due weight according to their degree of consistency with the Framework. In that regard, I consider that CS Policy CS8 is generally consistent with the Framework objectives to recognize the intrinsic character and beauty of the countryside, which certainly apply here, and for development to be sympathetic to, and enhance, its landscape setting, which this proposal would not. That policy merits substantial weight.
33. Having regard to the nature, scale and setting of the proposed development I conclude that it would be a major development with a significant adverse impact on the character and appearance of the countryside and on the sensitive landscape setting of Bures and Bures St Mary, including its Conservation Area, contrary to the Guidelines in the LCA and in conflict with CS Policy CS8 and RLP Policy RLP 80.

### **Heritage Assets**

34. In the development plan the RLP and CS heritage policies are no longer consistent with more up-to-date policy for heritage assets in the Framework that includes provision to assess whether there is harm to the heritage significance of the designated or undesignated asset and then to weigh that harm with any benefits of the development. In this case I therefore attach greater weight to the Framework policies.
35. The appeal site is too distant from the listed churches and most other designated heritage assets in the wider area to have any appreciable effect on their settings or significance. The exceptions are the Bures St Mary Conservation Area and the Grade II listed Brook House which are closer to the site. The Conservation Area includes the open recreation land on former meadows on the opposite side of the River Stour. That is part of the valley floor and it is contiguous with surviving meadows beside the river. In its present form the appeal site is open countryside and it provides an open visual connection with the wider countryside. However, the built development of the appeal site at the proposed scale would be very visible from the conservation area and would close off that view to the west and create a much more urban setting. Those adverse landscape and visual effects would cause harm to the significance of the conservation area by reason of the loss of a significant part of its open countryside setting.
36. In the case of Brook House the appeal development would be seen in some long filtered views from that property as part of the wider setting of the listed house which otherwise has long been characterised by mainly open countryside. However, those views would be against a backdrop of more distant 20<sup>th</sup> century development which has already intruded on that setting to a degree.
37. In each case I agree with the conclusions of the main parties that there would be some, less than substantial, harm to the heritage significance of these designated assets. Any such harm nevertheless merits great weight in accordance with paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development.

38. The site includes some undesignated buried heritage assets which have been dated to the Bronze Age. However, they are of a common type and have been damaged by past human activity such as ploughing which has diminished their significance such that they would not satisfy the criteria for scheduling as ancient monuments. Neither are they visible except from the air as crop marks for a brief period in each growing season. The assets are unlikely to have a connection with other assets in the valley from different eras and there is no objection from the Council or its archaeological advisers to the loss of what little remains of the asset subject to an appropriate condition to investigate what remains. The very slight residual harm to significance from the loss of any physical remains would nevertheless fall to be included in the planning balance.

### **Affordable housing and necessary infrastructure**

39. Planning permission was refused in part because of a lack of provision to secure both the promised affordable housing and also financial contributions to provide necessary social infrastructure, especially the creation of adequate capacity in health and education provision to serve the development.
40. A completed unilateral undertaking has been submitted by the Appellant under Section 106 of the Act which would ensure compliance with CS Policy CS2 in respect of the 40% affordable housing provision sought in rural areas. It also makes provision for financial contributions to enhance education provision and primary health services as requested by the local education authority (Essex County Council) and the NHS respectively. Other provisions include contributions to the provision or enhancement of sports facilities and allotments. Provision would also be made for on-site open space for public use.
41. It is possible that the education and health contributions in particular may be put towards facilities that would not be directly used by occupiers of the development. That is because residents would be likely to use existing facilities closer to the appeal site. In that case other persons may be displaced to go elsewhere, depending on how those facilities are managed in the future. However, with the agreed contributions and with similar provision in relation to other new development, the overall capacity of facilities in the area is likely to be adequate to account for the increase in overall demand.
42. I consider that these measures would accord with relevant Community Infrastructure Regulations and CS Policy CS11.
43. The provision made by the undertaking for potential mitigation of effects on bio-diversity is considered below.

### **Biodiversity**

44. As an arable field the main part of the appeal site has limited bio-diversity or ecological interest and the development should not cause a direct loss of habitat. Moreover, there is the opportunity to enhance the site's flora as significant areas at the side edges are likely to be available to reinforce, strengthen, and diversify existing hedgerow and tree planting and to improve the bio-diversity of open parts of the site. That would more than compensate for the likely loss of one tree adjacent to the proposed access.

45. In respect of fauna it appears that the original ecological surveys may have correctly recorded and addressed the presence of badgers adjacent to the railway but missed some of the potential habitat of water voles and possibly otters along the brook. Whilst there would not necessarily be a direct loss of habitat or adverse effect on these protected species, it may be necessary to control public access to this area in a final design by fencing or other means and a suitable buffer. The illustrative layout indicates that there would be space available for that purpose although that would reduce the area of accessible public open space.
46. At the time of the application, Natural England had no objection to the proposed development. However, they have subsequently published draft proposals to mitigate the impacts of increased recreational use on Special Protection Areas (SPA) of European importance as wildlife habitats on the Essex Coast. These include the draft designation of a 22km zone from the Blackwater Estuary within which mitigation payments would be sought from new residential developments to fund management of the SPA.
47. Before a need for avoidance measures or mitigation payments could be justified it would first be necessary to establish if the development would have a likely significant effect on the SPA, in which case an Appropriate Assessment would then need to be undertaken.
48. The Appellant has submitted evidence to the effect that there would be no likely significant effect having regard to the remoteness of the site from the Blackwater Estuary SPA, the length of the routes between the site and that estuary (which exceed 22km) and the limited access possibilities at the nearest parts of the estuary. It is also pointed out that there are other similar SPAs at closer distances and that no objections in respect of a likely significant effect have been alleged. Nevertheless, the Appellant has offered a mitigation payment in case there is judged to be such an effect and if an Appropriate Assessment were to conclude that such mitigation was both necessary and appropriate. The Council relies on the blanket approach of Natural England in respect of distance. However, the Council's own evidence is that a development of less than 100 dwellings (as this would be) would not have a likely significant effect. When considering a near duplicate proposal on the same site the Council did carry out what it describes as an Appropriate Assessment and concluded then that the proposal would not adversely affect the integrity of the habitats site.
49. I do not rely on the Council's conclusions as they do not appear to have taken account of potential cumulative effects of multiple developments. However, I prefer the Appellant's evidence in relation to the actual potential effects and conclude that a development on this site at the outer edge of the draft zone and with limited opportunities for access along long and convoluted routes makes a pathway of effect unlikely and makes it improbable that the site's development would have a likely significant effect.
50. In these circumstances I do not consider it necessary to carry out an Appropriate Assessment or to require the mitigation payment described in the unilateral undertaking.
51. I conclude that the development is not in conflict with the bio-diversity provisions of CS Policy CS8.

## Housing Land Supply

52. Although not a provision of the development plan, national policy at paragraph 73 of the Framework (2019) provides that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need where the adopted strategic policies are more than 5 years old [as here].
53. At the date when the application was determined in June 2018, the Council accepted that it was unable to demonstrate that it had the minimum 5-year supply of housing land required by the Framework (2012). Shortly afterwards in July 2018 the Government published the updated Framework (2018) which, amongst other changes, modified how the housing requirement should be calculated. Changes to the supporting Planning Practice Guidance were then published in September 2018 in respect both of the housing requirement calculation and the evidence sought to demonstrate the available supply.
54. In January 2019 the Council published an Annual Monitoring Report with a base date of 31 March 2018 and which claimed that the Council could demonstrate a housing land supply in excess of 5 years. This was based on a local housing need requirement using the recommended standard method and derived from the latest 2016 household projections.
55. Following a Technical Consultation the Government has made further relevant changes to the Framework and to the PPG. These were published during the Inquiry in February 2019. Amongst other things these changes provide that the 2014 household projections should be used when calculating the standard method and that alternative approaches to calculating housing need should only be considered at the policy-making stage and not in decision-making.
56. When calculated in line with the latest policy and guidance (and the results of the Housing Delivery Test - also published in February 2019), the Council continues to maintain that it has a supply in excess of 5 years. The Framework provides that there should be an annual assessment of supply. The PPG at paragraph 3-038 also allows that for applications and appeals it is only necessary to demonstrate supply once a year. The Council does not yet have up-to-date strategic policies on which an Annual Position Statement would be based. It therefore relies instead on the Annual Monitoring Report (AMR) published in January 2019.
57. The Appellant challenges the Council's supply figures as set out in the AMR. The main area of disagreement concerns the treatment of outline planning permissions for major development in the calculation of supply. Also at issue is whether sites subject only to a resolution to grant planning permission at the base date should be included (as for example where the grant of planning permission depends upon the completion of a Section 106 planning obligation).
58. Based on the 2014 household projections, and with an agreed 5% buffer, both main parties now agree that the local housing need at 31 March 2018 over 5 years is for 4,457 dwellings. The Council estimates the supply at 4,834 dwellings (5.42 Years) to include 2,247 dwellings on sites with outline permission at the base date, 200 at 'growth locations' and 267 at 'other sites'.
59. The Appellant has offered 2 alternative calculations. What is described as a 'strict' interpretation would result in a supply of 2,977 dwellings (3.34 years).

This excludes the above supply at the growth locations and other sites and reduces the supply on sites with outline permission to 857 dwellings, mainly due to a claimed lack of clear evidence that these would have been deliverable at the base date of 31 March 2018. In the alternative the Appellant has also calculated supply based on what is described as a '*benevolent*' approach which would result in a supply figure of 3,968 dwellings (4.45 years). In that case the supply from sites with outline permission at the base date would be 1,613 dwellings.

60. My attention has been drawn to how these matters have been addressed in other appeal decisions, albeit that they pre-dated the latest Government policy and guidance. In particular, in the Woolmer decision<sup>1</sup> the Inspector opined that the definition of 'deliverable' in the Glossary of the Framework 2018 is a closed list. If so, whilst the definition is set out in the first sentence, a closed list would mean that only the types of housing sites listed in the second and third sentences of the definition could qualify as deliverable. The Framework 2019 has slightly modified and restructured the definition but the changes do not provide additional confirmation that the list is closed.
61. The Council has drawn attention to the Salford decision<sup>2</sup> by the Secretary of State where sites with a resolution to grant permission subject to a Section 106 agreement had been included in the housing supply and the Secretary of State had made no criticism of that approach. However, as the supply in that case was agreed to be far in excess of 5 years it made no difference to the principal issues and it does not appear that the Secretary of State gave active consideration to that matter. I therefore accord it little weight.
62. In the Woolpit decision<sup>3</sup> the Inspector concluded that all permissions issued after the base date should be excluded on the basis that its consideration would also require a review and extension of the period over which housing need is to be assessed. I disagree on that latter point. It is not necessary to adjust the housing need period if the assessment of supply only concerns that which is expected to be delivered within the original 5-year period. However, I agree that new planning permissions after the base date should be excluded and that would include permissions subject to a resolution to grant subject to a Section 106 obligation. Uncertainty about when such an obligation would be completed could put back a potential start date by months or even years. Information about significant new supply from such sources after the base date but before the annual assessment might nevertheless be material when considering the weight to be accorded to an identified shortfall in supply.
63. In respect of information received after the base date about the progress of sites with outline permission at the base date, I consider that this information should be included in the AMR in order to provide the necessary '*clear evidence*' of whether and when housing will be delivered. An example could be that a site with outline planning permission at the base date had subsequently been the subject of an application for full permission for a similar development in preference to a reserved matters application. That can occur when some amendment to the scheme had meant that whilst housing delivery was still expected a reserved matters application was not appropriate. That an

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<sup>1</sup> Appeal Ref APP/C1950/W/17/3190821

<sup>2</sup> Document ID20

<sup>3</sup> Appeal Ref APP/W3520/W/18/3194926

- essentially similar development was now being advanced by a different route should not to my mind preclude the site from inclusion in the base date supply.
64. The March 2018 base date of the Council's AMR preceded its publication by more than 9 months. However, a base date close to the beginning/end of the financial year is widely accepted as a suitable annual monitoring period. It is entirely reasonable that the base date is not updated to a new date for each application or appeal, as confirmed by the PPG. Reasons for the delay in preparing and publishing the report here include that the Framework was significantly modified 4 months after the monitoring period in July 2018 to include a new standard method to assess the housing requirement and a revised definition of deliverable sites for inclusion in the supply. Also, the PPG guidance about how to assess need and supply was only issued 6 months after the monitoring period in September 2018. It can be expected that subsequent reports using current guidance would be compiled and issued closer to the annual base date.
65. The Framework definition of deliverable sites provides that in some cases (including outline permissions for major sites and also for development plan allocations where there is as yet no planning permission) there should be clear evidence that housing completions will begin on site within five years. To establish the site's contribution to the housing supply there would also logically need to be an assessment of the amount of housing expected to be delivered within that five-year period.
66. Where there is to be reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. That would qualify as publicly available in an accessible format as the PPG requires. It would accord with guidance in PPG Paragraph 3-048 which applies to all forms of annual review including, but not limited to, annual position statements. That is not to say that there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached.
67. The information published here in the AMR is minimal and it relies heavily on unsupported assertions that a site will be delivered. That does not amount to clear evidence. In most cases it does not include the additional information that was introduced only in oral evidence at the inquiry such as: the date when a reserved matters submission was made or anticipated; when a S106 obligation was completed; why a full planning application and not a reserved matters application was submitted on a site that already had outline permission; the source of an estimate of a delivery rate; any assumptions and yardsticks that were applied where direct information was in doubt or missing; or other information of the type suggested in PPG paragraph 3-036. Information of that type could be readily summarised and published, possibly in a tabular form.
68. Overall, and having heard the Council's oral evidence about progress on sites which is said to have informed its conclusions in the AMR, I consider that the Appellant's 'strict' approach unreasonably excludes many sites where it is very probable that there will be significant delivery of housing within the 5-year period. On the other hand, the Council has over-estimated the rate at which some sites may be developed and progress on some sites remains unclear even

when taking into account the Council's additional oral evidence of what has occurred since March 2018. Sites that were subject only to a resolution to grant permission at the base date should be excluded.

69. I consequently do not consider that the Council has demonstrated in the AMR with clear evidence that it has a 5-year housing supply. Whilst there is insufficient evidence to make a precise assessment, the likelihood is that the supply is closer to the Appellant's 'benevolent' approach which concludes that there is a 4.45-year supply. That represents a shortfall, albeit not a severe one. The weight to be attached to the shortfall may also be reduced in that there is some evidence of factors which will increase supply such as the issuing of permissions for developments that were only subject to resolutions to permit at the AMR base date. There is also at least one permission issued on a major site after the base date where development has already commenced on site. It is also material that the eLP examination is advancing and that the adopted plan can be expected both to redefine the housing requirement and to make provision to address it.

### **Other Matters**

70. I have taken into account all other matters raised in representations. In particular I consider that the location and dimensions of the access junction would be adequately safe. Although not clearly specified in the Section 106 agreement, the advance provision of dropped kerbs at junctions and raised kerbs at the bus stop could be the subject of a condition to facilitate disabled access.
71. For a small rural village, the accessibility by public transport is unusually good and there is a range of services and facilities within walking or cycling distance. The limited parking at the station would be likely to encourage rail users to walk or cycle to the station.
72. However, neither these nor the other matters raised outweigh my conclusions on the main issues.

### **The Planning Balance and Conclusions**

73. I conclude above that the proposal would contravene adopted development policies for the control of development in the countryside outside development boundaries. There would also be conflict with policies to protect the character and appearance of the area and specifically with CS Policy CS8 in respect of the landscape and visual effects. That conflict here outweighs compliance with some other development plan policies such that there would therefore be overall conflict with the development plan.
74. However, the apparent lack of a deliverable 5-year housing supply means that at least some of the other most important development plan policies for determining the application are out of date inasmuch as they would not provide for a sufficient supply. In particular the CS Policy CS5 and RLP Policy RLP2 development boundary is out of date as there is a lack of evidence that sufficient housing to meet the identified local housing need could be provided within the adopted boundaries. Limited weight can yet be accorded to the emerging Local Plan and its development boundaries which are not yet part of the development plan which may change prior to adoption. That and the supply shortfall necessarily triggers the application of paragraph 11 of the



Framework, notwithstanding the evidence of progress towards delivering additional housing sites since the AMR base date, and progress on the eLP.

75. Paragraph 11 provides in these circumstances that planning permission should be granted unless:

- i) *'The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or*
- ii) *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

76. In relation to (i) I have concluded that there is not likely to be a significant effect on the Blackwater Estuary Special Protection Area. Whilst great weight is to be accorded to the less than substantial harm to the designated heritage assets, that harm falls to be weighed with the public benefits of the development.

77. The public benefits of the development include: the social benefits of the provision of market housing and affordable housing in circumstances where there is a local and national shortage against assessed needs; the economic and employment benefits associated with the construction and subsequent occupation of the housing including local spending in shops and services; some benefits to bio-diversity of flora; and the provision of on-site informal open space potentially in excess of policy requirements. However the latter merits only limited weight as no minimum level of provision is set out in the application, the Section 106 undertaking or the agreed conditions, and because there is no identified local lack of open space or play provision in the area.

78. Neither the harm to the setting and significance of Brook House nor the harm to the significance and setting of the Bures St Mary Conservation Area would outweigh the public benefits either separately or together. Thus, these effects would not on their own provide a clear reason for refusing the development or overcome the paragraph 11 presumption in favour of development. However, the harm to the setting of the conservation area overlaps with and reinforces other harm to the character and appearance of the area which also falls to be weighed with the benefits in the application of sub-paragraph ii above.

79. The main identified harm is the harm to landscape character and to the visual amenity of the area including the loss of the site's openness, the breach of the skyline by a large-scale development, and the loss or containment of open cross-valley views. This includes the associated conflict with relevant development plan policies in that regard including CS Policy CS8 which are important to the determination of the appeal and which are not materially inconsistent with national policy or out of date. Neither, having regard to Framework paragraph 127, would the development be sympathetic to its landscape setting.

80. My final conclusion is therefore that the proposal is in overall conflict with the development plan and that is not here outweighed by other material considerations. In the terms of paragraph 11(d)(ii) of the Framework the significant adverse impacts of granting planning permission would significantly

and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal should therefore be dismissed.

*Robert Mellor*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ashley Bowes	of Counsel instructed by Ian Hunt, Head of Law and Governance, Braintree District Council
He called	
Gill Wynne-Williams BA DipLA MLI	Landscape Architect and Managing Director of Wynne-Williams Associates Ltd
Beverley McClean BA DipCM MRTPI	Planning Officer, Dedham Vale Area of Outstanding Natural Beauty
Kathryn Carpenter BA(Hons) DipEnvPlg	Senior Planning Officer (Housing Supply) Braintree District Council
Melanie Corbishley BA(Hons) MA	Senior Planner, Braintree District Council

### FOR THE APPELLANT:

Thea Osmund-Smith	Of Counsel, instructed by Megan Farmer
She called	
Silke Gruner BHons CMLI	Associate Landscape Architect and Urban Designer, CSA Environmental
Gail Stoten BA MCIfa FSA	Heritage Expert, Director of Pegasus Planning Group
Aiden Marsh BSc PhD MCIEEM CEcol	Ecological Director CSA Environmental
Matthew Spry BSc(Hons) DipTP (Dist) MRTPI MIED FRSA	Housing Land Supply, Senior Director Lichfields
Megan Farmer MPlan MRTPI	Planning Manager, Gladman Developments Ltd

### INTERESTED PERSONS:

David Lee	Chair of Bures Hamlet Parish Council
Gill Jackson	Chair of Bures St Mary Parish Council
Elaine Conerney	Local Resident
Nicholas Temple	Neighbouring landowner and conservationist
Robert Erith	Chair, Dedham Vale Area of Outstanding Natural Beauty
Charles Aldous	Former Chair Colne-Stour Countryside Association
Geoffrey Probert	President, Suffolk Preservation Society
Hugh Turner	Concerning archaeological heritage
Ken Jackson	Concerning arboricultural and site related matters
Kenn Butcher	Concerning highways and transport matters
Sheila Butcher	Concerning the Statement of Community Involvement

## DOCUMENTS

- 1 Appellant's Opening Statement
- 2 Council's Opening Statement

- 3 Statement of Common Ground
- 4 S106 Unilateral Undertaking
- 5 Appellant's Note Concerning Primary Education Impact
- 6 Extract from Annual Monitoring Report concerning affordable housing delivery
- 7 Approved Applications and Allocations in the Stour Valley Project Area
- 8 Gov.UK advice on AONB designation and management
- 9 Gruner Proof photos printed at A3
- 10 *Gladman v SSHCLG and Central Beds [2019] EWHC 127*
- 11 Joint Babergh and Mid Suffolk DC Landscape Guidance (August 2015)
- 12 Landscape Character of Braintree District (2006)
- 13 Essex CC Guide to Developer Contributions (2016)
- 14 Revised figures for financial contributions (2018)
- 15 *Baroness Cumberledge of Newick and Patrick Cumberledge v SSCLG and DLA Delivery Ltd [2017] EWHC 2057*
- 16 *Baroness Cumberledge of Newick and Patrick Cumberledge v SSCLG and DLA Delivery Ltd [2018] EWCA Civ 1305*
- 17 Decision Letter for Appeal Ref APP/R3650/W/16/3165974 Haslemere
- 18 *Gladman Developments Ltd v Daventry DC and SSCLG [2016] EWCA Civ 1146*
- 19 Letter dated 23 October 2018 to Braintree DC from Planning Policy Reform Division MHCLG
- 20 SofS Decision Letter for Appeal Refs: APP/U4230/W/13/2209607 & APP/U4230/W/17/3180726 Salford
- 21 Decision Notice for Application 18/02139/OUT (Playing Pitches at Cambridge Way, Bures Hamlet)
- 22 Statement by Elaine Conerney
- 23 Statement by David Lee
- 24 Statement by Nicholas Temple
- 25 Statement by Hugh Turner
- 26 Statement by Sheila Butcher
- 27 Statement by Gill Jackson
- 28 Statement by Ken Jackson
- 29 Statement by Robert Erith
- 30 Map of National Cycle Network Route 13 at Bures
- 31 'Cycling through a masterpiece' local cycle routes
- 32 Statement by Charles Aldous and appended photos of old Bures St Mary
- 33 Statement by Geoffrey Probert
- 34 Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (2018-2038) – Essex CC and Appendices to Document 34
- 35 Documents to support Mr Butcher's statement
- 36 Schedule of major housing sites with outline planning permission at 31 March 2018
- 37 Petition opposing the development of the appeal site with 592 signatures
- 38 Suggested site visit itinerary
- 39 Update of planning history of Station Field, Land West of Kelvedon Station

- 40 Updated 5 year Housing Land Supply position following February 2019 changes to National Planning Policy Framework
- 41 Statement of compliance for financial contributions in relation to Community Infrastructure Levy Regulations
- 42 Government response to the technical consultation on updates to national planning policy and guidance 19 February 2019
- 43 Supplementary written statement from Hugh Turner
- 44 Updated 5 year Housing Land Supply position following February 2019 changes to National Planning Practice Guidance on 20 February 2019
- 45 Appellant's Technical note in response to Mr Butcher's evidence on transport matters
- 46 Appellant's Statement in response to representations concerning increased noise from road traffic
- 47 Council's closing submissions
- 48 *CEG Land Promotions Ltd v SSHCLG and Aylesbury Vale DC [2018] EWHC 1799*
- 49 *Redhill Aerodrome Ltd c SSCLG and others [2014] EWCA Civ 1386*
- 50 *St Modwen Developments Ltd v SSCLG & Another [2017] EWCA Civ 1643*
- 51 Closing submissions on behalf of the Appellant

**Appendix 4: West Bergholt, Colchester 3207626**



## Appeal Decision

Inquiry Held on 14-17 and 21 May 2019

Site visit made on 22 May 2019

**by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI**

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

**Decision date: 19<sup>th</sup> August 2019**

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**Appeal Ref: APP/A1530/W/18/3207626**

**Land off Colchester Road, West Bergholt, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Ltd against Colchester Borough Council (CBC).
  - The application Ref:173127, is dated 28 November 2017.
  - The development proposed is the erection of up to 97 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.
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### Decision

1. The appeal is dismissed, and the grant of outline planning permission refused for the erection of up to 97 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.

### Preliminary matters

2. The appeal application is in outline, but with access to be determined as part of the application. Site access is proposed off Colchester Road via a priority-controlled junction. I have had regard to other details shown on the Development Framework Plan (Drawing No.CSA/3447/103F) as illustrative material not forming part of the application.
3. CBC failed to make a decision on the planning application in the required amount of time. However, had it been able to do so, CBC would have refused the application. The reasons for refusal would have made reference to: 1. The site being located outside the settlement boundary and unallocated, and therefore contrary to Core Strategy Policies SD1, ENV1 and H1, and premature given the emerging Local Plan and West Bergholt Neighbourhood Plan. 2. The effect on the character and setting of the settlement, and resultant conflict with Core Strategy Policy ENV1 and Development Policy DP1. 3. New build development in the open countryside in the scale and manner proposed resulting in a loss of the open rural aspect to the south of the listed Malthouse, the visual separation between West Bergholt and the listed Barn at Hill House, along with concern about views of the listed main Truman buildings from the application site, contrary to Core Strategy Policy ENV1 and Development Policy 14 and the NPPF. 4. Failure to secure a range of planning obligations, contrary to Core Strategy Policies SD2, H4 and Development Policy DP3, the

NPPF and supplementary planning documents and guidance.

4. An amended access scheme was submitted at the appeal stage.<sup>1</sup> This proposes siting the proposed access onto Colchester Road to the north-west of the location shown on the original drawing. It also proposes visibility splays of 2.4 m x 80 m instead of 2.4 m x 43 m. Road markings and carriageway alignment would be altered to remove the existing right turn arrangement for Maltings Park Road. The proposed amended scheme would also remove the initially proposed ghost island right turn lane arrangement for the access to the appeal site.
5. I consider that the proposed alterations, insofar as they would affect access to the appeal site for the determination of this appeal, would be minor alterations that would not substantially alter the proposal. CBC has no objection to these alterations. Local residents and representatives of the Parish Council who attended the Inquiry were given the opportunity to consider, and to comment on, the proposed revised access. Concern was expressed about available space within the highway for the proposed revisions for the Maltings Park Road junction.<sup>2</sup> But this would be a matter for consideration in discharging the suggested planning conditions.<sup>3</sup> I do not consider that determining the appeal on the basis of the amended scheme would be prejudicial to the interests of any other party. I have, therefore, determined the appeal on the basis of the amended scheme as shown on Site Access Plan Drawing Ref 1879-F04 Rev A.
6. A petition with 180 signatures, along with 174 emails supporting the petition, was submitted at the Inquiry opposing the application and supporting the rejection of the appeal as contrary to West Bergholt's Neighbourhood Plan (WBNP) and the Borough's current and emerging Local Plan.<sup>4</sup>
7. The Examiner's Report into the WBNP was submitted to the Qualifying Body for fact checking during the Inquiry. Time was therefore made available for the parties to make written submissions about the Report once it was made public. The Inquiry was closed in writing on 1 July 2019.
8. A unilateral planning obligation, dated 17 June 2019, provides for affordable housing on commencement of the development that is the subject of this appeal.<sup>5</sup> It also provides for an off-site open space contribution, along with contributions towards education, healthcare, archaeology, community facilities and Natura 2000. At the Inquiry CBC did not pursue its fourth putative reason for refusal.
9. CBC and the appellant submitted a Statement of Common Ground dated 18 and 23 April 2019 (SoCG1). A separate SoCG concerning a Habitat Regulations Assessment is dated 11 and 16 April 2019 (SoCG2). A SoCG in relation to the frontage hedgerow along Colchester Road is dated 21 May 2019 (SoCG3).<sup>6</sup>

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<sup>1</sup> The Council's determination of its putative reasons for refusal considered the access arrangement shown on Site Access Plan Drawing Ref 1879-F01.

<sup>2</sup> ID32c.

<sup>3</sup> ID27 Suggested planning Condition 16.

<sup>4</sup> ID6.

<sup>5</sup> ID4.

<sup>6</sup> ID31.



## **Main issues**

10. The main issues in this appeal are the effects of the proposed development on:
- (a) The character and appearance of the area.
  - (b) Heritage assets.
  - (c) The supply of housing.

## **Planning policy**

11. The development plan for the area includes the Colchester Borough Core Strategy, which was adopted in 2008 and updated in 2014 (CS), and the Colchester Borough Development Policies, which was adopted in 2010 and amended in 2014 (DP), along with the Site Allocations DPD 2010. I consider that the following policies are most relevant to the main issues in this appeal.
12. Policy SD1 of the CS states that the Borough will deliver at least 19,000 homes between 2001 and 2023 and that growth would be located at the most accessible locations in accordance with the settlement hierarchy. This housing growth was derived from the now revoked East of England Plan. West Bergholt is designated as a rural community in the settlement strategy. Policy SD1 expects development to achieve compatibility with local character. The 2014 update to the CS added a provision to this policy to reflect the 2012 NPPF's position about taking account of whether any adverse impacts would significantly and demonstrably outweigh the benefits. CS Policy H1, concerning housing delivery, reflects the strategy in Policy SD1.
13. CS Policy ENV1 states that the natural and historic environment, along with the countryside, will be conserved and enhanced. It adds that unallocated greenfield land outside of settlement boundaries, such as the appeal site, will be protected and where possible enhanced, with any development strictly controlled to conserve the environmental assets and open character.
14. Policy DP1 provides, amongst other things, that proposals respect or enhance the landscape that contributes positively to the site and the surrounding area. Policy DP14 states that development will not be permitted that will adversely affect a listed building. It adds that development affecting the historic environment should seek to preserve or enhance the heritage asset.
15. CBC has been working jointly with Tendring and Braintree District Councils to bring forward local plans with a common section setting out strategic growth policies, including overall housing requirements and the provision of three cross-border garden communities. The Draft Colchester Borough Local Plan 2017-2033 (eLP) was submitted for examination in 2017 and hearing sessions began in 2018. The examination is currently paused whilst further work is undertaken.
16. The West Bergholt Neighbourhood Area was designated in 2013 and the draft WBNP was subject to Regulation 14 consultation in 2018. Regulation 16 consultation on the submitted WBNP took place earlier this year and independent examination commenced in April. I have taken into account the Examiner's Report and the respective comments from the parties.<sup>7</sup> CBC advised by email dated 12 June 2019 that the referendum for the WBNP is scheduled for 19 September 2019. The WBNP proposes that the minimum

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<sup>7</sup> ID33 and ID35-37.

number of dwellings to be provided over the plan period of 2018-2033 will be 120, with these dwellings provided on two sites identified to the north of the existing settlement. The appeal site lies outside the proposed WBNP settlement boundary, and in an area identified to avoid coalescence with Colchester.

17. I have taken into account the *National Planning Policy Framework* (hereinafter the *Framework*) and the *Planning Practice Guidance* (hereinafter the *Guidance*). The *Guidance* was revised after the close of the Inquiry and the parties were invited to comment on any relevant changes.<sup>8</sup>

## Reasons

### *Character and appearance*

18. The appeal site has an area of 4.13 ha and is located on the south-eastern edge of West Bergholt, some 4 km to the north-west of Colchester. It comprises two grassland fields, an eastern field and a western field, that are separated by a central belt of trees and vegetation. The eastern field has a frontage onto Colchester Road, which is marked by a hedgerow described by the parties as a failing elm hedge.
19. In the 2003 Essex Landscape Character Assessment the appeal site lies within the Colne Valley (C7) LCA, with a landscape sensitivity level of Moderate, where development may be capable of being absorbed. In CBC's 2005 Landscape Character Assessment the site lies predominantly in the A5 Colne River Valley Slopes LCA. The key characteristics of LCA A5 include a mosaic of medium to large-sized predominantly arable fields with hedgerows, and concentrations of smaller fields with intact hedge boundaries adjacent to settlements. A part of the appeal site lies within LCA B6 Great Horkeley Farmland Plateau, which is located on an area of gently rolling plateau to the north of the Colne River valley. It adds that West Bergholt is a large nucleated village. The landscape planning guidelines refer to the conservation of the landscape setting of existing settlements such as West Bergholt. I have also had regard to the 2005 Landscape Capacity of Settlement Fringes and the 2009 Assessment of Open Countryside. However, I give more weight to the 2003 and 2005 landscape character assessments cited above as particularly relevant to the issues which need to be addressed in determining this appeal.
20. It was evident from my site visit that both the eastern and western fields of the appeal site have a rural feel that relates much more to the wider agricultural area than to the nearby development within the settlement. The appeal site adjoins the settlement, and its fields are small with largely intact hedgerow boundaries; attributes which reflect the key characteristics of LCA A5. This is an area of landscape transition, which is sensitive to change. The appeal site forms an important part of the rural setting for the village, notwithstanding the agreement of the landscape experts that it is not a valued landscape for the purposes of the *Framework*. Its redevelopment for up to 97 dwellings would result in a change of major magnitude that would have a significant adverse impact on the landscape resource. In my judgement, the proposed development would have an adverse effect on the landscape character of the area of substantial significance. I turn next to consider the visual effects of the proposal.

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<sup>8</sup> ID38 and ID39.

21. The western field is bounded by the rear of residential development that fronts onto Albany Road and Colchester Road, to the east by the belt of trees between the eastern and western fields, and by the wooded curtilage of a dwelling to the south. With appropriate siting, design and landscaping residential development of the western field could be largely visually contained so that it was not prominent from public vantage points. However, some filtered views would be likely from Albany Road and for some residential receptors, where the change from an open field to housing would, where apparent, result in an adverse visual impact of moderate significance.
22. Some 40 m of the existing roadside hedgerow would be required to be removed to facilitate the proposed access. A further 8 m would need to be removed for a visibility splay. A new mixed native hedgerow with hedgerow trees would be planted behind the existing elm hedge to the west of the proposed access and behind the visibility splay of the removed sections of hedge. A proposed landscape management plan would require the existing remaining elm hedge to be maintained no higher than 2.5 m.<sup>9</sup>
23. Development within the eastern field would be visible from Colchester Road while the replacement roadside hedgerow matured, and at all times through the proposed new access. In this location dwellings and residential paraphernalia would appear as an intrusive feature in the countryside surrounding the settlement, which I consider in more detail in the following paragraphs. In this context, the proposed development would have an adverse effect on the visual amenity of the area of substantial significance.
24. It was evident at my site visit that the dwellings off Maltings Park Road mark a sharp transition between the settlement and the surrounding countryside. The scattered dwellings along, and sited off, Colchester Road, including the buildings in the vicinity of Hill House, to the east of the Maltings development, are perceived as being contained within the countryside that lies between West Bergholt village and Braiswick. This perception is not significantly altered by the existence of street lighting and signage on the approach to West Bergholt. I concur with the Parish Council's assessment of where the village starts.<sup>10</sup>
25. The development of the eastern field would project built form and suburban type activity beyond what is currently perceived to be the confines of the settlement. Although siting is a reserved matter it would be likely that the proposed dwellings would extend across this field, as is indicated in the illustrative Development Framework Plan. The apparent depth of the residential development, given that the land slopes to the south, would be apparent from Colchester Road. An expansion of the settlement of this scale and prominence, in this location, would significantly detract from the sense of separation between West Bergholt and Braiswick.
26. Given the relationship between these settlements in terms of separation distance, topography, highways and other infrastructure, the existing intervening countryside between West Bergholt and Braiswick is particularly vulnerable to the harm that would result from creeping coalescence blurring their separate identities. I find that the proposal would conflict with emerging WBNP Policy PP22, which provides that development will not be supported in the area shown on Map PP22, which includes the appeal site, if individually or cumulatively it would result in increasing the coalescence between West

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<sup>9</sup> ID31.

<sup>10</sup> ID9a.

Bergholt village and Braiswick, reducing their separate identity by reducing the separation between these two settlements.

27. On the first main issue, I find that the proposal would have a substantial adverse effect on the character and appearance of the area, and so would conflict with CS Policy ENV1. It would also conflict with that part of CS Policy SD1 that expects development to achieve compatibility with local character. In addition, the scheme would be at odds with the requirement in CS Policy DP1 that proposals respect or enhance the landscape that contributes positively to the site and the surrounding area.

#### *Heritage assets*

28. There are four Grade II listed buildings associated with the former Truman's Brewery in the vicinity of the appeal site. These comprise a main building, a brewery house and hophouse which are located on the northern side of Colchester Road, along with a malthouse on the southern side of Colchester Road. The malthouse has been relocated from a site further to the east, but its listing description does not mention its rebuilding with the addition of skylights and dormer windows. The converted barn near Hill House, which lies to the east of the appeal site, is also a Grade II listed building.
29. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. The parties agree that the appeal scheme would result in some harm to designated heritage assets, which as less than substantial harm for the purposes of the *Framework* must be weighed against the public benefits of the proposed development. But to properly weigh heritage considerations in the planning balance it is necessary to assess the extent of the harm to the listed buildings affected in this case.
30. The former brewery buildings north of Colchester Road were originally set within the countryside outside the settlement but have now been incorporated within the village and redeveloped for housing/offices. The modern housing estate to the north of the former brewery buildings has fundamentally altered the rural setting of the listed buildings. However, parts of the brewery are four storeys with a distinctive roofscape that is a prominent feature in views from the wider area. There is no documented functional relationship between the brewery and the appeal site. Nevertheless, the appeal site forms part of the remaining rural context for these distinctive buildings. The proposed development would remove one of the last links between the brewery and its original rural context, and this harm to the setting of the listed buildings would diminish their historic significance. The appellant's assessment of a very minor impact underrates the importance of the appeal site in providing some rural setting for these important buildings. I consider that the extent of the harm here would be of slight/moderate significance.
31. The malthouse has lost its original setting with its relocation. Its setting is now largely confined to its immediate context, which does include some of the open land within the western field. The proposed development would abut the south-western boundary of the dwellings in the malthouse. Nevertheless, given the altered context for this listed building, I consider that the proposed development would have only a slight effect on the setting of the former malthouse and the overall significance of this heritage asset.

32. The converted barn at Hill House is now sited within the residential curtilage of the property. However, its western façade facing towards the appeal site retains many features of its original agricultural design and function. Notwithstanding the intervening domestic paraphernalia, including a swimming pool, the barn retains a visual association with the agricultural land that comprises the eastern field of the appeal site. This link with adjoining open rural land is important even though there is no evidence to suggest that the appeal site was farmed by the owners/users of the barn. The barn does derive some of its significance from its setting, which includes part of the eastern field within the appeal site.
33. There would be some scope within the design of the proposed residential development to set back development from this eastern boundary of the appeal site and to retain an open area in the vicinity of the barn. But I am not convinced, even if a significant open area could be so retained whilst achieving up to 97 dwellings on site, that the proposed development would not still result in harm to the setting of the barn. Open space as part of a residential scheme would be significantly different in terms of its character and appearance from an agricultural/rural context for the barn. I find that the proposal would be likely to have an adverse impact on the setting of the listed barn and that this would affect its historic significance. In the absence of a detailed scheme showing siting and design for this part of the proposed development, I consider that the proposal would have an adverse impact of moderate significance on this heritage asset. The appellant's assessment of a very minor effect on the significance of the listed barn understates the likely harm.
34. On the evidence submitted, I am satisfied that archaeological considerations could be dealt with by the imposition of appropriate planning conditions. For each of the nearby listed buildings I have found that the harm would, for the purposes of applying the *Framework*, be less than substantial to the significance of the designated heritage assets, and so should be weighed against the public benefits of the proposal. The *Framework* also provides that great weight should be given to the conservation of designated heritage assets, and that any harm to their significance should require clear and convincing justification.

#### *Supply of housing*

35. The parties disagree about the housing requirement to be applied in assessing whether a five-year Housing Land Supply (5YHLS) can be demonstrated. With an agreed 5% buffer, the appellant considers that there is a five-year requirement of 5,701 based on the standard method, whereas CBC considers that the five-year requirement against the objectively assessed need is 4,830. Further work on the Joint Strategic Plan is progressing, but the examining Inspector has provisionally endorsed an annual requirement of 920 dwellings as representing the objectively-assessed housing need (OAHN) for Colchester.<sup>11</sup>
36. CBC argues that the circumstances here, where its OAHN has secured the agreement of the examining Inspector, are truly exceptional. However, CBC acknowledges that the examining Inspector will need to consider the extent to which projections and other evidence published since his agreement should, or should not, alter the OAHN for the Borough. New projections do not

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<sup>11</sup> ID7a.

automatically mean that previous housing assessments are rendered outdated, but the issue will not be resolved until resumption of the examination. This appeal falls to be determined on the basis of the circumstances that currently apply. The adopted housing requirement was adopted in 2008 and so is more than five years old. The *Framework* states that where strategic policies are more than five years old the 5YHLS should be assessed against local housing need, which footnote 37 specifies should be calculated using the standard method set out in national planning guidance. I find no grounds here for an exception to paragraph 73 of the *Framework* and agree with the appellant that the standard method should apply.

37. In terms of housing supply at 1 April 2019, CBC found at the Inquiry that it was 6,035 dwellings; whereas the appellant found 4,613. With a five-year requirement against the standard method CBC considered that there was a surplus of 334 dwellings (5.3 years supply), and the appellant considered that there was a shortfall of 1,088 dwellings (4.05 years supply). The difference derived from interpretation of the threshold for inclusion of a site within the 5YHLS, the nature of the evidence required to demonstrate that sites fall within this threshold, and the categories of sites that may do so.
38. The glossary to the *Framework* defines 'deliverable' sites for housing. Sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. The definition adds that: In particular: (a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years; (b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.
39. There was a dispute at the Inquiry about whether (a) and (b) above are closed lists. Appeal decisions were submitted which appear to take different approaches to this question, possibly because they reflected the policy and guidance that applied at that time. The judgment in *St Modwen* supports in principle the inclusion within 5YHLS of sites without the benefit of planning permission in accordance with the former version of the *Framework*. Whether such sites, including emerging allocations, should be included was considered to be fact-sensitive. The appellant argues that it would be misguided now to rely on *St Modwen* given more recent changes to the *Framework* and *Guidance*.
40. The July 2019 revisions to the *Guidance* do not change the provisions of the *Framework*, but it seems to me that the revisions clarify that the list (a) sites are considered to be deliverable in principle, whereas list (b) sites require further evidence. The *Guidance* now states that the evidence to demonstrate deliverability may include; current planning status, firm progress towards the submission of an application or with site assessment work, or clear relevant information about site viability, ownership constraints or infrastructure provision.
41. I concur with the agreed position of the parties that where planning permission is granted after the base date for a site not already included in the deliverable supply it cannot subsequently be added until the next Annual Position

Statement is published.<sup>12</sup> The appellant is concerned that reliance on sites without planning permission would involve the pre-determination of applications. However, a finding for the purposes of a 5YHLS assessment that a site was available now, offered a suitable location for development now, and with a realistic prospect that housing will be delivered on the site within five years, would in no way fetter the local planning authority's discretion in determining an application on its merits.

42. With these observations in mind, I turn next to consider the sites where policy compliance was disputed by the parties, which were discussed at a round-table session of the Inquiry.<sup>13</sup>
43. For Avon Way House (CBC 152 units/appellant 62 units) each unit would have an en suite bathroom and kitchenette, with a large kitchen on each floor shared by 12 units. A large communal kitchen would not be necessary if the units provided all the facilities that would be required by students. The available evidence does not demonstrate that the units would fully function as an independent dwelling. I prefer the appellant's evidence and find that this site should only contribute 62 units towards the 5YHLS assessment.
44. The Land north of Magdalen Street site (60/0) is the subject of an application to increase the number of dwellings from that permitted by the extant hybrid permission. There does not appear to be any infrastructure or ownership constraints. I am satisfied that CBC has submitted clear evidence that the site is available, in a suitable location, and achievable within five years. There is also sufficient evidence to demonstrate that the site at Land east of Hawkins Road (113/0) meets the *Framework* definition of 'deliverable'.
45. There is evidence that the development of the University of Essex site (500/0) will be achievable with a realistic prospect that dwellings that make a contribution to the supply will be delivered on the site within five years. But it is not clear what the appropriate conversion rate would be for student accommodation. In the absence of more details it is not possible to determine the likely precise contribution from this development. For the purposes of this 5YHLS assessment I have therefore applied a range from 0-500 units.
46. On the evidence adduced, I do not consider that the following sites satisfy the *Framework* definition of 'deliverable'; Wyvern Farm Phase 2 (100/0), Garrison Development K1 (26/0), Military Road (12/0), Creffield Road (10/0), Chitts Hill (100/0), Mill Road/Northern Gateway (150/0), Gosbecks Phase 2 (150/0) and Eight Ash Green (100/0). The appellant has some reservations about CBC's windfall allowance, but on the available evidence I am satisfied that this is a reasonable estimate.
47. It is not possible to be precise about the likely shortfall, but from the information currently available it would appear to be between 400 and 900 dwellings, depending upon the contribution from the University of Essex site. Taking all the above into account, I find that CBC cannot demonstrate a five-year supply of deliverable housing sites, and that the shortfall is significant. The appeal scheme would make an important contribution to boosting housing supply in the Borough, and provision of 30% affordable housing would be particularly beneficial where there is a demonstrated need.<sup>14</sup>

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<sup>12</sup> ID7a paragraph 4.12.

<sup>13</sup> ID10 and ID12.

<sup>14</sup> CS Policy H4 seeks to secure 20% affordable housing. The 30% provision proposed would accord with the requirement in the eLP.

*Other matters*

48. There is local concern about the likely traffic impact of the proposal. However, I am satisfied that the technical evidence submitted indicates that with the imposition of appropriate planning conditions the scheme would not have an unacceptable adverse effect on highway safety.
49. I have taken into account the Transport Assessment and Travel Plan. Given the local services and facilities available in the village, and subject to the provision of appropriate pedestrian and cycle links, I do not consider that the proposed development would be an unsustainable location for up to 97 dwellings. The scheme would not result in an unacceptable reliance on the private car.
50. The construction of up to 97 dwellings would provide employment and so benefit the economy.<sup>15</sup> Future residents would also make a significant contribution to the local economy of the village.
51. The scheme would provide 1.35 ha of on-site open space, which would be beneficial for the village. The parties agree, and I concur, that in combination with other projects and plans, the appeal scheme could result in a likely significant effect upon a designated European site, but subject to on-site mitigation and a Natura 2000 financial contribution, I am satisfied that the proposal would not have an adverse effect on the integrity of any European site.<sup>16</sup>
52. The appellant considers that the proposal would provide an opportunity to secure a net gain in biodiversity. However, on-site provision for nature conservation would be primarily necessary mitigation, and at this outline stage it is not possible to quantify any net gain.<sup>17</sup> In the absence of measures which would secure nature conservation benefits, I find that the planning balance here should record that the development would, overall, have a neutral or marginal effect on biodiversity.
53. I have taken into account all other matters raised in evidence, but have found nothing to outweigh the main considerations that lead to my conclusion.

*Planning balance and policy*

54. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The appellant accepts that the proposed development does not accord with the development plan. However, the weight to be given to this conflict is affected by the consistency of relevant policies with the *Framework*.
55. Policy SD1 of the CS contains some provisions which are generally consistent with the *Framework*, but the housing requirement, which forms the basis for the housing delivery strategy, is outdated. CS Policy ENV1 is a dominant policy here because it deals with unallocated land outside the settlement boundary. Its provisions concerning the protection and enhancement of the countryside and strict control of development go beyond the balanced approach set out in the *Framework*. This balance requires decisions to contribute to and enhance

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<sup>15</sup> The appellant states that construction spend of £9.5 million would produce 82 FTE over a three-year build period and an additional 87 FTE in indirect jobs.

<sup>16</sup> SoCG2.

<sup>17</sup> SoCG1 states that new planting could assist in delivering an overall enhancement in the arboricultural resource of the site, and that wooded belts and an off-site stream would be retained and protected, with some compensatory and additional planting proposed to provide a net gain of their habitats.



- the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, but in the overall context of the *Framework*, which includes the importance of a sufficient amount and variety of housing land coming forward where it is needed. Policy DP14 is also inconsistent with the *Framework's* provisions for balancing harm to heritage assets against benefits. I find that relevant policies here are out of date.
56. *Framework* paragraph 11(d) is engaged here by virtue of both the absence of a demonstrated 5YHLS and because the policies which are most important for determining the appeal are out-of-date. CBC argues that the proper application of *Framework* policies protecting designated heritage assets provides a clear reason for refusal in accordance with paragraph 11(d)i. I have given considerable importance and weight to the likely harm to the nearby listed buildings. However, in my judgement, the public benefits of the proposed development in terms of its contribution to housing provision, especially affordable housing, and to the local economy, along with a minor benefit in terms of open space provision, would be sufficient to outweigh the harm I have identified to heritage assets. The application of *Framework* policies concerning designated heritage assets does not, therefore, provide a clear reason for refusing the development proposed.
57. *Framework* paragraph 11(d)ii. applies here. This requires all the adverse impacts, including the harm to heritage assets, to be weighed against all the benefits of the proposal in a tilted balance. Given the size of the housing shortfall the contribution of up to 97 dwellings would be a significant benefit to local housing provision. The provision of 30% affordable housing in accordance with the eLP would be especially beneficial given the need. In this case these housing benefits attract significant weight. To this must be added the contribution of the scheme to the local economy and the minor benefit from additional open space available to the village. Any nature conservation enhancement on-site would be primarily required mitigation for the overall effects of the proposal on biodiversity and is at this stage unquantified. Potential wildlife benefits cannot be given much weight in the planning balance.
58. The appellant has understated the adverse impact to the character and appearance of the area, especially so regarding the harm that would result from increasing the sense of coalescence between West Bergholt village and Braiswick. The scheme would, for the reasons set out above, significantly reduce the apparent separation between these two settlements, impairing their separate identities and resulting in substantial harm to the local landscape. This is a consideration which weighs heavily against the proposal. Considerable importance and weight should be given to the harm I have identified to heritage assets in this balancing exercise. Taking all these considerations into account, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole.
59. The emerging WBNP is a material consideration in this case, although it cannot at this stage be given full weight. The proposal would be at odds with the aims of the WBNP concerning protection of the separate identity of the settlement. Furthermore, I have no reason to doubt that the allocated housing sites in the WBNP would be likely to come forward for development, and so the further addition of up to 97 dwellings from the appeal scheme would far exceed the minimum 120 dwellings set out in the WBNP as indicative of the appropriate scale of growth here. The WBNP has been examined and is to be the subject of

a referendum in the near future. Permitting a scheme that would be in direct conflict with what are key elements of the strategy underlying the emerging WBNP would undermine confidence in the planning process. This also weighs against the proposal and tips the balance even further against allowing the appeal.

60. The eLP cannot be regarded to be at an advanced stage given the issues involved in the further work to be undertaken before the resumption of the examination.<sup>18</sup> I find no justification for dismissing the appeal on the grounds of prematurity in respect of the eLP.

### **Conditions**

61. This is an outline application with all details except for access reserved. I have taken into account the suggested planning conditions and the obligations. However, I am not satisfied that if outline planning permission were to be granted there would be a reasonable prospect of designing a policy-compliant scheme for up to 97 dwellings on the appeal site.

### **Conclusion**

62. The proposal would conflict with the development plan. The planning balance which applies here falls significantly and demonstrably against the proposal. There are no material considerations which indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed, and outline planning permission refused.

*John Woolcock*  
Inspector

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<sup>18</sup> CD9.10.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Pickles  
of counsel

Instructed by Karen Syrett  
Place and Housing Manager CBC

He called

Catherine Bailey BSc (Hons) MPhil MA CMLI	Planning Policy Officer CBC
Simon Cairns BSc (Hons) Dip TP Dip BLDG CONS MRTPI IHBC	Development Manager CBC
Karen Syrett BA (Hons) TP MRTPI	Planning and Housing Manager CBC
Sandra Scott BSc (Hons) TP MRTPI	Place Strategy Manager CBC

### FOR THE APPELLANT:

John Barrett  
of counsel

Instructed by Christopher Ball

He called

Silke Gruner BHons Landscape Architecture CMLI	Associate Landscape Architect and Urban Designer CSA Environmental
Gail Stoten BA (Hons) MCIfA FSA	Heritage Director Pegasus Planning Group
Neil Tiley Assoc RTPI	Director Pegasus Group
Christopher Ball BSc (Joint Hons) MURP MTP MRTPI	Planning Director Gladman Developments Ltd

### INTERESTED PERSONS:

Bob Tyrell  
Brian Butcher

West Bergholt Parish Council  
West Bergholt Parish Council

### DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1	<i>St Modwen Developments Ltd and SSCLG Case</i> No:C1/2016/2001
Document 2	Opening on behalf of the appellant
Document 3	Notes for opening on behalf of CBC
Document 4	Unilateral planning obligation dated 17 June 2019
Document 5	Statement by West Bergholt Parish Council including Appendices A-D
Document 6	Petition for the rejection of Gladman Homes Appeal
Document 7a	Statement of Common Ground on Housing Land Supply dated 14 May 2019
	7b Floor plans student accommodation Avon Way
Document 8	<i>Jones and Howe v North Warwickshire BC</i> [2001] EWCA Civ 315
Document 9a	West Bergholt Parish Council's view 'Where the village starts'
	9b Views from Truman's Brewery into appeal site
	9c Letters from owners of WBNP sites A and B

Document	10	CBC's position on sites 1-13 and windfalls not agreed with attachments for Avon Way Magdalen Street Garrison K1 Creffield Road Military Road Wyvern Farm University of Essex Great Wigborough Northern Gateway/Mill Road Gosbecks Chitts Hill
Document	11a	Draft text for consultation National Planning Policy Framework
	11b	Government response July 2018
Document	12	Schedule on Deliverable Sites with attachments 1-8
Document	13	Revisions to the NPPG 09/05/19 – Neighbourhood Planning Guidance
Document	14	Email dated 14 May 2019 concerning time estimates for Creffield Rd and Military Rd sites
Document	15	Plan showing University site
Document	16	Colchester Northern Gateway Master Plan Vision Review
Document	17	CBC 2019 Housing Land Supply Annual Position Statement
Document	18	Note on Heritage and Archaeology assessments of the Neighbourhood Plan sites proposed for allocation
Document	19	Report for revised application for conversion of part of former Maltings to 13 flats
Document	20a	Appeal form APP/A1530/W/18/3209603
	20b	Appeal form APP/A1530/W/18/3211685
Document	21a	CIL Compliance Schedule
	21b	Email dated 17 May 2019 from Essex CC confirming education contribution
Document	22	Note from CBC about permitted development and windfalls
Document	23	Officer Report for application for 26 dwellings adjacent to Armoury Road
Document	24	Note on University of Essex 1250 bed spaces of student accommodation with email dated 9 May 2019 concerning pre-application request and preparation of a Transport Statement
Document	25	Note from Mr Tiley in response to additional evidence on pd rights
Document	26	Drawing 1879-F05 Proposed access arrangement with loss of current hedgerow illustrated
Document	27	Suggested planning conditions
Document	28a	Closing statement of West Bergholt Parish Council
	28b	Proposed amendments by WBPC to suggested conditions
Document	29	Closing submissions on behalf of CBC
Document	30	Closing on behalf of the appellant
Document	31	SoCG in relation to frontage hedgerow along Colchester Road dated 21 May 2019
Document	32a	West Bergholt Parish Council comment on ID31
	32b	West Bergholt Parish Council comment on section 106 obligation
	32c	West Bergholt Parish Council note on error on access Drawing 1879-F05
Document	33	Examination Report West Bergholt Neighbourhood Plan dated 26 May 2019
Document	34a	Frinton-on-Sea appeal decision APP/P1560/W/18/3196412
	34b	Comment on Frinton-on-Sea appeal by appellant dated 24 June 2019
Document	35	West Bergholt Parish Council comment on WBNP Examiner's Report

Document	36	CBC submissions on the implications of the WBNP Examiner's Report including Decision Statement
Document	37	Appellant's comments on WBNP Examiner's Report
Document	38	Note on revisions to NPPG July 2019 CBC submitted 8 August and 15 August email
Document	39a	Update note to reflect revisions to the PPG on the historic environment by appellant
	39b	Update note to reflect the revisions to the PPG by appellant

## PLANS

Plan	A	Site Location Plan Drawing Ref CSA/3447/107
Plan	B	Proposed Site Access Junction with Ghost Island Right Turn Lane Arrangement Drawing Ref 1879-F01
Plan	C	Proposed Access Arrangement Drawing Ref 1879-F04 Rev A

## CORE DOCUMENTS

CD1	Application Documents	
	1.01	Application Covering Letter, Application Form and Certificates
	1.02	Location Plan
	1.03	Development Framework Plan
	1.04	Planning Statement
	1.05	Design and Access Statement
	1.06	Landscape and Visual Impact Assessment
	1.07	Transport Assessment
	1.08	Travel Plan
	1.09	Ecological Impact Assessment
	1.10	Arboricultural Assessment
	1.11	Flood Risk Assessment
	1.12	Phase 1 Environmental Report
	1.13	Air Quality Assessment
	1.14	Noise Assessment
	1.15	Heritage and Archaeological Statement
	1.16	Foul Drainage Analysis
	1.17	Utilities Appraisal
	1.18	Socio-Economic Sustainability Statement
	1.19	Statement of Community Involvement (SCI)
	1.20	Topographical Survey
	1.21	Health Impact Assessment
	1.22	Affordable Housing Statement
CD2	Additional & amended Reports submitted after validation	
	2.01	CSA Environmental's Landscape Rebuttal (25/01/2018)
	2.02	Geophysical Survey Report (01/03/2018)
	2.03	Zone of Theoretical Visibility Study (16/05/2018)
CD3	Correspondence with Local Planning Authority	
	3.01	GDL Chasing update on application

	3.02	Extension of Time
	3.03	GDL Update letter (27/6/18)
	3.04	SuD's email chain
	3.05	ZTV email chain
	3.06	GDL Update
	3.07	GDL requested update meeting to discuss Braiswick decision
	3.08	Education email chain
	3.09	GDL respond to Landscape officer's comments
	3.10	GDL confirmation of Noise mitigation
	3.11	CBC confirmation Trail Trenching to take place post determination
	3.12	Application Receipt: Form 5 Collect proposal PP-06552009v1
	3.13	Pre App correspondence
	3.14	Pre App - Case Officer comments
	3.15	Pre App - Landscape comments
	3.16	Pre App - Archaeology comments
	3.17	Pre App - Spatial policy comments
	3.18	GDL forward Public consultation leaflet to CBC
CD4	Consultation Responses	
	4.01	Contamination Land Officer - 5.12.17
	4.02	CBC Archaeologist - 7.12.17
	4.03	Natural England - 7.12.17
	4.04	Environment Agency - 8.12.17
	4.05	Environmental Protection: Air Quality & Noise - 18.12.17
	4.06	Anglian Water - 8.1.18
	4.07	Essex CC (Education) - 30.1.18
	4.08	West Bergholt PC - 31.1.18
	4.09	Essex CC (Education) Update - 1.5.18
	4.10	Essex CC SuDs - 14.5.18
	4.11	Landscape - 22.5.18
	4.12	CBC Policy - 24.5.18
	4.13	Archaeology - 16.3.18
CD5	Validation, Committee Report and Decision Notice	
	5.1	Validation Letter
CD6	Additional Consultation Responses	
CD7	Post Appeal Correspondence	
CD8	Development Plan	
	8.01	Colchester Core Strategy 2008, updated 2014
	8.02	Development Policies DPD 2010, updated 2014
	8.03	Site Allocations DPD 2010
	8.04	West Bergholt Inset Map (2010)
	8.05	Colchester Core Strategy 2008 - Inspector's Report (October 2008)

	8.06	Colchester Core Strategy 2008 - Focussed Review Inspector's Report (May 2014)
CD9	Emerging Development Plan	
	9.01	Publication Draft of the Colchester Borough Local Plan 2017-2033
	9.02	Emerging Policies Map - West Bergholt
	9.03	Inspector's Section 1 Supplementary Post Hearing Letter to NEAs (8th June 2018)
	9.04	Inspector's Section 1 Housing Requirement Letter to NEAs (27 June 2018)
	9.05	NEAs Letter to Inspector (19 October 2018)
	9.06	Inspector's Section 1 Response to NEAs (21 November 2018)
	9.07	NEAs Clarification & Timetable letter to Inspector (30 November 2018)
	9.08	Inspector's response to NEAs - Pausing the Examination (10 December 2018)
	9.09	Emerging Colchester Local Plan - Draft West Bergholt Inset Map
	9.10	Inspector's letter to the NEAs on 2 August 2018 clarifying his interpretation of the three Options
	9.11	West Bergholt Neighbourhood Plan Final Submission Draft Dec 18 (Regulation 16)
	9.12	West Bergholt Neighbourhood Plan Consultation Statement V2
	9.13	Appendix 1 Map PP13/1 Settlement Boundary
	9.14	Appendix 1 Map PP13/2 Proposed Development Allocations
	9.15	Appendix 1 Map PP22 Coalescence
	9.16	Appendix 2 Consultation Report on Surveys carried out at key stages of WBNP
	9.17	Appendix 2 West Bergholt Village Design Statement 2011
	9.18	Summary and response to WBNP Regulation 16 Consultation
	9.19	West Bergholt Neighbourhood Plan Basic Conditions Statement December 2018
	9.20	Representation Received to DM16 publication draft Colchester Local Plan 2017-2033
CD10	Evidence Base	
	10.01	CBC Landscape Character Assessment
	10.02	Colchester Historic Characterisation Report 2009
	10.03	Landscape Capacity of Settlement Fringes (Report and Figures)
	10.04	Review of Countryside Conservation Areas Final Report and Figs 2005
	10.05	CBC Five-Year Housing Land Supply Statement (July 2018)
CD11	Relevant Appeal Decisions	

	11.01	Land on east side of Green Road, Woolpit, Suffolk
	11.02	Land at Pulley Lane, Newland Road and Primslan Way
	11.03	Land south of Greenhill Road, Coalville
	11.04	Land off Bakers Lane, Braiswick
	11.05	Land to the south of Bromley Road, Ardleigh
	11.06	Land between Iron Acton Way and North Road, Engine Common
	11.07	Land south of Filands, Malmesbury
	11.08	Entech House, London Road, Woolmer Green
	11.09	Land off Langaller Lane, Creech St Michael
	11.10	Land to the rear of the Old Red Lion, High Street, Great Missenden
	11.11	Land off Luton Road, Offley, Hitchin
	11.12	Land at Melton Road, Rearsby, Leicestershire
	11.13	Land off Colchester Road, Bures
	11.14	Virley Cottage, Colchester Road, Wakes Colne
CD12	Relevant Judgments	
	12.01	Wainhomes (South West) Holdings Limited vs the Secretary of State [2013] EWHC 597 (Admin)
	12.02	East Northamptonshire District Council v SSCLG (2015) EWCA Civ 137
	12.03	Jones v Mordue Anor (2015) EWCA Civ 1243
	12.04	Catesby Estates Ltd v. Steer, EWCA Civ 1697, 2018
	12.05	EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council
	12.06	South Lakeland District Council Appellants v Secretary of State for the Environment and Another Respondents, [1992] 2 A.C. 14
	12.07	EWHC 1895, R (Forge Field Society, Barraud and Rees) v. Sevenoaks DC, West Kent Housing Association and Viscount De L'Isle
	12.08	Crane v SSCLG [2015] EWHC 425 (Admin)
	12.09	Whitby v Secretaries of State for Transport and Communities
	12.10	Local Government and Network Rail Infrastructure Limited [2016] EWCA Civ 444
CD13	Other	
	13.01	Pre-application advice received from Colchester BC (15/11/2017)
	13.02	Appellant's letter to Case Officer (27/06/2018)
	13.03	Appellant's submission to the West Bergholt Neighbourhood Plan Reg 14 consultation
	13.04	PPG 'Conserving and enhancing the historic environment'
	13.05	Historic England, 2015, Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment.



	13.06	Historic England, 2017, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets
	13.07	English Heritage 2008 Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment
	13.08	Appellant's submission to the West Bergholt Neighbourhood Plan Reg 16 consultation
	13.09	BLANK
	13.10	Appellant email response to the Case Officer (11/07/2018)
	13.11	Appellant letter to the Case Officer (24/07/2018)
	13.12	Essex CC Highways - Email (14 August 2018)
	13.13	Essex CC Highways - Consultee response (17 September 2018)
	13.14	BLANK
	13.15	Appellant's representations on Regulation 19 version of the emerging Colchester Local Plan

**Appendix 5: Little Sparrows appeal decision 3265861**



## Appeal Decision

Inquiry Held on 27-30 April, 4-7, 11 and 12 May 2021

Site visit made on 10 May 2021

**by Harold Stephens BA MPhil Dip TP MRTPI FRSA**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

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**Appeal Ref: APP/Q3115/W/20/3265861**

**Little Sparrows, Sonning Common, Oxfordshire RG4 9NY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Senior Living (Sonning Common) Limited and Investfront Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P19/S4576/O, dated 12 December 2019, was refused by notice dated 30 June 2020.
  - The development proposed is a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas.
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### Decision

1. The appeal is allowed and planning permission is granted for a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas at Little Sparrows, Sonning Common, in accordance with the terms of the application, Ref P19/S4576/O, dated 12 December 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matters

2. At the Inquiry an application for a partial award of costs was made by South Oxfordshire District Council (the Council) against the Appellant. This is the subject of a separate Decision.
3. The appeal follows the refusal of the Council to grant planning permission to a hybrid planning application for development at Blounts Court Road, Sonning Common. The planning application was determined under delegated powers

on 30 June 2020 and there were seven reasons for refusal (RfR) set out in the decision notice.<sup>1</sup>

4. The application was supported by a number of plans, reports, and technical information. A full list of the plans on which the appeal is to be determined is set out at Appendix 4 of SoCG 4 Planning<sup>2</sup> which was agreed by the main parties. A full list of all documents forming part of the consideration of this appeal is set out at Appendix 3 of SoCG 4 which was agreed by the parties.<sup>3</sup>
5. I held a Case Management Conference (CMC) on 4 March 2021. At the CMC the main issues were identified, how the evidence would be dealt with at the Inquiry and timings. In the weeks following the CMC the main parties continued discussions on the appeal to ensure that matters of dispute were clear and that all matters of agreement were documented in either Statements of Common Ground or in draft Planning Conditions such that time on these matters was minimised at the Inquiry. The following Statements of Common Ground were submitted: SoCG 1 Landscape; SoCG 2 Transport; SoCG 3 Viability; SoCG 4 Planning and SoCG 5 Five Year Land Supply.
6. At the Inquiry a Planning Obligation was submitted.<sup>4</sup> The Planning Obligation is made by an Agreement between Investfront Limited, Lloyds Bank PLC, Senior Living (Sonning Common) Limited, South Oxfordshire District Council and Oxfordshire County Council under s106 of the TCPA 1990. The Planning Obligation secures, amongst other matters, an off-site financial contribution in lieu of on-site affordable housing provision of £7,510,350. The s106 Agreement is signed and dated 26 May 2021 and is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement<sup>5</sup> and an Addendum to the CIL Statement<sup>6</sup> were also submitted in support of the Planning Obligation. I return to the Planning Obligation later in this decision.
7. In relation to RfR7 (affordable housing), following discussions on viability, the Appellant reached agreement with the Council on the payment of an off-site financial contribution towards affordable housing that is secured through a s106 Agreement. Therefore, it is agreed that having regard to development viability, the appeal proposal would provide an adequate level of affordable housing provision and this matter is no longer in dispute.
8. The application was screened for Environmental Impact Assessment (EIA) prior to submission of the application and the Council determined that EIA was not required on 6 November 2019. I agree with the negative screening that was undertaken by the Council.

## **Main Issues**

9. In the light of the above I consider the main issues are:

(i) *Whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;*

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<sup>1</sup> See Appendix A in CD H.1

<sup>2</sup> CD H.5

<sup>3</sup> Ibid

<sup>4</sup> INQ APP11

<sup>5</sup> INQ LPA7

<sup>6</sup> INQ LPA8

- (ii) *The impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common;*
- (iii) *The effect of the design of the proposed development on the character and appearance of the village;*
- (iv) *Whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.*
- (v) *Whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB.*

## **Reasons**

### *Planning Policy context*

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this appeal, the development plan comprises the following documents:
  - The South Oxfordshire Local Plan 2035 (Adopted 2020) (SOLP); and
  - The Sonning Common Neighbourhood Plan (2016) (SCNP).
11. The determination of the planning application, the subject of this appeal, took place against the background of a different development plan framework to that now in place. Although the SOLP has been subsequently adopted, the SCNP was based upon the Core Strategy which has been withdrawn, including the out of date housing requirements derived from the old Regional Strategy, significantly reducing the weight that can be afforded to it.
12. The development plan policies that are relevant to this appeal are agreed by the main parties and are set out in SoCG 4<sup>7</sup> and INQ LPA6 provides an agreed schedule of the replacement policies for those cited in the decision notice.
13. The SCNP is currently under review. An initial public consultation was held between 29 February - 23 March 2020 but the Plan has not at this stage progressed further and there is as yet no agreed timetable. No weight can be given to that review.
14. SoCG 4 sets out the sections of the NPPF which are relevant in this case.<sup>8</sup> It also sets out a list of Supplementary Planning Documents and Guidance<sup>9</sup> which should be considered in this appeal and specific parts of the National Planning Practice Guidance (PPG)<sup>10</sup> which are considered relevant.
15. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). The Chilterns AONB is a 'valued landscape' in respect of paragraph 170 of the NPPF. AONBs, along with National Parks and the Broads, benefit from the highest status of protection in relation to conserving and

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<sup>7</sup> Paragraph 3.3

<sup>8</sup> Paragraph 3.5

<sup>9</sup> Paragraph 3.6

<sup>10</sup> Paragraph 3.7

enhancing landscape and scenic beauty. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) places a duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB. Paragraph 172 of the NPPF requires “great weight” to be given to those matters in decision making. It is common ground that the appeal proposal involves major development within the AONB and as such should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

16. Paragraph 172 of the NPPF requires particular consideration to be given to:  
(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and (c) any detrimental effects on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. I deal with these matters under the main issues but at the outset it is important to address whether or not the Council has a five year supply of housing.

#### *Five Year Housing Land Supply*

17. Paragraph 73 of the NPPF sets the requirement for Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old.
18. Since 2018, Oxfordshire only needed to demonstrate a three-year supply of housing. However, on 25 March 2021 the Minister of State for Housing confirmed that a five-year housing land supply was again required. The Council produced a Housing Land Supply Interim Statement (IHLS)<sup>11</sup> setting out their initial position for the period 1 April 2020 to the 1 April 2025 which asserts a 5.35-year supply. However, at the Inquiry, the Council conceded that the supply had fallen on its own case to 5.08 years. The five-year supply requirement is a minimum requirement and it needs to be deliverable. The definition of deliverable is contained in Annex 2 to the NPPF.
19. The most up-to-date position as regards the difference between the main parties is summarised in the agreed SoCG 5. There is no disagreement as to the housing need (900 dpa) or the time period for the assessment (2020/21 to 2024/25). The five-year requirement including an agreed shortfall of 922 dwellings and 5% buffer is 5,693. The difference between the main parties comes down to the Council’s position that there is a 5.08 year supply of deliverable housing sites and the Appellant’s assertion that it is instead a 4.21-year supply. Table 3 of SoCG 5 contains a schedule of 15 disputed sites. I have assessed these disputed sites in the context of the test of deliverability set out in Annex 2 of the NPPF. This specific guidance indicates which sites should be included within the five-year supply.
20. I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on

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<sup>11</sup> CD: K.32 South Oxfordshire Local Plan Housing Land Supply Interim Statement 2021

‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

*"In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions."*

This advice indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.
22. It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position. For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years.
23. Overall, I consider that the Appellant’s assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant’s approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times.
24. My conclusion on housing land supply is that there are a number of sites that together significantly reduce the Council’s five-year housing land supply. Many of the sites that the Council includes within the supply cannot be justified applying the current definition of deliverable. Following discussions between the main parties, deductions from the IHLS figure of 6,093 dwellings, have been identified and summarised at Table 1 of SoCG 5 and the impact which this has on the five year housing land supply is summarised at Table 2.

25. I consider that the Council's supply figure should be reduced to reflect the Appellant's position set out in Table 2 of SoCG 5. The Council's supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to **4.21** years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.

***First Issue - whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;***

*The Need for Extra Care*

26. The Council argues that the appeal proposal would be contrary to Policies H1 and H13 of the SOLP and due to its location in the AONB, outside but next to Sonning Common, brings into play Policies ENV1 and Policy H4 of the SOLP, and Policies ENV1, ENV2, H1, H2 and H2a of the SCNP. It is also claimed that the provision of 133 units of specialist housing for the elderly would be inconsistent with the proportionate growth in general housing planned for Sonning Common at both levels of the development plan.
27. Clearly the need for specialist accommodation for older people is recognised in the SOLP, which promotes the identification of suitable sites in the neighbourhood planning process and the inclusion of specialist accommodation on strategic sites,<sup>12</sup> and favours specialist housing for the elderly over conventional housing on unallocated sites.<sup>13</sup> Although extra care housing is referred to in the supporting text,<sup>14</sup> the SOLP does not prescribe particular levels of provision by type of accommodation, which allows flexibility in provision, adapting to what is an evolving sector. I note that no attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. No quantum for extra care accommodation is set out in the SOLP. Although Table 4f of the SOLP shows an outstanding requirement for 96 units over the plan period for Sonning Common it makes no reference to the needs arising from within existing households arising from their ageing.
28. Quantification of the need for open market extra care housing is not straightforward, in part because whether an owner-occupier moves to extra care housing is ultimately a matter of choice, in part because there is no prescribed or generally accepted methodology. The Government very clearly supports the identification and provision of extra care accommodation as a recognised form of specialist accommodation for the elderly.<sup>15</sup> Moreover, it is important to bear in mind that the NPPF definition<sup>16</sup> of 'older people' does not

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<sup>12</sup> See CD: C.4 Policy H13(2), (3)

<sup>13</sup> See CD: C.4 Policy H1(3)(ii)

<sup>14</sup> See CD: C.4 paragraph 4.70

<sup>15</sup> See paragraphs 59 and 61 of the NPPF

<sup>16</sup> See Annex 2



exclusively mean the very frail elderly rather it embraces a wide range of people in that category both in terms of a very wide age range and significant variation in issues surrounding matters like mobility and general health.

29. Within the PPG on 'Housing for older and disabled people' it states that:<sup>17</sup>

*"The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking"*

30. The Government plainly recognises that the need is 'critical' and the importance of 'choice' and addressing 'changing needs'. Offering greater choice means a greater range of options being offered to people in later life and that the range of options should at the very least include the categories the Government recognises in its guidance. This includes extra care. The PPG also advises what 'range of needs should be addressed'. It recognises the diverse range of needs that exists and states that:<sup>18</sup>

*"For plan-making purposes, strategic policy-making authorities will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people".*

31. Plainly, when compared with Government guidance, the development plan is left wanting in terms of addressing a need for extra care. There is no reference in Policy STRAT 1 to the PPG insofar as assessing the needs of older people. There is no reference in Policy STRAT 2 to the accommodation needs of those local residents who will make up more than a quarter of the total population of South Oxfordshire by 2035. Policy H13 in the SOLP expressly deals with specialist housing for older people. It covers all forms of specialist housing for older people, but it is completely generic as to provision. No attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. The needs of all older people are simply lumped together. Nor is there any engagement with the market constraints and viability considerations relating to specialist accommodation for older people evidenced by Mr Garside during the Inquiry.
32. Paragraph 3 of Policy H13 suggests that provision be made within strategic allocations. The strategic sites are mostly focused around Oxford or in the more northern part of the District. Only one such strategic site has planning permission – Wheatley Campus but no extra care is proposed. The Council want to see it on Ladygrove East. That is not a strategic allocation in the SOLP. But in any event the Council is seeking affordable extra care there and the developer (Bloor Homes) is resisting it. The Council conceded that the strategic sites do not really feature at all in its five-year housing land supply calculations. The Council also accepted that landowners and developers would achieve a better return if they build market houses.

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<sup>17</sup> See paragraph 001 Reference ID: 63-001-20190626

<sup>18</sup> See paragraph 003 Reference ID: 63-003-20190626

33. Reference is made to encouraging provision through the neighbourhood planning process.<sup>19</sup> However, without a more definitive district wide requirement it would be difficult for neighbourhood plan groups to assess the levels of provision required, which will vary; and neighbourhood plan groups generally lack the expertise to fully appreciate the requirements and the different housing models available and their viability and practicality.<sup>20</sup>
34. The Appellant's primary evidence on need is given by Mr Appleton, the principal author of two key publications in this area: *More Choice: Greater Voice (2008)*<sup>21</sup> and *Housing in Later Life (2012)*.<sup>22</sup> Both of these publications seek to address how best to quantify the need for specialist housing for the elderly. They advocate a method which is based on the population and other nationally available data to look at the characteristics of an LPA area.
35. The PPG highlights the need to begin with the age profile of the population. I note that the proportions of people aged 65 and over within South Oxfordshire District currently sits above the national average.<sup>23</sup> Furthermore, there is presently a population of 15,000 in South Oxfordshire District, who are aged 75 years or older which is forecast to increase to 21,100 by 2035.<sup>24</sup>
36. In terms of care needs, 4,019 people in this population have difficulty managing at least one mobility activity on their own at present, set to rise to 6,046 by 2035.<sup>25</sup> They are overwhelmingly owner occupiers, with 81.23% of people aged 75-84 and 75.25% aged 85 and over owning their own home compared with 13.74% and 17.42% respectively Council or social rented.<sup>26</sup> Importantly, South Oxfordshire sits significantly above the national trend toward owner occupation as the dominant tenure for older people.
37. For the Appellant it is argued that there is a significant under-supply of retirement housing for leasehold sale to respond to the levels of owner-occupation among older people in the District.<sup>27</sup> There is a total of approximately 1,641 units of specialist accommodation for older people. However, there is a very marked disparity in the availability of specialised housing for older homeowners compared with the supply available to older people in other tenures.<sup>28</sup> The current rate of provision favours those in tenures other than home ownership with nearly four times as many units available to them in sheltered, retirement and extra care housing than are currently available for their peers who are homeowners.<sup>29</sup> At present, it is submitted that there are 120 units of affordable extra care housing and 113 units of market extra care housing.<sup>30</sup>
38. Mr Appleton sets out a provision rate for private extra care of 30 per 1,000 of the 75 and over population in the District based on a total provision of 45 extra care units per 1,000 (4.5%) across both the affordable and private sectors, but split on a ratio of one third for social rented and two thirds for

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<sup>19</sup> See CD: C.4 Policy H13 paragraph 2

<sup>20</sup> POE of Simon James paragraph 5.1.11

<sup>21</sup> CD: K.44

<sup>22</sup> CD: K.45

<sup>23</sup> See APP 2.3 Nigel Appleton Section 6

<sup>24</sup> See APP 2.3 Nigel Appleton Table One

<sup>25</sup> See APP 2.3 Nigel Appleton Table Five

<sup>26</sup> See APP 2.3 Nigel Appleton Table Twelve

<sup>27</sup> See APP 2.3 Nigel Appleton paragraph 9.2

<sup>28</sup> See APP 2.3 Nigel Appleton Table Fourteen

<sup>29</sup> See APP 2.3 Nigel Appleton paragraphs 9.7-9.9

<sup>30</sup> See APP 2.3 Nigel Appleton Table Fourteen

sale. This takes into consideration the research in "*More Choice: Greater Voice*" and revisions in "*Housing in Later Life*". I note that the 45 units per 1,000 is to be divided as suggested in order to bring supply into closer alignment with tenure choice among older people.<sup>31</sup> That is 450 units now. Projecting forward, an indicative provision of 633 units of market extra care would be required by 2035.<sup>32</sup> The Council refers to the Oxfordshire's Market Position Statement<sup>33</sup> which assumes a lower need figure for extra care housing but the focus there appears to be on social rented extra care housing. The Council also suggests that the SHMA<sup>34</sup> evidence is to be preferred. However, I note that it does not identify figures for extra care, nor does it relate to the present PPG.<sup>35</sup> In my view, Mr Appleton's provision rate is preferred and the need for more private extra care is overwhelming.

39. At present even a very modest level of provision of 30 units per 1,000 in the 75 and over population seems unlikely in South Oxfordshire District, especially as the SOLP now requires affordable housing to be provided, when previously it was not required. No other extra care market proposals are coming forward. The Rectory Homes proposal at Thame, refused on appeal for not providing an affordable contribution has been resubmitted but the s106 Agreement is not signed. Nor is Rectory Homes Ltd a provider of care.
40. In my view, there is a strong case that Mr Appleton's 45 per 1,000 overall, with 30 per 1,000 to market extra care, should be far more ambitious given not only the true tenure split in the District but also what it could mean for the ability to contribute towards addressing the housing crisis. Mrs Smith conceded that the figure of 30 per 1,000 was hardly ambitious and, if anything, was underplaying the scale of the potential need.
41. Turning to supply, with only 113 units of market extra care units of extra care housing existing in South Oxfordshire and a current need of 450 units this leaves a shortfall of 337. As to the existing pipeline, Mr Appleton analysed the same at Figure Two of his Needs Report, which was updated at INQ APP12. The total 'pipeline' supply of extra care not already included in Mr Appleton's tabulation of current supply are the proposed 110 units in Didcot and Wallingford, and the 65 units proposed at Lower Shiplake. This gives a total gain of 175 units. However, both Wallingford and Didcot sites have been confirmed as affordable extra care. The Council did not dispute the 175 figure and Mrs Smith accepted that she did not know if the 110 units in Didcot and Wallingford would be affordable or market. I consider that only 65 units can reasonably be considered as pipeline.
42. The pipeline needs to be set against the current shortfall of 337 which still leaves 162 units even if Didcot and Wallingford are included and 272 if they are not. That is a substantial unmet need now which will only further climb and in respect of which there is nothing in the pipeline and no prospect of any strategic allocated site delivering in the five year housing land supply.
43. There is plainly a very limited supply of extra care housing for market sale (leasehold) in South Oxfordshire. Adding further concern, it is of note that

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<sup>31</sup> See APP 2.3 Nigel Appleton paragraph 11.6

<sup>32</sup> See APP 2.3 Nigel Appleton Table Seventeen

<sup>33</sup> See CD: K.27 Market Position Statement for Oxfordshire in relation to Care Provision and Extra Care Housing Supplement assumes a need for 25 units of extra care housing for every 1,000 of the population aged 75+ page 9

<sup>34</sup> See CD: 14 HOUS5 Oxfordshire Strategic Housing Market Assessment April 2014

<sup>35</sup> Ibid

from 2012 to date just 133 units have been delivered despite there being in the same period permissions for a net gain of 447 additional Care Home beds. This runs completely contrary to the policy set out in the Market Position Statement of reducing reliance on Care Home beds and increasing capacity in extra care. The case for more market extra care provision now is very clear. Furthermore, the need is set only to grow.

44. The Council sought to undermine the Appellant's need case with reference to earlier data from Housing LIN and the @SHOP tool. This on-line tool is highlighted in the PPG as a basis for calculating need. But the fact is it only provides a figure based on existing prevalence and then seeks to project that forward with a proportion increase based on the increase in the 75+ age group in the District. This is not a measure of need.
45. The Council provided a list of specialist accommodation for older people<sup>36</sup> most of which is not market extra care, but mostly affordable extra care. Oxfordshire County Council has two sites with market extra care, but those schemes are in Banbury and Witney and not in the District.<sup>37</sup> In short, the pipeline adds up to very little. I consider there is hardly any market extra care housing in the District. The stark fact is that choice is largely unavailable.

#### *Policy Compliance*

46. Plainly the proposed development would make a substantial contribution toward the provision of a more adequate level of provision for older homeowners looking for an environment in which their changing needs could be met. The fact that the need is proposed to be met at Sonning Common seems entirely appropriate. Sonning Common is one of just 12 larger villages where a need for extra care provision has been identified in the SCNP, and where there is the oldest 65 and over population in the County. The SCNP expresses support for a small scale development of extra care housing in Policy H2a but no site is allocated for such use. The Sonning Common Parish Council (SCPC) accepted that SCNP policies referred to in the RfR are out of date due to a lack of five year housing land supply. That includes Policies ENV1, ENV2 and H1, which is only expressed as a minimum.
47. Policy H13 (1) in the SOLP gives support to extra care on unallocated sites. This adds to the weight that can be given to the need case. Policy H13 is the key policy in respect of specialist accommodation for older people. Though the appeal site is not a strategic site, nor allocated in the SCNP, Policy H13 does not itself require it to be. I have already discussed the difficulties associated with any of the strategic sites coming forward with market extra care either within the five year housing land supply period or at all.
48. Policy H13 (1) is clear that encouragement will be given to developments in locations "with good access to public transport and local facilities." The Council accepted that public transport for staff on the site would be more likely to take the form of bus services and they would perhaps have no difficulty walking. For residents there is a choice and it depends on their mobility. I saw that most of the site is flat. It does have a gradual gradient to the west then a steeper gradient close to Widmore Lane. The presence of a hairpin in the proposed design is to deal with the gradient which requires a

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<sup>36</sup> See Nicola Smith's Appendix 1

<sup>37</sup> CD: K.27 page 5

longer path to accommodate people with disabilities. I note that a minibus service is proposed which would take residents to the local supermarket. With regard to other trips, for example to the post office or to other facilities, residents could walk or take the minibus. Importantly, the core building has all facilities centrally. Residents could cook in their premises and meals would be provided on site. There would also be a small convenience shop on site and staff would be on hand to not only care for but also to assist people. Garden maintenance would be provided and there would be a wellbeing centre to help people's health and fitness. Overall, the facilities would take care of a considerable amount of day-to-day needs. In my view all of this would comprise "good access to public transport and local facilities."

49. With regard to matters of principle I accept that Policies ENV1 and STRAT 1 (ix) of the SOLP affords protection to the AONB and in the case of major development, it will only be permitted in exceptional circumstances and where it can be demonstrated to be in the public interest. I give these matters detailed consideration in other issues. The proposal fully accords with Policy H1 3ii) of the SOLP. With regard to Policy H4 of the SOLP, although the timeframe for review of the SCNP does not run out until December 2021 that does not bring the SCNP back into date. Whilst the review of the SCNP has commenced, it is at its earliest stage and no weight can be given to it. I conclude on the first issue that the appeal proposal would conflict with some but would comply with other elements of the Council's strategy for the delivery of older persons accommodation throughout the district.

***Second issue - the impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common***

50. SoCG 1 Landscape has been agreed between the parties and addresses landscape and visual matters. The appeal site is within the Chilterns AONB which is a 'valued landscape' in respect of paragraph 170 of the NPPF. The Chilterns AONB Management Plan 2019-2024<sup>38</sup> defines the 'special qualities' of the AONB and the most relevant to the appeal site and its context are summarised at paragraph 3.5 of SoCG 1.
51. In essence, the Council, supported by the SCPC, the Chilterns Conservation Board and others, consider that the proposed development would create a prominent and incongruous intrusion into Sonning Common's valued rural setting, relate poorly to the village, and cause material harm to the landscape character of the AONB. It is also claimed that the proposal would not conserve or enhance the landscape and scenic beauty of the AONB and would fail to protect its special qualities.<sup>39</sup> The policy context at the time of the decision notice referenced policies in the South Oxfordshire Local Plan 2011 which is now superseded by the adopted policies in the SOLP.<sup>40</sup> Policies ENV1 and ENV2 of the SCNP are also relevant. I note the illustrative Masterplan,<sup>41</sup> the LVIA and the Landscape Appendix<sup>42</sup> submitted by the Appellant.

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<sup>38</sup> CD: F4 pages 10 and 11

<sup>39</sup> See RfR 2

<sup>40</sup> See LPA INQ6 which sets out the relevant SOLP policies including STRAT1 (ix), ENV1 and ENV5 and Design policies DES1, DES2, DES3 and DES5

<sup>41</sup> See Appendix 4.3.1 of James Atkin Drawing reference 1618\_L\_01\_01 Rev3

<sup>42</sup> CD: A.9 and CD A.10 Landscape and Visual Impact Assessment and Landscape Appendix

52. To address these points, it is necessary to understand what the special qualities of the Chilterns AONB are and the extent to which those special qualities relate to the appeal site and its context. From the evidence that is before me and from my site visit, I do not consider the appeal site or its local landscape context to be representative of the special qualities as set out in the Chilterns AONB Management Plan. Where the appeal site does exhibit some such qualities, they are generic. In all other respects, they are entirely absent.
53. Planning policy and statute give equal protection to all parts of the AONB. However, it would be unrealistic to expect the appeal site and its immediate context to share all or even most of these special qualities. It is important to have a balanced interpretation of how such special qualities relate. To that end, Mr Atkin's Table 1<sup>43</sup> summarises that relationship, drawing together judgements on the landscape and the extent to which the appeal site is characteristic, or otherwise, of the AONB. In summary, Mr Atkin's analysis demonstrates that the appeal site does not reflect the majority of the special qualities and, where there is a connection, the association is limited. It seems to me that the appeal site is more typical of an agricultural landscape that is commonplace around many settlement fringes. Plainly the appeal site and its local landscape context is less sensitive than other parts of the AONB.
54. The core characteristic of the appeal site and its context, and the most relevant of the special qualities to it, is the extensive mosaic of farmland with tree and woodland cover. However, this is probably the broadest and most generic of the special qualities acting as a 'catch all' for the extensive areas of farmland across the area. Other parts of the AONB are more distinct. The ancient woodland of Slade's Wood is located off site, outside of the AONB designation, though it does form part of its setting. As to extensive common land, this is not representative of the appeal site. In its local landscape context, Widmore Pond is designated as common land but is not an 'extensive' area contrasting with other parts of the AONB.
55. At my site visit I saw that the appeal site, being directly adjacent to the relatively modern settlement fringe of Sonning Common, detracts from any potential tranquillity. This is particularly so due to the neighbouring JMTC complex and associated car parking. It is common ground that the JMTC is 'institutional in scale'. In terms of ancient routes, there is no formal access to the appeal site. In the local landscape context, the closest rights of way are the public footpaths to the north-west and east both of which give access to the wider landscape to the north and east of Sonning Common where the characteristics of the AONB are more readily apparent.
56. The Council agreed that new development can be accommodated in the AONB and as a matter of principle can be an integral component. Indeed, the SCNP allocates development within its boundaries. I saw that the AONB in this location already contains a significant amount of built development. That contrasts significantly with the deep, rural area of countryside within the AONB some of which is located to the north east of the appeal site where the road turns east down the valley bottom heading to Henley-on-Thames. There, there is no settlement or village, no industrial buildings or surface car parks

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<sup>43</sup> See James Atkin's Appendix 4.1 pages 18-20

with 100 plus spaces. It is simply deep countryside with very limited urban development and is very attractive. That cannot be said about the appeal site.

57. Having considered how the special qualities of the AONB relate to the appeal site, I now consider the landscape character of it. The appeal site is partly located on an area of plateau between two valleys, within a landscape identified in the South Oxfordshire Landscape Character Assessment (2017)<sup>44</sup> as semi-enclosed dip slope, which in turn forms part of the broader Chilterns Plateau with Valleys Landscape Character Area (LCA10). The eastern part of the site is located above the 95m contour on the plateau area.<sup>45</sup> The southern and western parts of the site fall towards a shallow valley which contains neighbouring parts of Sonning Common. At a further distance to the north is a deeper valley which separates Sonning Common from Rotherfield Peppard.

58. The Landscape Assessment for the Local Plan 2033 for the semi enclosed dip slope LCT states:

*"...this part of the Chilterns dip slope has a surprisingly uniform character, despite its irregular pattern of plateaux and valleys and its mosaic of farmland and woodland. This complexity is a consistent and distinctive feature of the area, and the most obvious differences in landscape character are between the very intimate, enclosed wooded landscapes and those which have a more open structure and character."*

It is clear to me that there is a difference between the parts of the AONB in the dry valley and those on the plateaus.

59. What is distinctive about this part of the landscape and relevant to the landscape of the appeal site and its context is the uniformity across a larger scale area of the landscape characterised by a complex mosaic of farmland and woodland. It is this complex mosaic at the larger scale which is more closely aligned with the special qualities of the Chilterns AONB and not the appeal site itself. It isn't the loss of a part of this mosaic that is important, which in the case of the appeal site would be a relatively small agricultural piece of the mosaic; rather, it is the implications for the wider mosaic and whether that would be disrupted in terms of a reduction of its scale, or would result in the creation of a disbalance between particular parts of the mosaic.

60. SCPC referred to the Sonning Common Character Assessment and Design Statement 2013.<sup>46</sup> I accept that this formed part of the evidence base to the SCNP, but it appears to still be in draft form only many years later. Its main purpose was to provide comparative comment on sites identified for potential future development limited to only the shortlisted sites. It does not address the wider appeal site. I have also taken into account the Oxfordshire Historic Landscape Characterisation Project<sup>47</sup> and the various landscape capacity assessments cited by Mr Jeffcock that have looked at the appeal site.

61. As I perceive it, Sonning Common is very much part of the local landscape context, just as much as the adjacent agricultural land and the wider mosaic of the AONB. The appeal site performs a role of a brief transition and gateway between the suburban and rural environments. In its local context, the settlement fringes of Sonning Common, including the residential areas across the valley and on the plateau to the west and south are influential in terms of

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<sup>44</sup> CD: D.23, section 15.

<sup>45</sup> See John Jeffcock's Appendix 1, Figs 2, 7, 8

<sup>46</sup> CD: C.7

<sup>47</sup> CD: I.5

the local landscape character, as is the prominent built form of the JMTC to the north. Adjacent to the appeal site is the JMTC car park which further erodes the sense of more 'remote' or rural countryside. To the south the settlement extends some distance along Peppard Road and there is a clear experience of entering the suburban character of the village, long before the appeal site is perceptible. There are specific locations where the settlement edge is less apparent notably along Blounts Court Road from the east and in this direction the more rural aspect of the site is more dominant.

62. The Council's LCA draws a very clear distinction between the character of development on the plateau and the character found in the dry valleys.<sup>48</sup> The landscape strategy set out there suggests that development on the plateau is in keeping whereas into the valley is a negative thing. It seems clear to me that Sonning Common has grown up developmentally on two plateaus either side of the dry valley.
63. It is common ground that, like any development anywhere, physical impacts on the landscape fabric will be limited to those which occur within the appeal site itself. However, landscape character impacts and the consequent effects would not be limited to the appeal site. It is agreed that there are not likely to be significant effects on the wider landscape or visual effects further afield than a localised area set out in the SoCG 1.<sup>49</sup>
64. Although there would be localised losses of vegetation due to the access off Blounts Court Road and the proposed pedestrian connection to Widmore Lane, the proposed development would largely involve the loss of open agricultural land and the construction in its place the built development of the appeal proposals. On the most elevated part of the site, there would be a substantial, cruciform core building, 2.5 storeys (about 11.2m)<sup>50</sup> in height, with a footprint of approximately 3,900m<sup>2</sup>, and four apartment blocks with ridge heights of between 10.3m and 11.2m, the largest two of which would have footprints of about 550m<sup>2</sup> each. However, the recent application submitted for the JMTC shows that the present buildings making up the complex are between 8.7m and 10.6m depending on ground levels with block 4 up to nearly 11m in height. I accept that there would be a physical loss to the mosaic, but in character terms, the appeal site is not essential to its character and the built elements of the scheme would be consistent with the settlement fringe.
65. There would be potential impacts arising from the 15m woodland belt along the southern and eastern edges of the appeal site. This would be beneficial in terms of moderating the effect of the development. It would also provide a green infrastructure link between Slade's Wood and the green infrastructure network in the surrounding landscape. This would have a positive impact on the 'wooded' aspects of the mosaic. The woodland belt would create a further 'layer' in the landscape which would physically and visually contain the site.
66. The overall consequence of this is that there will be a highly localised impact on the 'mosaic' in terms of agricultural land use, but not to a point where, given the scale of what makes this distinct, the mosaic is disrupted or undermined. At a local and wider scale, this would not constitute 'harm' to the Chilterns AONB. Only a small part of the mosaic would be impacted, and this

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<sup>48</sup> CD: D18 page 572 which deals with Sonning Common at 9.10

<sup>49</sup> CD: H.02 SoCG 1 Landscape paragraphs 3.21-3.22

<sup>50</sup> See John Jeffcock's POE paragraph 4.3.3.



would not alter the overall character of the wider mosaic or the LCT. Plainly such limited impacts would not cause 'material harm' to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. The appeal site would, in being development on a plateau, be in keeping with the landscape character.

67. I accept that the appeal site and the immediate landscape context within the Chilterns AONB form part of a valued landscape<sup>51</sup> this is primarily on the basis of the landscape designation and related less to the demonstrable physical attributes of the appeal site.<sup>52</sup> Although the Appellant's LVIA determines landscape value to be 'high' with some localised variations, I consider that the appeal site in its local landscape context is of 'medium to high' value taking into consideration that it is in the AONB but also the site's own merits. There is, frankly, a considerable difference between this area and more typical, characteristic parts of the AONB.
68. As to landscape susceptibility, this can be appropriately described as 'low to medium' in the appeal site's local landscape. This is a medium scale enclosure that has capacity to accommodate some form of development across the majority of the site. The settlement of Sonning Common provides some reference and context for development and the presence of the JMTC in this part of the AONB reduces landscape susceptibility to new development. The landscape sensitivity is appropriately judged as 'medium' with the AONB designation having a high sensitivity. Mr Jeffcock considers that the appeal site has a high landscape value and high sensitivity to change. However, his assessment is overstated. In my view the appeal site has a medium to high value, and low to medium susceptibility with medium sensitivity overall.
69. The appeal site is located on the very fringe of the AONB, and Sonning Common is excluded from it. This is not a core part of the Chilterns AONB and its special qualities are largely absent. Of relevance is the mosaic of wooded farmland that characterises much of the plateau and dip slope. The appeal proposals would result in a change to this characteristic at a very localised level, with the loss of an open agricultural field to built development but balanced with the introduction of further woodland and green infrastructure. This would not disrupt, or unduly influence, the mosaic. I agree that the 'slight to moderate adverse' effect on landscape character would not represent a significant impact in respect of the Chilterns AONB.<sup>53</sup>
70. As for visual effects, these would differ depending on the viewer and the viewpoint. The landscape witnesses provided a number of example viewpoints and I carried out an extensive site visit with the parties to see these and other views for myself. I have also taken into account the ZTV<sup>54</sup> and LVIA information provided by the Appellant.
71. SoCG 1 Landscape records that the physical impacts of the proposed development would be limited to the appeal site, and that consequent impacts on landscape character would be limited to a relatively small number of areas including viewpoints to the south (the route of the B481 Peppard Road); to the south west (Sonning Common village e.g. Grove Road); to the north

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<sup>51</sup> Within the meaning of paragraph 170(a) of the NPPF

<sup>52</sup> See James Atkin's Table 2 POE pages 27-28

<sup>53</sup> See James Atkin's POE page 33 paragraph 6.48

<sup>54</sup> Zone of theoretical visibility

(footpath 331/16/20) close to the southern edge of Rotherfield Peppard); to the west (the settlement edge of Sonning Common) and to the east and north east (the routes of public right of way 350/11/20 and 350/10/10). Outside of these areas it was agreed there would not likely be any significant effects on the wider landscape or on visual receptors further afield.<sup>55</sup>

72. In terms of visual amenity, the evidence demonstrates that potential views of the appeal proposals would be limited to a small envelope, largely related to the immediate context of the appeal site and not extending further into the Chilterns AONB landscape. This limited visibility reduces the perception of change to landscape character. The ZTV demonstrates that, aside from some locations very close to, or immediately adjacent to the appeal site, potential visibility from the wider landscape (and AONB) is limited. In my view this accords with the landscape character guidance which refers to the 'semi-enclosed dip slope' as having a 'strong structure of woods and hedgerows' which provide 'visual containment and results in moderate to low intervisibility'. This strong structure of woods and hedgerows provides containment in the landscape.
73. What is clear, is that only a small number of nearby locations would have direct views of the appeal proposals. This includes a very short section of Peppard Road, short sections of public footpaths to the east (350/11/20 and 350/11/40) and the approach to the settlement along Blounts Court Road. In each of these instances, impacts could be moderated by appropriate landscape works and particularly the inclusion of the woodland belt. The contained nature of the appeal site and the limited extent of landscape effects mean that the overall character of the semi-enclosed dip slope LCT would not be fundamentally altered and the effects on landscape character at this scale would not be significant. Plainly, the appeal proposals would not give rise to significant visual effects overall; either in the local landscape context of Sonning Common or in respect of the scenic quality of the Chilterns AONB.
74. The most relevant assessment is that of 'Year 15' once the tree planting proposals have had the opportunity to thrive. Those proposals are a specific and positive part of the proposed development which would deliver additional environmental functions to that of visual screening. It is common ground that the planting would be significant. It is reasonable to expect that the growth of native species would reach good heights in the medium term and mature heights that are comparable to the existing trees and woodland in the area. There would be glimpses of the built development through the perimeter planting. However, it would provide a substantial screen in the long term and help to integrate the appeal proposals into the landscape particularly when viewed from the east and from the south.
75. For the above reasons I conclude on this issue that the proposed development would have some localised landscape and visual effects, but these would not result in unacceptable impacts on the AONB or the landscape setting of Sonning Common. As such, in respect of this issue I consider the appeal proposal would conflict with Policies STRAT 1 (ix) and ENV1 of the SOLP together with Policy ENV1 of the SCNP. However, for the reasons set out above those adverse effects would be limited. I shall consider this further in the planning balance.

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<sup>55</sup> CD: H.2 SoCG 1 Landscape paragraphs 3.21-3.22

**Third Issue - the effect of the design of the proposed development on the character and appearance of the village**

76. The Council's concerns about the design of the proposed development are based on RfR4 and are supported by the SCPC. In summary these are: (i) the development would not integrate with the village by reason of scale, massing, layout and character; (ii) it would result in a dominant and intrusive form of development having a significant urbanising effect on the settlement edge; and (iii) the layout and design would result in poor amenity for residents by virtue of the lack of access to private amenity space and publicly accessible green space, an overdominance of car parking and limited space for tree planting. I address each of these concerns in turn.
77. The main parties agreed a section on design within SoCG 4 Planning.<sup>56</sup> Amongst other matters it is agreed that: the detailed layout (Phase 1) is the proposed layout for that part of the site; the proposed masterplan is provided to demonstrate how the development could be laid out to respond to the physical and technical constraints and opportunities of the site; the layout for Phase 2 will be subject to future reserved matters (appearance, landscaping, layout and scale) and remain in the Council's control; the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed; and the extent of existing tree retention and the selection of proposed plant species, grass, hedge and shrub planting is agreed.
78. It is also noteworthy that policies within RfR4 relate in the main to the previous South Oxfordshire Core Strategy 2012 and South Oxfordshire Local Plan 2011. The corresponding policies are set out at INQ LPA6. Policy D1 of the SCNP 2016, the South Oxfordshire Design Guide<sup>57</sup> and the NPPF (in particular paragraphs 127, 130 and 131) also apply.
79. I turn first to integration with the village in terms of scale, massing, layout and character. The Council and the SCPC are concerned that the scale and layout of the proposed development are being driven by operational requirements and the business model of the Appellant. Reference is made to the large apartment blocks and the village core which it is claimed are at odds with the more modest scale of development in Sonning Common. However, I consider it is important at the outset to understand the existing context and character of Sonning Common. At my site visit I saw that Sonning Common is not the archetypal Chilterns Village, and it clearly lies outside the AONB. It was developed in a more planned manner with the character being 'plotlands' and later infill housing termed 'estates'.
80. The local vernacular consists of a mix of building types, but the immediate neighbouring existing development is comprised of the estates typology - Churchill Crescent, Pond End Road and the northern edge of Widmore Lane. The existing context has a range of design components that help create its character. In particular, I note that Sonning Common: is primarily 2 storeys but with elements of 2.5 storeys; is primarily domestic in scale; has predominantly traditional architecture; is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape; and has occasional larger built form such as the school or JMTC. Furthermore,

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<sup>56</sup> CD: H.5 SoCG 4 Planning Section 6

<sup>57</sup> CD: C.8

Sonning Common has: brick walls; painted rendering on walls; clay roof tiles; chimneys; and a mix of gables, hipped roofs and porches.

81. The Design and Access Statement (DAS)<sup>58</sup> describes the appeal proposals as domestic in scale and character. I accept that the scheme is largely domestic in form and with detailing consistent with residential houses in the area.
82. In terms of *height*, the proposed buildings would reflect the heights of buildings within Sonning Common. Both plotlands and estate buildings include two storey buildings and two storey buildings with roof rooms. The proposed apartment buildings would be two storeys with the Village Core rising to two and a half storeys in places. The Village Core has accommodation in the roof space to keep the overall ridge height low. The height to the ridgeline from ground level of the Village Core Centre building is up to 2.5 storeys dropping to single storey on the eastern side. This must be seen in the context of the height of the adjacent JMTC, typically equivalent to 3 storeys, and groups of 2.5 storey dwellings on the northern side of Blounts Court Road to the west of the site. Most of the proposed development would be two storeys in height as is the overwhelming majority of built development in Sonning Common.
83. As to *massing*, the initial indicative sketch elevation demonstrates that the apartments and the Village Core would have the appearance of semi-detached buildings or groups of buildings combined into short terraces with a varying roofline which are reflective of the existing residential buildings in Sonning Common.<sup>59</sup> The massing of the apartments is derived from a variety of footprint depths which, when formed into larger blocks, allows for the scale and mass to be broken down into roof elements with simple breaks in the roofline. Appropriate equal roof pitches would give each apartment building an elegant scale. There would be elements of hipped roofs, and chimneys incorporated into the roof plane. The apartment buildings would have balconies, single and double gables further breaking down the overall mass. The Village Core would have accommodation in the roof space and the roof planes would be broken down with larger single gables, smaller double gables with a central gutter and small dormer windows.
84. In my view the *layout* of the proposed development would reflect the way existing 'plotlands' and 'estates' buildings in Sonning Common are orientated, with the arrangement of buildings fronting the main vehicular route with active frontages. A number of apartments would be arranged around the Village Core. Buildings fronting Blounts Court Road would be positioned so that they would replicate the linear street scenes typical of development within Sonning Common.<sup>60</sup> I note that the proposed building line would be setback some 15m-20m from the road edge to retain an element of openness along the streetscape allowing boundaries to be defined by planting and hard landscaping. This would reflect the layout of the 'plotlands' buildings within Sonning Common. Buildings along the main access route and internal streets would similarly front the street with setbacks from 6m-15m allowing boundaries to be defined by planting and hard landscaping. The setback for 'estate' residential buildings ranges from about 4m-14m. In my view, the proposals would be in a similar range.

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<sup>58</sup> CD: A.31

<sup>59</sup> See Mr Carr's Appendix UD4

<sup>60</sup> See CD: C7 Sonning Common Character Assessment and Design Statement

85. The Council and SCPC argued that the appeal proposal could be smaller in scale. However, it was accepted that greater economies in scale could be achieved with larger retirement village developments with extensive communal facilities. It is noteworthy that the Appellant is proposing a development which is half the size of the optimum.<sup>61</sup>
86. With regard to *character* it is clear that the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed, as recorded in the SoCG 4. In any event, the proposed development would accord with the local vernacular which consists of a mix of building types found within the key character areas. In summary, Sonning Common has predominantly traditional architecture and the proposed development would have traditional architectural detailing; it is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape and the proposed development would have similarly substantial planting in the streetscape as well as proposed and existing large scale tree planting creating a tree lined backdrop. Sonning Common has also occasional larger built form such as the school or JMTC and the proposed development has a Village Core.
87. It is fair to say that Sonning Common has an eclectic architecture which is quite conventionally suburban. There is a significant amount of 1970s housing. It has a fairly bland architecture, evidenced by the images in the Sonning Common Character Assessment and Design Statement.<sup>62</sup> Given that the site is within the Chilterns AONB, the design should not just duplicate Sonning Common, but use materials such as flint panels and dark stained boarding and design components that respond to the AONB setting.
88. In my view, the architecture would reflect a varied composition with gables, projections and porches. The proposed elevations would respect the traditional patterns, style and scale of buildings and the fenestration would be inspired by traditional Chiltern building with a solid wall area balanced with the window and door openings, relatively pitched roofs with a ridgeline, use of 'L' and 'T' building shapes, chimneys and prominent flint panels.
89. It is clear to me that the proposed new buildings would plainly add to the sense of place and local character and would 'belong' to the Chilterns. The proposed development would also create a soft edge to the countryside<sup>63</sup> and would not 'turn its back' on it; particularly given the lack of any rear garden fences defining the edge of the settlement.
90. I recognise that this is a hybrid application and there is therefore an outline element to the proposals. However, to demonstrate their commitment to provide the same level of detailing and materials as presently indicated, the Appellant has produced a Design Commitment Statement.<sup>64</sup> Importantly, this could be conditioned to provide reassurance and an additional way of ensuring that the future reserved matters keep to the quality required in this setting.
91. The Council contended that the proposal would be a dominant and intrusive form of development and it would have an urbanising effect on the settlement edge. I disagree. The apartments and cottages proposed as part of the appeal scheme would be largely consistent with a domestic form and would be very

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<sup>61</sup> See INQ LPA 2 page 13.

<sup>62</sup> See CD: C7 page 16

<sup>63</sup> See CD: K4 Chilterns Building Design Guide principle item 3.16 page 25

<sup>64</sup> See Mr Carr's Appendix UD7

similar in size and form to houses in Sonning Common and the wider AONB. It is logical to site the Village Core building where it is, on a predominately level area, avoiding any large man-made cuttings and embankments to facilitate it. Plainly having the core building on a level area is appropriate for residents in their later years of life who would want facilities to be very easy to access.

92. The NPPF emphasises the importance of making efficient use of land.<sup>65</sup> Clearly where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. I accept that it is imperative that sites such as the appeal site are optimised when developed. However, optimising does not mean fitting in as much as you can regardless, but it does mean using land efficiently. As this would be an apartment based development then I accept that it would have a greater density than a conventional residential scheme.
93. The Council argued that the proposal would have an urbanising effect. However, the proposed development would be very different to an urban character. There would be a significant landscape setting breaking up the built form and the countryside edge, when read in the context of the proposed planting, would be assimilated in townscape terms. Much has been made of the AONB designation in which the appeal site falls; but this does not mean preservation without any change. The proposed development would in many ways be read as part of the evolution of the area's character.<sup>66</sup> In my view the proposed development would create an appropriate designed edge to the settlement and an appropriate robust transition with a managed landscape that is a better edge than the back gardens adjoining the settlement boundary that can be found at the settlement edge around parts of Sonning Common.
94. I turn now to the Council's concerns that the layout and design would result in poor amenity for residents by virtue of a lack of access to private amenity space. It is common ground that in policy terms, there is no private amenity requirement prescribed for a retirement community care village. Nonetheless, the proposed development would provide a total of 1,300 msq of private amenity space<sup>67</sup> comprising: private balconies totalling 0.03 hectare; and directly accessible private landscape and terraces totalling 0.1 hectare.
95. Over and above the private amenity space there would be an extensive amount of publicly accessible green space provided. Again, I note that there is no policy requirement for a retirement community care village yet there would be: landscaped space amongst and between the built form (including foot and cycleways) totalling 1.7 hectares; and a native tree belt and woodland buffer totalling 1 hectare. Combined with the private amenity space there would be 2.83 hectares of amenity land which would be ample given that the site totals 4.5 hectares. That is 62.8% of the appeal site and equivalent to 212.78 msq for each of the 133 units.
96. All of the above is in the context of extra care developments being very different to general housing. I accept that residents do not want the work of managing their own garden. In my view, the layout of the development would

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<sup>65</sup> NPPF paragraph 123.

<sup>66</sup> See Michael Carr's POE paragraph 7.20

<sup>67</sup> See Appendix UD5 of Michael Carr's POE

be safe, attractive and inclusive with plenty of natural surveillance of the landscaped spaces which is important given the age restriction of the development and why people would choose to live there.

97. The appeal proposals include access to landscaped spaces and woodland opening up an area that would otherwise be inaccessible private land. This maximises the public benefit of the scheme and would positively contribute to the health and well-being of both residents and the community, to which weight is given in the NPPF as part of the social objective. The Council agreed that there may well be community integration and intergenerational activity through the facilities on site.
98. With regard to car parking, the appeal proposals have been designed to avoid what would otherwise be unplanned 'ad hoc' parking through a formal provision. This is not in one place, rather the design would disperse the necessary parking across the proposed development in a series of clusters. These would be set back and visibly screened from the main routes through the development and would avoid harsh urban parking courts. The proposed 15m woodland belt is a relevant consideration. The proposed planting would buffer and screen views of parked cars and both soften and integrate the parking areas so that they are read as designed landscaped courts. The Council raised concerns about the space available for tree planting. However, in my view there would be ample space on site to accommodate the tree planting the final details of which would be under the Council's control.
99. Overall, I consider the proposal would be in broad accordance with the SOLP policies including DES1, DES2, DES3, DES4 and DES5, SCNP policies D1 and D1a and other design guidance and the NPPF. I conclude on the third issue there would be no reason to dismiss the appeal due to the effect of the design of the proposed development on the character and appearance of the village.

***Fourth Issue - whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development***

100. This issue relates to the absence of a completed s106 Agreement to secure infrastructure to meet the needs of the development. At the time of the decision, agreement could not be reached with the Council on the requirements for a planning obligation. Since then, agreement has been reached and a s106 Agreement was submitted at the Inquiry. I have considered the s106 Agreement in the light of the CIL Regulations 2010, as amended, the advice in the NPPF and the PPG.
101. The NPPF indicates that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.<sup>68</sup> Regulation 122 of the CIL Regulations, as amended by the 2011 and 2019 Regulations, and paragraph 56 of the NPPF make clear that Planning Obligations should only be sought where they meet all of the following three tests: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development.

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<sup>68</sup> NPPF paragraph 54

102. The Council's need for additional infrastructure and services is set out in relevant SOLP policies which include H9 Affordable housing; INF1 Infrastructure; DES 1 Delivering High Quality Development; TRANS2 Promoting Sustainable Transport and Accessibility; TRANS4: Transport Assessments, Transport Statements and Travel Plans; and TRANS5: Consideration of Development Proposals. The Council's SPD (2016) is also relevant. Based on the SPD and the relevant policies, the appeal proposal should provide: (i) a financial contribution towards local primary health care (£73,735); (ii) a recycling and waste contribution (£24,738); (iii) a street naming contribution (£2,977); (iv) a District S106 monitoring fee (£2,686); (v) an affordable housing contribution (£7,510,350); (vi) a public transport services contribution (£117,000); (vii) a travel plan monitoring contribution (£2,040); and (viii) a County S106 monitoring fee (£1,500).
103. The primary care contribution is directly related to the development because it results from the additional pressure on local health services as a result of the future residents. It is fair and reasonable as the amount has been calculated based on the number of future residents. The recycling and waste contribution is necessary for the development to be served by waste infrastructure and the calculation is directly related to the bins needed for this development. It is necessary for the development to be served by street naming plates and the calculation is directly related to the name plates needed for this development. The completion of a planning obligation requires the Council to administer and monitor those obligations. The monitoring fee contribution is necessary to cover the Council's costs and is directly related to the nature of the obligation.
104. The proposal will deliver affordable housing which is required under Policy H9 of the SOLP. It will do so via a contribution in lieu of on-site provision. The s106 Agreement secures the payment of £7,510,350 to be paid by the owners. A financial contribution towards off-site affordable housing is necessary to equate with a 40% affordable housing provision under Policy H9. It is directly related to the development and fairly and reasonably related in scale and kind. The financial contribution has been calculated based on the open market value of a unit to be delivered on the site.<sup>69</sup> The s106 Agreement requires the total affordable housing contribution to be used towards the provision of off-site affordable housing within the District.
105. The relevant policies which support the transport contributions are set out in the CIL Compliance Statement.<sup>70</sup> A contribution is required to provide an improved bus service (service 25) for residents, visitors and staff associated with the proposed development as an appropriate and viable alternative to the use of private cars and to promote travel by public transport. The contribution required would be used towards increasing the frequency of the existing service operating between Sonning Common and Reading to every 30 minutes between 0600 - 2030, Monday to Saturday and an hourly service in the evenings (up to 2300) and on Sundays (0800-1800). The contribution is directly related to the number of residential units but excludes the proposed 16 high care units, as these residents are unlikely to use public transport. A

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<sup>69</sup> INQ LPA7 provides the methodology for the calculation of the commuted sums based on the open market value of a unit to be delivered on the site.

<sup>70</sup> INQ LPA7 NPPF paragraphs 102, 103, 108 and 111; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 1 Policy and Overall Strategy Updated 2016 Policy 3 and Policy 34; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 2 Bus & Rapid Transit Strategy (2016) paragraphs 91, 93-95.



travel plan monitoring fee is required to monitor the implementation of the travel plan and an administration and monitoring fee is required to monitor the planning obligation.

106. In my view, all of the obligations in the Planning Obligation are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision. I conclude on the fourth issue that the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.

***Fifth Issue - whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB***

107. There is no dispute that the appeal scheme would be a major development in the AONB. The tests relating to allowing such development are set out clearly in paragraph 172 of the NPPF. The relevant factors which must be considered are then listed in paragraph 172 a) to c) but it is not an exhaustive list. Great weight must be given to conserving and enhancing landscape and scenic beauty in AONBs and planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

*The need for the development and the impact on the local economy*

108. I have already discussed the need for the development in detail under the first issue. That discussion is not repeated in detail here, but it is plainly relevant to paragraph 172 a) of the NPPF. There is an immediate unmet need for extra care market housing. This arises not from some ambitious target for extra care. The target for need suggested by Mr Appleton is in fact very modest. It is just 4.5% of the District's population of people 75 years of age and over. It arises because there is hardly any of it available. There are only two schemes which have been built offering 113 units. The only future supply which is available is the market extra care that would be provided at Lower Shiplake for 65 units. Retirement Villages has now sold that site and want a larger site. Whether the Lower Shiplake scheme gets built is therefore uncertain. But even with it the supply of extra care that is available is only 178 units.
109. This against a need, based on a modest aspiration of 4.5% - that is 450 units across the whole District for an overall population of 15,000 in this age category, gives rise to an immediate shortfall of 272. The figure is 337 if the Lower Shiplake proposal is excluded. The stark fact is there is hardly any choice or to put it another way choice is largely unavailable.
110. I am in no doubt that the development of 133 units is needed. Firstly, it is needed to address the immediate shortfall in the five year housing land supply in the District which is only equivalent to some 4.21 years. Secondly, it is needed in this District where at present a population of 15,000 who are aged 75 years or older is forecast to increase to 21,100 by 2035. The demographic evidence indicates a 'critical' need for extra care housing in the District. In this case, the proposed development should be of sufficient size to support the communal facilities that are necessary to ensure an effective operation.

111. Thirdly, it is important to recognise the fact that extra care accommodation, together with all other forms of specialist housing for older people can assist in `freeing up' existing family and other housing by allowing them to `right size' by moving to more appropriate accommodation. This type of specialist housing could significantly contribute towards the easing of the present housing crisis in this District where under occupancy amongst older households is greater than for England as a whole. The sale of the 133 units in the appeal proposals would release 133 family houses of three bedrooms or more.<sup>71</sup> The appeal scheme would be likely to free up 39 family dwellings locally but it could be as high as 64.<sup>72</sup> Significant weight can be given to this.
112. Fourthly, the health and well-being benefits of the appeal proposal should also be recognised and given significant weight. Such benefits to elderly people are entirely obvious. I accept that such health and care benefits apply and also that they are separate from housing delivery. The benefits specialist housing for older people can bring include addressing concerns about suitable supervision, frailty, care, assistance, recreation, loneliness and isolation.
113. I do not consider the impact of refusing the proposed development would be seriously damaging to the local economy, there is no clear evidence to that effect. There is no requirement that has to be demonstrated. However, I do accept that the proposal would deliver economic benefits to the local economy and jobs as well.<sup>73</sup> The Appellant has also proposed a local employment and procurement condition which I accept is plainly relevant.<sup>74</sup> I am satisfied that there is a need for the development and that it is in the public interest.

*The cost and scope of developing elsewhere or meeting the need in another way*

114. With regard to paragraph 172 b) of the NPPF, the Council's case is that with Policy H1 and H13 the need for specialised housing for the elderly can be met outside of the AONB. The Council refers to the Oxford County Council's Market Position Statement Extra Care Housing Supplement 2019-2022 and to the SHMA. However, the Council does not quantify a need for extra care, albeit the SHMA does recognize it as a category of need and distinguishes between market and affordable extra care housing.<sup>75</sup> The Council also suggests that the need can be met in people's homes and that needs can be met by 2035. In my view, there is a specific need for extra care provision and market extra care housing. The needs which have been identified are modest and the idea that they be met at home is misplaced. The most relevant need is the immediate need and Mr Appleton's evidence demonstrates what this is.
115. I note that at both the application and appeal stages the Appellant relied upon a sequential assessment of alternative sites to show a lack of suitable sites. The Council questioned this assessment but never really suggested any alternative sites. At the Inquiry reference was made to 8 extra care sites in Mrs Smith's Appendix 1. However, all of those sites have been addressed by Mr Appleton and that information was updated during the Inquiry to reveal that there were no sites with planning permission in the pipeline other than

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<sup>71</sup> Paragraph 6.24 of Roland Bolton's POE

<sup>72</sup> Paragraph 6.27 of Roland Bolton's POE

<sup>73</sup> See CD: A.6 Economic Benefits Assessment Report, it is calculated that operation of the site would provide up to circa 70 jobs (FTE). This does not include construction jobs, which are assessed to be of the order of 108 over a period of 4 years, although in practice this maybe higher dependent upon individual project needs.

<sup>74</sup> See *Verdin v SSCLG* [2016] EWHC

<sup>75</sup> See CD: D.14 Table 6 page 25

Lower Shiplake which is now uncertain. Therefore, it seems to me that the Council's own evidence supports the Appellant on the lack of alternatives.

116. Moreover, when the Appellant persuaded the landowner to agree to pay the full affordable housing contribution, that significantly strengthened the Appellant's case in respect of paragraph 172 b). That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP now requires for C2 uses. Mrs Smith accepted that there are no other sites in the District with planning permission for extra care market housing. The problem is a combination of land economics and SOLP Policy H9 which requires affordable housing on extra care housing schemes. Given this context the appeal proposal does connote rarity and uniqueness.
117. Extra care housing undoubtedly operates in a very different market. Mr Garside provided detailed evidence to the Inquiry how the market for land operates to the detriment of extra care operators. Extra care housing providers cannot compete with house builders or with other providers of specialist housing for older people because of the build costs, the level of the communal facilities and the additional sale costs including vacant property costs. The communal facilities must be provided before any units can be sold and sales tend to be slower.<sup>76</sup> However, I accept that extra care schemes can charge a premium for the specialist accommodation provided and also benefit from an income from deferred management fees.
118. It seems to me that these factors, all mean that age restricted developments and in particular extra care communities are less viable than traditional housing schemes. Ultimately, age restricted developers are less able to pay the same price for land as residential developers and it is much harder for age restricted developers, and in particular those seeking to deliver extra care, to secure sites for development and meet the housing needs they aim to supply.<sup>77</sup> Viability is clearly a relevant factor which supports the case under paragraph 172 b) of the NPPF. There is also a strong case for the appeal scheme given the lack of alternative sites in the light of Policy H9 of the SOLP.
119. I note that the SOLP does not allocate any sites for extra care housing, unlike for example in Central Bedfordshire. I also note that the need for extra care housing is recognised in the SCNP, which supports, as was agreed, extra care housing on unallocated sites due to Policy H2a. I am satisfied that the Appellant's need could not be met elsewhere or in any other way and that it would be in the public interest for this to happen on the appeal site.

*Detrimental effect on Environmental, Landscape and Recreation opportunities, and the extent to which they could be moderated.*

120. This factor has been considered in the second issue above. That discussion is not repeated here but it is plainly relevant to paragraph 172 c). Suffice it to say that I have concluded that there would only be localised landscape and visual effects on the AONB. These limited impacts would not cause material harm to the landscape character of the AONB, nor would they conflict with the aims of protecting its special qualities. I have concluded there would be localised landscape and visual effects on the AONB that could be moderated.

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<sup>76</sup> See section 4 of Richard Garside's POE

<sup>77</sup> See paragraph 4.65 of Richard Garside's POE

### *Other Benefits*

121. The scheme would deliver other benefits. In my view, these can also form part of the exceptional circumstances and public interest. It is the collective benefits and harms which are relevant to paragraph 172 of the NPPF. Both Mr James and Mr Garnett gave evidence as to numerous other significant benefits, individually and cumulatively, which should be weighed in favour of the proposals. These include contributing to the overall supply of housing which is under five-years; savings in public expenditure (NHS and adult care);<sup>78</sup> creating new employment and other economic investment (construction and operation);<sup>79</sup> providing new facilities and services further reinforcing the role and function of Sonning Common; and additional net revenues from Council tax and new homes bonus receipt. Mrs Smith accepted the economic benefits and that bringing facilities to the area, particularly for the older population would be a benefit. It was also accepted that there could be benefits in supporting existing facilities in that residents of Inspired Village sites having the option to support those businesses if they wanted to. No good reason was provided by the Council for discounting the benefits evidence by Mr James or Mr Garnett. The social and economic benefits are matters to which I attribute significant weight. There is a very strong case on exceptional circumstances and public benefits here.

### *Conclusion*

122. Section 85 of the CROW Act 2000 seeks to conserve and enhance the natural beauty of an AONB and paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB. This is not the same as requiring that every development proposal engenders enhancement. Indeed, if that were the case it is difficult to see how major development in an AONB could ever be permitted. It is clearly a matter of balance, but in undertaking that exercise the NPPF makes clear that conserving and enhancing the designated resource is a matter of great weight. In this case I have given great weight to conserving and enhancing landscape and natural beauty of the AONB. The need for the development and the conclusion that there are presently no alternatives outside the designated area are also matters of substantial importance in the public interest. The social and economic benefits attract significant weight. Overall, the benefits would outweigh the localised landscape and visual effects to the AONB. For these reasons I conclude on this issue that exceptional circumstances are demonstrated and that the development would be in the public interest.

### **Other Matters**

123. I have taken into account all other matters raised including the concerns raised by the SCPC, the Rotherfield Peppard Parish Council, the representations made by interested persons including those who gave evidence at the Inquiry and those who provided written submissions. I have already dealt with many of the points raised in the main issues.

124. The SCPC and others objected to the proposed development in the context of the neighbourhood planning process. However, the review of the SCNP has

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<sup>78</sup> See paragraphs 6.16 to 6.33, PoE of Stuart Garnett. See also CD: K7, CD: K8 (Appendix 1 at page 20 onwards), CD: K12 (pages 2-3), and CD: K30 (pages 6, 12, 13, 20 and 24-26 in particular).

<sup>79</sup> See paragraphs 6.10 to 6.15, PoE of Stuart Garnett

been ongoing since around 2018 but there are no concrete proposals. It is suggested that the proposal is not small scale. However, site SON2 is in fact 3.3 hectares and broadly of the same scale.<sup>80</sup> The SCNP expressly supports extra care housing at Policy H2a albeit no site is allocated. The SCNP policies are now out of date because of the lack of a five year housing land supply to which I attach significant weight. The concerns about the neighbouring planning process are not sufficient to warrant dismissing this appeal.

125. A number of interested persons cited concerns over impacts on local services in particular the doctor's surgery and parking capacity within the centre of Sonning Common. With respect to impacts on local health services, Mr Garnett's evidence provides details of both operational efficiencies and associated social benefits of extra care, which includes the financial benefits arising from savings to the NHS and social care. I consider that extra care housing benefits elderly people in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to assume that these factors would likely result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the NHS. This is borne out in the research submitted to the Inquiry.
126. A number of objectors raised concerns over parking capacity within the centre of Sonning Common. However, the appeal site lies within an acceptable walking distance of a number of the facilities within the village centre. Trip generation associated with the proposals would not have a materially negative impact on the road network. I note also that a Travel Plan has been submitted in relation to the proposals.<sup>81</sup> I consider that this matter is capable of being secured by means of an appropriately worded planning condition. In addition to the 'supported transport provision' that would be provided for residents, it would be reasonable to expect that a number of residents would use the existing footpath links to access the village centre.
127. A number of objectors also raised concerns over transport safety and the sufficiency of parking on the appeal site. I note that a number of matters are agreed between the Council and the highway authority in SoCG2 Transport. A new vehicular access would be constructed to the east of the existing access on Blounts Court Road. The proposed scheme would provide for off-site highway improvements comprising works associated with the proposed site access, proposed works to pedestrian facilities along the site frontage either side of the site access, widening of the carriageway and a gateway feature along Blounts Court Road, and provision of a zebra crossing on Widmore Lane. Provision would also be made within the scheme for 93 car and 58 cycle parking spaces (12 visitor, 10 staff and 36 resident) that would be provided in relation to the full aspect of the development. Notwithstanding the original RfR5 the highway authority raises no objection to the proposal subject to the agreed conditions and the contributions contained within the s106 Agreement. In my view the concerns raised about transport issues would not provide a reason for rejection of this appeal.
128. A number of objections relate to the impact on local ecology. The appeal site contains habitats of a lower biodiversity value, which are common and

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<sup>80</sup> See CD: K.18 page 580

<sup>81</sup> See CD: A.8

widespread throughout the District. The appeal scheme provides for a net increase in biodiversity across the site, specifically an increase of 51% for the detailed element. The Ecological Impact Assessment<sup>82</sup> was accepted by the Council as demonstrating net benefit<sup>83</sup> and I attach significant weight to this.

129. At the Inquiry reference was made to numerous appeal decisions. I have taken these into account as appropriate in coming to my decision in this case.

### **Planning Balance**

130. I have concluded that the appeal proposals would be a major development in the AONB where exceptional circumstances apply, and which would be in the public interest. I have given great weight to conserving and enhancing landscape and scenic beauty in the AONB. In terms of paragraph 172 a) of the NPPF I am in no doubt that there is a need this development of 133 units to address the immediate shortfall in the five year housing land supply; to address the critical need for extra care housing in the District; to assist in the freeing up of family housing within South Oxfordshire and to provide the health and well-being benefits to elderly people.

131. The Council argued that with Policy H1 and Policy H13 the need for specialist housing for older people could be met outside the AONB; could be met in people's homes and that needs could be met by 2035. However, I have concluded that there is a specific and immediate need for extra care provision and market extra care housing. From the up-to-date evidence provided at the Inquiry it is clear to me that there are no sites with planning permission in the pipeline other than the Lower Shiplake site which is now uncertain. The case under paragraph 172 b) has been met. That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP Policy H9 now requires for C2 uses. In my view extra care housing cannot compete with housebuilders or even other forms of specialist housing for older people because of the build cost, the level of communal facilities and additional sale costs including vacant property costs.

132. In terms of paragraph 172 c) I have concluded there would be localised landscape and visual effects, but these would be relatively small. Only a limited part of the mosaic would be impacted, and this would not alter the overall character of the wider mosaic of the LCT. Plainly such limited impacts would not cause material harm to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. In terms of visual impact, only a small number of nearby locations would have direct views of the appeal proposals where glimpses of the development would be filtered and moderated by perimeter planting and particularly by the woodland belt. Overall, I have concluded under paragraph 172 of the NPPF that the circumstances in this case are exceptional and that the grant of planning permission would be in the public interest.

133. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case where the test in paragraph 172 of the NPPF

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<sup>82</sup> See CD: A32

<sup>83</sup> See PoE of Simon James Appendix 11

has been met it is difficult to see how a decision maker could nonetheless refuse to grant planning permission applying paragraph 11 of the NPPF. However, in terms of the development plan I accept that the proposal conflicts with some elements of the development plan, but it also complies with others. Policies in the SOLP are up-to-date and can be given full weight. The appeal proposal conflicts in part with the SOLP, in particular in terms of the overall strategy (STRAT1) and with relevant policies relating to the AONB (ENV1) However, there is partial accord with Policy H13 and full accordance with Policies H1 3ii, H4, H9, H11, DES1, DES2, DES3, DES4 and DES5.

134. With regard to the SCNP, this was made in 2016, against a different housing requirement albeit it is still within the grace period allowed by Policy H4(2) of the SOLP. The SCNP policies can only be given limited weight in the context of the NPPF as it was based on a Core Strategy which is now withdrawn, and it is out of date for that reason. Its policies reliant on the AONB are also out of date given the lack of a five year housing land supply. The proposal would conflict with Policy H1 in so far as the limitation of development is concerned but the policy is expressed as a minimum and the base target has been increased through the SOLP quantum of housing so the appeal scheme would contribute to that. There would be conflict with Policy ENV1 which aims to protect the AONB but there are exceptional circumstances here. There would be broad accordance with Policy H2a, D1 and D1a and ENV2 albeit that three storey development is an exception and must be justified. I conclude that the appeal proposal is in overall accordance with the development plan and there are no material considerations which indicate otherwise.
135. Even if I had decided that the proposal was in overall conflict with the development plan this is a case where there is no five year housing land supply and therefore the most important policies for determining the appeal are out of date.<sup>84</sup> As to which policies are out of date, it is agreed that the most important for determining the appeal are set out in the RfR. Thus, the tilted balance would be triggered by way of footnote 7 of the NPPF unless paragraph 11 d) i. is satisfied. In this case under paragraph 11 d) i. the adverse effects would not provide a clear reason for refusing the proposed development. It follows therefore that even if the appeal proposal was contrary to the development plan and the tilted balance under paragraph 11 d) ii. of the NPPF applied then the many and varied benefits of the proposals set out above would significantly and demonstrably outweigh any adverse effects. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed.

## **Planning Conditions**

136. The Council submitted a list of conditions which I have considered in the light of the advice in paragraphs 54 and 55 of the NPPF and the Government's PPG on the Use of Planning Conditions. The Appellant has agreed to all of the suggested conditions except for Condition 27 which relates to a Procurement and Employment Strategy. The Appellant has also given consent in writing that Conditions 7-27 may be applied as pre-commencement conditions.<sup>85</sup> Conditions 1, 4 and 5 relate to required time limits and Conditions 2 and 3 are necessary to determine the scope of the application and for the avoidance of

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<sup>84</sup> NPPF paragraph 11 d) footnote 7

<sup>85</sup> See INQ APP14

- doubt. Conditions 6, 7 and 29 are necessary to secure net gains for biodiversity and Condition 8 is required to minimise the impacts of the development on biodiversity. Condition 9 is necessary to limit the local impact of construction work and Condition 10 is required to ensure that electric vehicle charging is provided. Condition 11 is required in the interests of highway safety and Condition 12 is necessary to ensure adequate car parking.
137. Condition 13 is required in the interests of sustainability and to encourage the use of cycling. Condition 14 on sample materials and Condition 15 on ground levels are required in the interests of visual amenity. Condition 16 is required to ensure adequate provision for the management of waste. Condition 17 is necessary to ensure high standards of sustainable design and construction. Condition 18 is necessary to protect the appearance of the area, the environment and wildlife from light pollution. Conditions 19 and 20 are necessary to ensure that the development is assimilated into its surroundings. Condition 21 is necessary to safeguard the trees which are visually important on the site. Condition 22 is required to safeguard heritage assets of archaeological interest. Condition 23 is necessary to prevent pollution and flooding. Condition 24 is required to ensure the proper provision of foul water drainage. Condition 25 is required to prevent pollution and flooding. Condition 26 is necessary to ensure that the development is not unneighbourly.
138. Condition 27 relates to a procurement and employment strategy. The Council considers that the condition would fail the test of necessity as there is no policy support for this requirement and there would be problems about enforcement. However, it seems to me that a local employment and procurement condition is plainly relevant following the Verdin judgment.<sup>86</sup> Employing local people and using local produce, to save miles travelled seems to epitomize the principle of sustainable development. Moreover, the strategy would put in place arrangements to ensure that the information was regularly provided to the Council to demonstrate the performance and effectiveness of the initiatives. The condition would not impose unreasonable or unjustified demands on the Council. The condition would meet the tests in the NPPF.
139. Condition 28 is required to ensure the provision of adequate pedestrian and cycle access to the site in the interests of highway safety. Condition 30 is necessary to ensure that sustainable transport modes are taken up. Condition 31 is necessary to avoid sewage flooding and potential pollution incidents. Condition 32 is necessary to ensure that the development is not unneighbourly or detrimental to highway safety. Condition 33 is required to protect the occupants of nearby residential properties from noise disturbance. Condition 34 is required to mitigate any impacts on air pollution.

### **Overall conclusion**

140. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

*Harold Stephens*

INSPECTOR

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<sup>86</sup> See INQ APP15 Verdin v SSCLG [2016] EWHC



## **SCHEDULE OF PLANNING CONDITIONS (1-34)**

### Time limit and approved plans relating to the full planning permission

#### **Commencement – Full**

- 1) The development subject to full planning permission, comprising the areas shown as shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] must be begun not later than the expiration of three years beginning with the date of this permission.

#### **Approved Plans**

- 2) That the element of the development hereby approved full planning permission, as shown within the areas shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] shall be carried out in accordance with the details shown on the following approved plans, except as controlled or modified by conditions of this permission:

URB SC [08] 00 01 Rev D02 (Site Location Plan)  
URB SC [08] 00 03 Rev D04 (Proposed Block Plan)  
02 Rev 03 (Landscape Plan)  
03 Rev 03 (Hard Landscaping)  
04 Rev 03 (Soft Landscaping)  
URB VC [08] 70 01 Rev D02 (Village Core Elevations)  
URB VC [08] 70 02 Rev D01 (Village Core Elevations)  
URB VC [08] 70 03 Rev D01 (Village Core Elevations)  
URB VC [08] 70 04 Rev D01 (Village Core Elevations)  
URB VC [08] 00 01 Rev D02 (Village Core Ground Floor Plan)  
URB B01 [08] 70 01 Rev D01 (Block 1 Elevations)  
URB B02 [08] 70 01 Rev D01 (Block 2 Elevations)  
URB B03 [08] 70 01 Rev D01 (Block 3 Elevations)  
URB B04 [08] 70 01 Rev D01 (Block 4 Elevations)  
URB B01 [08] 00 01 Rev D00 (Block 1 Floor Plans)  
URB B01 [08] 20 01 Rev D00 (Block 1 Roof Plan)  
URB B02 [08] 00 01 Rev D00 (Block 2 Floor Plans and Roof Plan)  
URB B03 [08] 10 01 Rev D00 (Block 3 Floor Plan)  
URB B03 [08] 00 01 Rev D00 (Block 3 Floor Plan)  
URB B03 [08] 20 01 Rev D00 (Block 3 Roof Plan)  
URB B04 [08] 00 01 Rev D00 (block 4 Floor Plans)  
URB B04 [08] 20 01 Rev D00 (block 4 Roof Plan)  
URB SS [08] 00 01 Rev D00 (Substation)  
OX5025-11PD-004 Rev H – Road Carriageway Widening  
OX5025-16PD-006 Rev A - Cross Sections of Proposed Widening along Blounts Court Road  
OX5025-16PD-004 Rev C - Proposed Off-Site Improvements  
OX5025-16PD-002 Rev C - Proposed Site Access Arrangements  
OX5025-16PD-003 Rev D - Proposed Internal Layout  
OX5025-11PD-007 Rev F - Review of Revised Masterplan (6 Metres Internal Carriageway)  
OX5025-11PD-009 Rev F Proposed Zebra Crossing at Widmore Lane

## **Outline Plans**

- 3) That the element of the development hereby approved outline planning permission, as shown within the areas shaded blue on Drawing No. URB SC [08] 00 01 D02 (Site Location Plan) shall be carried out in general accordance with the details shown on the following documents:

Illustrative Masterplan PW.1618.L.01 Rev 03  
Design and Access Statement May 2020  
Design Commitment Statement URB-SC A3 90 02-D00 April 21

### Reserved matters and time limit relating to the outline planning permission

## **Reserved Matters**

- 4) Within a period of three years from the date of this permission all of the reserved matters shall have been submitted for approval in writing by the Local Planning Authority. The reserved matters shall comprise: details of the layout, scale, appearance and landscaping of the development. All reserved matters for any one phase shall be submitted concurrently. No development shall commence within any one phase until there is written approval of all of the reserved matters for that phase and the development shall be carried out in accordance with all of the approved reserved matters.

## **Commencement – Outline**

- 5) The site subject to outline planning permission, comprising the area shown as shaded blue on Drawing No. URB SC [08]00 01 D02 (Site Location Plan) [Phase 2], shall be begun not later than whichever is the later of the following dates:
- (i) 3 years from the date of this permission: or
  - (ii) 2 years from the approval of the final reserved matters application.

## **Biodiversity Enhancement Plan – Outline**

- 6) Concurrent with the submission of any reserved matters application related to this outline planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the outline details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
  - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.

- (d) Selection of specific techniques and practices for establishing vegetation.
- (e) Sources of habitat materials (e.g. plant stock) or species individuals.
- (f) Method statement for site preparation and establishment of target features.
- (g) Extent and location of proposed works.
- (h) Details of a biodiversity metric assessment

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

#### Pre-commencement conditions

#### **Biodiversity Enhancement Plan – Full**

- 7) Prior to the commencement of the development subject of full planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
  - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.
  - (d) Selection of specific techniques and practices for establishing vegetation.
  - (e) Sources of habitat materials (e.g. plant stock) or species individuals.
  - (f) Method statement for site preparation and establishment of target features.
  - (g) Extent and location of proposed works.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

#### **Construction Environmental Management Plan for Biodiversity**

- 8) Prior to the commencement of any development (including vegetation clearance) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- (a) Update ecological surveys for relevant habitats and species, update surveys shall follow national good practice guidelines (badgers surveys shall be no older than 6 months).
  - (b) Risk assessment of potentially damaging construction activities.

- (c) Identification of biodiversity protection zones.
- (d) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction.
- (e) The location and timing of sensitive works to avoid harm to biodiversity features.
- (f) The times during construction when specialist ecologists need to be present on site to oversee works.
- (g) Responsible persons and lines of communication.
- (h) Use of protective fences, exclusion barriers and warning signs.

Thereafter the approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

### **Phasing**

- 9) Prior to the commencement of any development subject to full planning permission or submission of the first Reserved Matters for the development subject to outline planning permission, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved phasing plan.

### **Electric Vehicle Charging**

- 10) Prior to the commencement of each phase of development a scheme to provide that phase with Electric Vehicle Charging Points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Electric Vehicle Charging Points shall be implemented prior to the first occupation of that phase.

### **Estate Roads and Footpaths**

- 11) Prior to the commencement of each phase of development, details of the estate roads and footpaths within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, before first occupation of any unit within that phase, the whole of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained.

### **Car Parking Plan**

- 12) Prior to the commencement of the reserved matters phase of the development plans showing car parking within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed car parking provision shall be provided before first occupation of that part of the site and be retained as such thereafter.

### **Cycle Parking**

- 13) Prior to the commencement of each phase of development, details of cycle storage, for that phase shall be submitted to and approved in writing by the

Local Planning Authority. The agreed cycle parking shall be provided before first occupation of that part of the site and be retained as such thereafter.

### **Materials**

- 14) Prior to the commencement of each phase of development, details of all materials, including samples where required, to be used in the external construction and finishes of the development within that phase shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved details.

### **Site Levels**

- 15) Prior to the commencement of any development, detailed plans showing the existing and proposed ground levels of that phase, together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

### **Refuse and Recycling**

- 16) Prior to the commencement of each phase of development, details of refuse and recycling storage for that phase shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be implemented in accordance with the approved details prior to the occupation of the development in each phase and retained thereafter.

### **Energy Statement**

- 17) Prior to the commencement of each phase of development, an Energy Statement demonstrating how the development within that phase will achieve at least a 40% reduction in carbon emissions compared with code 2013 Building Regulations, and details of how this will be monitored, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

### **External Lighting**

- 18) Prior to the commencement of each phase of the development approved in full, and accompanying the first Reserved Matters application for the development approved in outline, a detailed lighting scheme (including street and pathway lighting) for that phase, including a programme for its delivery, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

### **Landscaping**

- 19) Prior to the commencement of each phase of development, a scheme for the landscaping of that phase including the planting of trees and shrubs, the

treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.

The details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme.

The scheme shall be implemented prior to the first occupation or use of that phase of development and thereafter be maintained in accordance with the approved scheme.

In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

### **Landscape Management Plan**

- 20) Prior to the commencement of the first phase of development, a maintenance schedule and a long term management plan for the soft landscaping works for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include those areas of the site which are to be available for communal use as open space. The schedule and plan shall be implemented in accordance with the agreed programme.

### **Tree Protection**

- 21) Prior to the commencement of any site works or operations (including the removal of any vegetation or trees) required in relation with the full or outline planning permission, an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The matters to be encompassed within the arboricultural method statement shall include the following:
- (a) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities.
  - (b) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection.
  - (c) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage.
  - (d) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby.

- (e) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees.
- (f) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels.
- (g) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage.
- (h) Provision for the supervision of any works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.
- (i) The details of the materials and method of construction of the pedestrian and cycle access to Widmore Lane, which is to in part be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of surface required in relation to its usage.
- (j) A specification of the foundation design for the pedestrian and cycle access to Widmore Lane demonstrating absolute minimal soil excavation, soil compaction or soil contamination within the root protection area of the adjacent trees.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

### **Implementation of Archaeological work**

- 22) Prior to any earth works forming part of the development or the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

### **Ground Investigation**

- 23) Prior to the commencement of each phase of development the results of an intrusive ground investigation, analysing the potential for dissolution features and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The results shall then be implemented in accordance

with the approved programme and used to inform the surface water drainage design.

### **Foul Drainage**

- 24) Prior to the commencement of each phase of development, a detailed foul water drainage scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the foul water drainage works to serve that phase have been completed.

### **Surface Water Drainage**

- 25) Prior to the commencement of each phase of development, a detailed surface water drainage scheme relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. This should be based on the principles contained within Flood Risk Assessment and Drainage Strategy reference 3424 Dec 2019 by Scott Hughes Design, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

The scheme shall include:

- (a) Discharge rates.
- (b) Discharge volumes.
- (c) Catchment plans.
- (d) Maintenance and management of SUDS features.
- (e) Sizing of features – attenuation volume.
- (f) Site wide infiltration tests to be undertaken in accordance with BRE365.
- (g) Ground Investigation Report.
- (h) Detailed drainage layout with pipe/chamber/soakaway numbers & sizes.
- (i) Proposed site levels, floor levels and an exceedance plan.
- (j) Detailed network calculations to include the worst case 1:100 + 40% event.
- (k) SUDS features and sections.
- (l) Details of proposed Primary, Secondary and Tertiary treatment stages to ensure sufficient treatment of surface water prior to discharge.
- (m) Drainage construction details.
- (n) A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire."
- (o) A range of SuDS techniques throughout the site to manage water quantity and maintain water quality.

The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the surface water drainage works to serve that phase have been completed.



## **Construction Method Statement**

- 26) No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- (a) the parking of vehicles of site operatives and visitors;
  - (b) loading and unloading of plant and materials;
  - (c) storage of plant and materials used in constructing the development;
  - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (e) wheel washing facilities;
  - (f) measures to control the emission of dust and dirt during construction;
  - (g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - (h) details of measures for the control of noise during construction works;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction methods.

## **Procurement and Employment Strategy**

- 27) Prior to the commencement of development, a Local Employment and Procurement Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The Strategy shall include:
- (i) Details of recruitment within the development to achieve a minimum of 25% of village staff from within a 5 mile radius of Sonning Common;
  - (ii) Details of the use of local businesses, including purchase of food, beverage and other items to achieve a minimum of 50% of fresh produce (meat, bakery, dairy, fruit and vegetables) from within a 5 mile radius of Sonning Common;
  - (iii) The timing and arrangements for the implementation of these initiatives; and
  - (iv) Suitable mechanisms for monitoring the effectiveness of these initiatives.

All parts of the approved Local Employment and Procurement Strategy shall be implemented in full and retained thereafter.

### Pre-occupancy conditions

## **Pedestrian and Cycle Access**

- 28) Prior to occupation of any development subject to full or outline planning permission, details of the pedestrian/cycle access to the site from Widmore Lane, including a 3.5m wide combined pedestrian/cycle path through the site, associated street lighting facilities and a zebra crossing along Widmore Lane shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on those shown on plan OX5025-11PD-009 Rev F, subject to the tree protection measure shown in condition 21. The works shall

be carried out and completed in accordance with the approved details before occupation of any part of the site, and permanently retained as such thereafter.

### **Landscape and Ecology Management Plan**

- 29) Prior to the first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) for the whole site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- (a) Description and evaluation of features to be managed.
  - (b) Ecological trends and constraints on site that might influence management.
  - (c) Proposals for ecological enhancements for habitats and species as agreed in the Biodiversity Enhancement Plan.
  - (d) Aims and objectives of management.
  - (e) Appropriate management options for achieving aims and objectives.
  - (f) Prescriptions for management actions.
  - (g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - (h) Details of the body or organization responsible for implementation of the plan.
  - (i) Ongoing monitoring and remedial measures.

The LEMP shall include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The development shall be implemented in accordance with the approved details and management prescriptions implemented across the site for a timeframe to be agreed within the LEMP.

### **Green Travel Plans**

- 30) Prior to the occupation of the first phase of the development hereby approved a full and detailed Travel Plan and Travel Information Packs shall be submitted to and approved in writing by the Local Planning Authority. These documents will be updated upon the submission of subsequent phases of the development. Thereafter, that part of the development shall be implemented in accordance with the approved documents and the associated Travel Information Packs issued to each resident upon first occupation.

### **Wastewater**

- 31) No properties shall be occupied in any phase until confirmation has been provided that either:

- (i) All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or-
- (ii) A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

### **Service and Delivery Management Plan**

- 32) No building shall be occupied until details of a comprehensive servicing and delivery management plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Deliveries and service areas shall be managed in accordance with the agreed scheme.

### Compliance conditions

#### **Construction Hours**

- 33) The hours of operation for construction and demolition works shall be restricted to 08:00-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written permission of the Local Planning Authority.

#### **Air Quality**

- 34) The air quality mitigation measures outlined in the Air Quality Assessment (Ref REP-10111755A-20191212) shall be carried out in accordance with the recommendations and specifications in the report and implemented prior to occupation of each unit. Thereafter, the mitigation measures shall be retained as approved and in accordance with manufacturer's instructions.

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Robin Green of Counsel

Instructed by the Solicitor to South  
Oxfordshire District Council

*He called:*

Mr John Jeffcock  
BA (Hons) MA CMLI NZILA

Associate of Michelle Bolger Expert  
Landscape Consultancy

Mr Julian Kashdan-Brown  
B Arch (Hons) Dip Arch MSc MA RIBA

Architect and Urban Designer

Mrs Nicola Smith BSc (Hons) MSc

Principal Major Applications Officer

Mrs Emma Bowerman BA (Hons) MSc

Principal Major Applications Officer

### **FOR THE APPELLANT:**

Mr Christopher Young QC  
Ms Leanne Buckley Thompson of Counsel

Both instructed by the Appellant

*They called*

Mr Nigel Appleton MA (Cantab)

Executive Chairman of Contact  
Consulting (Oxford) Ltd

Mr Stuart Garnett BSc Dip TP MRTPI

Planning Director Inspired Villages

Mr James Atkin BSc (Hons) Dip LM CMLI

Director (Landscape) Pegasus Group

Mr Michael Carr BA (Hons) Dip LA Dip UD  
RUDP

Director (Design and Master  
Planning) Pegasus Group

Mr Roland Bolton BSc (Hons) MRTPI

Senior Director, DLP Planning Ltd

Mr Richard Garside RICS

Director and Head of Development  
Consultancy at Newsteer

Mr Simon James BA Dip TP MRTPI MIEMA

Managing Director DLP Planning Ltd

### **FOR SONNING COMMON PARISH COUNCIL:**

Mr Ben Du Feu of Counsel

Instructed by the Parish Council

*He called*

Mrs Emily Temple BSc (Hons) MSc MRTPI

Director ET Planning Ltd

**FOR OXFORDSHIRE COUNTY COUNCIL:**

Mr Dave Harrison BSc (Hons) MSc CMILT M Inst TA	Senior Public Transport Planner
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Ms Judith Coats LLB	Infrastructure Funding Team Leader
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**Interested Persons**

Mr Tom Fort	Chairman of Sonning Common Parish Council
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Ms Julia Whitelaw	Local Resident
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Dr Kim Emmerson	General Practitioner
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Ms Georgina Forbes	Local Resident
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Mr Jonathan Berger	Acting Chair of the Rotherfield Peppard Parish Council
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Mrs Joanne Shanagher	Local Resident
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Dr Michael Stubbs PhD MSc MRICS MRTPI	Planning Adviser, The Chilterns Conservation Board
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**DOCUMENTS SUBMITTED AT THE INQUIRY:**

**Local Planning Authority Documents**

- INQ LPA1 Opening Statement
- INQ LPA2 Factsheet 6 Design Principles for Extra Care Housing (3<sup>rd</sup> edition)
- INQ LPA3 Proof of evidence Erratum sheet, Nicola Smith
- INQ LPA4 Appendix 1 update, Nicola Smith
- INQ LPA5 Five-year Housing Land Supply Erratum, Nicola Smith
- INQ LPA6 Replacement Policies Schedule
- INQ LPA7 CIL Compliance Statement
- INQ LPA8 CIL Compliance Statement Addendum
- INQ LPA9 Costs application
- INQ LPA10 Conditions
- INQ LPA11 Closing Submissions

**Appellant Documents**

- INQ APP1 Opening Statement
- INQ APP2 Summary and comparison of landscape and visual effects
- INQ APP3 Correction sheet to JWA06
- INQ APP4 Open letter to Boris Johnson
- INQ APP5 Briefing Note Errata to Contextual Study of James Atkin
- INQ APP6 Service Charges Note of Stuart Garnett
- INQ APP7 References to height Johnson Matthey Planning Statement

INQ APP8 NPPF consultation document  
INQ APP9 Mr Doyle email  
INQ APP10 Extracts from Village News by Tom Fort  
INQ APP11 s106 Agreement  
INQ APP12 Nigel Appleton's Note  
INQ APP13 Central Bedfordshire Policy H3 Main Modifications  
INQ APP14 Pre commencement note  
INQ APP15 Verdin Judgment  
INQ APP16 Closing Submissions  
INQ APP17 Appellant's response to the Costs application

### **R6 Party Documents**

INQ PC1 Opening Statement  
INQ PC2 Closing Submissions

### **Interested Persons Documents**

IP1 Statement by Mr Tom Fort  
IP2 Statement by Ms Julia Whitelaw  
IP3 Statement by Dr Kim Emmerson  
IP4 Statement by Ms Georgina Forbes  
IP5 Statement by Mr Jonathan Berger  
IP6 Statement by Mrs Joanne Shanagher  
IP7 Statement by Dr Michael Stubbs

**Appendix 6: Mount Royal appeal decision 3329928**



## Appeal Decision

Inquiry held on 6, 7, 8 and 9 February 2024

Site visit made on 6 February 2024

**by J P Longmuir BA(Hons) DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> April 2024

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**Appeal Ref: APP/M1710/W/23/3329928**

**Mount Royal, 46 Lymington Bottom, Four Marks, Alton, Hampshire GU34 5AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Ltd against East Hampshire District Council.
  - The application Ref 56082/004 is dated 24 March 2023.
  - The development proposed is outline planning application for demolition of 46 Lymington Bottom, Four Marks and the erection of up to 60 dwellings with vehicular access point, public open space, landscaping and sustainable drainage systems (SuDS). All matters reserved except for means.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of 46 Lymington Bottom, Four Marks and the erection of up to 60 dwellings with vehicular access point, public open space, landscaping and sustainable drainage systems (SuDS) in accordance with the terms of the application, Ref 56082/004, dated 24 March 2023, subject to the conditions in the conditions annexe.

### Preliminary Matters

2. The Council did not determine the application and gave putative reasons in their Statement of Case (SoC). The first reason foresees that the proposal due to its density, layout and siting would lead to a discordant form of development which would be harmful to the character of the area.
3. The second reason was the likelihood of the intended residents being car dependent for access to services and facilities. Subsequent to the SoC a Connectivity Study, Transport Note and Framework Travel Plan were submitted. The Council accepted that these demonstrated the site's accessibility to facilities and the potential for a safe access. I consider these issues latterly.
4. The lack of information on ecology was another concern of the Council. Subsequent to the SoC a revised and updated ecological survey was submitted to the Council, which addressed this concern. I consider this also latterly.



5. The lack of a submitted Section 106 agreement was the subject of the Council's final putative reason, which they suggested would jeopardise delivery of affordable housing, management of open space and highway/accessibility measures. Subsequently a legal agreement dated 29 February 2024 was submitted on 4 March 2024 covering affordable housing, sustainable travel, highway works, management of open space, an on-site play area, a contribution towards off site recreation and monitoring. The Council confirmed at the Inquiry that this would satisfy their objections in this respect.
6. The application was submitted in outline except for details of the access. A Framework Plan was submitted which shows the extent of open space and the potential development area. An indicative Master Plan was submitted, and I have only considered it as titled, illustrating one possible layout.
7. The December 2023 revisions to the National Planning Policy Framework (the Framework) were duly considered by both parties in their written evidence to the Inquiry. In addition, Planning Practice Guidance on Housing supply and delivery (Housing supply Ppg) was revised on 5 February 2024 and considered by all parties at the Inquiry.

### **Main Issue**

8. The single remaining concern from the Council's SoC is the effect of the proposal on the character and appearance of the area. I consider this is the main issue.

### **Reasons**

#### *The effect of the proposal on the character and appearance of the area*

9. Policy CP10 of The East Hampshire District Local Plan: Joint Core Strategy (CP), provides the spatial strategy for new housing. It allows for development within settlement policy boundaries where development maintains and enhances character and quality of life. The policy also allocates a minimum of 175 dwellings at Four Marks/South Medstead<sup>1</sup>.
10. In March 2023 the Council adopted the Housing Outside Settlement Boundaries SPD. This provides an elaboration of saved policies including CP10 on the existing spatial strategy for growth. Acceptable development outside settlement boundaries will depend upon a community need, reinforcement of settlement role and function, inability to accommodate within the settlement and has local support.
11. The appeal site, with the exception of the access, is outside the identified settlement policy boundary, where CP19 applies in the countryside and restricts development to that needed for farming, forestry and rural enterprises.
12. Policy CP20 seeks to conserve and enhance local distinctiveness, sense of place and tranquillity of the landscape.
13. Policy CP29 requires exemplary and high standard of design. All development is required to respect character, identity, and context. Relatedly the layout and design are required to contribute to local distinctiveness and sense of place.

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<sup>1</sup> The neighbouring area to the north of Four Marks

14. Policy CP28 requires new development to maintain, manage and enhance the network of new and existing Green Infrastructure (GI). New GI should be provided on site or via financial contributions.
15. The Medstead and Four Marks Neighbourhood Plan (NP) Policy 1 is similar to CP10 as development within the Settlement Policy Boundary is supported in principle. Policy 9 also supports the provision of GI.
16. The Local Plan is being reviewed and both parties suggested the emerging plan warrants only very limited weight<sup>2</sup> and no party made reference to it in evidence.
17. The appeal site is approximately 1.5km west of the South Downs National Park, but no party raised any concern about the impact of the proposal on its setting and I similarly find no harm in this respect.
18. The appeal site is within the southeastern part of the 'Hampshire Downs' national character area, whereby the settlement pattern is along lower river valleys or as dense string of nucleated villages on higher slopes.
19. The site is within 'the clay plateau' in the East Hampshire District landscape character assessment, where the countryside is gently elevated, and enclosure varies according to woodland cover and allows some open views. The settlement pattern is nucleated villages. The sub area 'Four Marks Clay Plateau' has undulating countryside, rolling landform to north, blocks of woodland and intact hedgerow network. Four Marks is noted as having a higher density than other settlements within the Clay Plateau.
20. The East Hampshire District Council Landscape Capacity study aims to retain tree cover, restore field boundaries, management of woodland blocks, and conserve the rural character of lanes. Capacity is suggested to be constrained by the rural and generally tranquil character, distinctive field patterns and rural setting of settlements. The site and environs are within a broad area shown as medium capacity to accommodate new development providing it has regard to the setting and form of the settlement.
21. The site is not within any of the identified Four Marks character areas within the Council's 'Neighbourhood Character Study' (NCA). The Council suggest it is akin to 'Telegraph Lane'. However, Telegraph Lane is a very elevated area, being on one of the highest points of the village, with significant tree cover and a sense of openness on one side (the east) towards the National Park. The Inquiry was not presented with clear evidence to demonstrate similarities with the appeal site environs. Moreover, as the appeal site is not identified as within any NCA area, I find the Study of limited benefit in this case, and consider it is more meaningful to focus on the site itself and its surroundings.
22. The appeal site is on the southern edge of Four Marks and behind residential frontages on two sides: Brislands Lane and Lymington Bottom. The existing houses on both are prominent as their front gardens are largely open with limited screening vegetation. The houses themselves obscure much of the appeal site so that it is only visible in glimpses through gaps in the building lines. Consequently, the proposed houses, confirmed as two storey, would not be prominent and in any event would be experienced in a residential setting.

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<sup>2</sup> Statement of Common Ground paragraph 2.3.3

23. The other two sides of the appeal site border open fields, which are publicly experienced in the distance as evident in the uncontested viewpoints within the LVIA. Consequently, the houses would be a very small component of these views and so would not be harmful.
24. The proposal would lead to development in depth behind two frontages, which the Council suggested would be incongruous. Whilst there is some discernible frontage/linearity to Brislands Lane, in the vicinity of the appeal site there is an adjacent area of development in depth, at Lapwing Way. Whilst Lymington Bottom has some linearity there was no evidence before the Inquiry to demonstrate why this has cultural or historic significance. Indeed, the Village Design Statement comments on the extent of twentieth century housing, which is also echoed in the subsequent NP in 2016, and I find that the shape of the village has been largely derived from twentieth century development. Moreover, the East Hampshire District landscape character assessment characterises the village as a nucleated settlement.
25. The new housing would be sited on a hillside whereas Lymington Bottom is flat as is Brislands Road in part. However, that is not reflective of much of the village and the NP comments on Four Marks being in an elevated position in the landscape<sup>3</sup>. Additionally, the site is within the Hampshire Downs national character area, whereby the settlement pattern is characterised as a dense string of nucleated villages on higher slopes. Consequently, I do not find that this hillside siting of development would be inappropriate.
26. The density<sup>4</sup> of the development across the appeal site has been agreed as 20.7 dwellings/hectare. Mr Griffiths on behalf of the Council argued this would be harmful and suggested it should be akin to Telegraph Lane in the NCA. However, as I have found above this is not a comparable character. Indeed, Lapwing Way is the nearest new significant development to the appeal site and a similar context which has a density of 25.5 dwellings/hectare<sup>5</sup>. I find the density of the proposal would be low.
27. The indicative master plan illustrates the potential to accommodate the scale of development. The Development Framework Plan shows the provision of 1.19ha<sup>6</sup> open space, concentrated around the boundaries of the site, which would soften the new houses. This space could be landscaped so that trees would attract attention and assert a rural character. Similarly, the submitted plans demonstrate tree lined avenues would be feasible which would soften the access road and the passing vehicles.
28. The proposal would lead to a new access into the site whereby potentially such movement and noise of vehicles could potentially reduce tranquillity. However, this would be slight as the proposal at most would only be likely to generate approximately 30 vehicle movements at the a.m. peak hour<sup>7</sup>, and Lymington Bottom and Brislands Lane attract considerably more flows of through traffic. The tree lined avenues above would also help the perception of tranquillity.
29. Concern is raised by local residents about the extent of recent development and the threat to the village character. The effects aside from connectivity,

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<sup>3</sup> Paragraph 1.7

<sup>4</sup> Mr Griffiths Rebuttal Proof of Evidence paragraph 7.3

<sup>5</sup> Appendix 7 Ms Gruner Proof of Evidence

<sup>6</sup> Appellant closing paragraph 48

<sup>7</sup> Paragraph 5.8 Transport Assessment

social cohesion and facilities, will largely depend upon the particular characteristics of the site, the proposal and the nature of the surroundings, which have influenced my conclusion below.

30. In conclusion there are few publicly clear views of the site, and the development would be likely to be experienced in glimpsed views amongst other houses on two sides. However, the proposal would lead to the loss of a grass field which would harm the countryside setting of the village. I therefore find that the proposal would lead to limited harm at the outset but after the new landscaping has become established and flourishing after 15 years, that harm would become very limited.
31. The proposal being development outside a settlement policy boundary and in the countryside would be contrary to Policy CP10 (and the Council's Housing Outside Settlement Boundaries SPD), CP19 and similarly NP Policy 1. It would be contrary to CP20 due to landscape harm.
32. The proposal would provide significant public open space thereby contributing to the GI in the area in accordance with Policy CP28 and empathise with the GI network shown in the Neighbourhood Plan and its Policy 9.
33. Policy CP29 requires exemplary standard of design and highly appealing visual appearance, creating a sense of place and local distinctiveness. The proposal includes open space, potentially tree lined avenues and retention of boundary vegetation, which meets these policy criteria. The Policy also requires sympathetic height and density which again are met by the proposal. However, CP29 also requires the respect of character, and in this regard the proposal would be in conflict as limited/very limited harm would arise; overall, the proposal would conflict with Policy CP29.

### **Other matters**

34. Local residents expressed concern about the potential of surface water run-off flooding nearby houses as the site is elevated. However, the proposal has a strategy agreed by the Lead Local Flood Authority, which involves capture and containment of water on site using a pond at the lower end and accompanying ditches. Additionally permeable surfaces are also envisaged to slow run off and help water quality by filtration. The precise details of the scheme including maintenance could be controlled by their submission and approval in a condition, whereas currently there is no surface water retention on site and run-off is unabated. I therefore find that suitable drainage to address the impact of this development can be provided.
35. Local residents also expressed concern about the road safety implications from the additional traffic resulting from the development and the effect on the nearby school. During my site visit I saw the school road frontages at the end of the school day and, whilst there was extensive on street parking, a diligent highway official stopped and controlled traffic at appropriate moments to allow safe crossing, which I was advised is an everyday operation. The surveyed speeds are generally around 35mph<sup>8</sup> and the proposal provides funding for traffic calming and pedestrian measures in the Section 106 agreement towards a County Council scheme. The access from the appeal site would have visibility to meet accepted national standards and has been positively assessed in a road

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<sup>8</sup> Paragraph 3.4 Transport Response Note

safety audit. The highway authority had no objection on safety grounds, and I concur.

36. Comments were made that the residents would be reliant upon car use for their everyday needs. However, on my site visit I observed primary school children walking or using scooters up to and beyond the appeal site. The nearest shops, which are wide ranging, are on the A31 and I walked along both connecting routes: Merlin Road/Blackberry Lane and along Lymington Bottom. Both routes have roadside pavements which are safely overlooked and, although there is an uphill element, the steepness would not be overly discouraging for many. I therefore find that walking would be feasible for most residents. There are also bus stops along the A31 with widespread services to surrounding towns. The well-kept recreation ground is also close by. Comments were made about the lack of employment in Four Marks but the nature of employment, and its associated travel if undertaken, is complex. In any event, the village has had recent development and indeed Lapwing Way is larger than this proposal, so 60 houses would not be inappropriate.
37. Concern was expressed about the potential impact on ecology. The submitted survey showed presence of bats, largely around the vegetation which is on the site boundaries. The submitted Framework Plan shows that the hedges and trees would be retained, and potential dark corridors can be maintained. The ecologist's report did not show any other protected species or habitat on the site. The proposal includes a significantly sized open space and tree lined avenues are envisaged, which together with the SUDs drainage would offer opportunities to diversify the habitat on the site: a potential biodiversity net gain has been demonstrated. The Council had no objection on ecological grounds at the Inquiry and I similarly concur.
38. Concern is made about whether the access for emergency services would be constrained by the adjacent houses. However, the development would have its own access, constructed to adoptable set standards, where sufficient width and manoeuvrability would be expected to be provided.
39. There is also concern about the possible impact on the living conditions of the occupants in the neighbouring homes. On my site visit I noted the relative heights of the neighbouring dwellings and the nature of the boundaries to their gardens. However, this is an outline proposal, and the precise details of the intended dwellings would have to be considered in the reserved matters. Moreover, there is scope for a detailed scheme to allow sufficient distance, orientation, siting, elevations and boundary screening to maintain the living conditions of the nearby residents.

### **Planning Obligations**

40. The 2010 CIL Community Infrastructure Levy Regulations (CIL) and paragraph 57 of the Framework provide the legal and policy tests for obligations. These tests require that planning obligations should only be sought where they are: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. This is also confirmed in the Planning practice guidance on Planning obligations (obligations Ppg).
41. The Council have provided evidence in a CIL compliance statement to show that the obligations include measures to mitigate the impacts of development

- and meet the costs of associated infrastructure. NP Policy 5 supports community facilities within the village.
42. The provision of 40% of the housing as affordable is necessary to ensure that the development provides for the needs of the community as a whole. This accords with Policies CP11 and CP13 and is an important consideration in the planning balance.
  43. Provision is made for a contribution towards the pavilion at the recreation ground, where the new residents would be readily able to enjoy recreation opportunities. The contribution is based on the number of houses and bedrooms so reasonably relates to need. Provision of an equipped play area on site is also needed for younger residents and is the subject of an obligation. Both of these measures would ensure that the new residents have the facilities to support their health and well-being as well as encouraging community mixing, in accordance with Policy CP18 and NP Policy 5 which specifically seeks improvements to the recreation ground.
  44. The agreement also makes provision for the submission of works to form the open space and provide for its management. This is necessary for the character and appearance of the area in accordance with CP28.
  45. A contribution of £228,500 is intended towards a new gateway feature to calm vehicle speeds, build outs along Lymington Bottom road and an informal crossing point, a linking footway to connect Lymington Bottom with adjacent roads to improve access to the primary school, a wayfinding strategy, and a new public right of way along Brislands Road towards the recreation facilities. Similarly, a £750 per dwelling contribution would be made towards a Travel Plan. Both of these obligations would support the promotion of non-private vehicular transport in the interests of limiting new traffic and the environmental implications, which accords with Policy CP31.
  46. The agreement also requires implementation of the site access works to ensure that safe access is provided without delay, which also accords with Policy CP31. Public access into the appeal site is also subject of an obligation to allow for the wide benefit of the open space and potential onward footpath connections in accordance with Policy CP28.
  47. Both County and District Councils requested monitoring fees, based on their own calculations for their particular responsibilities in each obligation within the agreement as outlined in their respective obligations guidance. The obligations Ppg<sup>9</sup> allows for monitoring costs if proportionate and reasonable. The obligations would have to be checked by the Council staff throughout the progress of the development and payments would need to be requested, received, and actioned. Both Councils have particular responsibilities for overseeing the obligations and the funding. I therefore find that the monitoring fees are necessary and reasonably related to the proposal.
  48. The above obligations are intended to mitigate the needs and impact of the intended occupants of up to 60 additional houses, to avoid placing undue pressure on the existing community facilities. The requirements were based on calculating the resulting new residents and the likely need for the particular facilities.

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<sup>9</sup> Paragraph 36

49. The CIL Compliance evidence sets out how each obligation would meet the tests in the CIL Regulations and the Framework. I am satisfied that each obligation above would meet the tests in that they are all necessary to make the development acceptable, directly related and fairly and reasonably related in kind and scale. Provision is also necessary to accord with the above Development Plan Policies.
50. I therefore confirm that the obligations contained in the section 106 agreement would be necessary and reasonable.

### **Housing Land Supply**

51. The yearly requirement of 464 dwellings is agreed by both parties. This is calculated using the standard method as the Local Plan is more than 5 years old. The Council has 112% in the latest Housing Delivery Test as at 2022 and therefore no additional buffer is required. Following publication of the December 2023 revisions to the Framework and 5 February 2024 revisions to the Housing supply Ppg both parties agree that the Council is required to provide 4 years supply as measured over the 5 year period. The parties also agree that the base date for the land supply calculation is 1 April 2023.
52. The disagreement between the parties is centred on the supply. The Council considers there is 4.74 years whereas the Appellant finds 3.59 years.
53. Both parties acknowledge that the NPPF glossary provides the definition of deliverable housing sites; this refers to the need for clear evidence.
54. Land east of Horndean has only outline planning permission. The Appellant advised that the Council's Environmental Health Officers are concerned about ventilation, their Policy team have concerns about the design of the scheme and the Highway Authority have objected as well as the Parish Council. A reserved matters scheme has been submitted but is undetermined. Therefore, the submitted evidence does not clearly show this is deliverable in the time period and 200 dwellings should be deleted from the supply.
55. The Mill Chase Academy site is allocated for development, whilst a permission was granted there are various conditions including pre-commencement, which have yet to be discharged. The Council suggest that this should be completed within 5 years, with a rate of 50 dwellings per year, however this is not clearly substantiated. Moreover, it does not compare with other large sites, where the build rate is typically 30 dwellings per year which appears realistic. Therefore 57 dwellings should be deleted from the supply.
56. The Alton Neighbourhood Plan allocates a site by the Manor House for 15 dwellings. Whilst this was granted permission on appeal in June 2023, at the agreed base date of 1 April 2023 this did not have permission and so would be erroneous to include: a firm base date is needed as permissions will contribute to supply and so can be added but equally completions will need to be accounted at the same time which lead to the supply being diminished. As a result, 15 dwellings should be deleted from the Council's supply.
57. Development on the Molson Coors site for flats has commenced but the precise stage of construction and future work was not presented to gauge its deliverability within the 5 year housing land delivery trajectory. There are also other variations in the trajectories, including Treloar Hospital which changed from 20 dwellings a year to 40.

58. The Council at the Inquiry suggested that 1,096 dwellings from large sites with detailed planning permission will contribute to land supply, the Appellant considers 892<sup>10</sup>. The difference is due to the assumption of build rates which is based on the estimated trajectory for each site.
59. The 892 dwellings delivery is based on the Council's position statement Appendix E. This states that 'a realistic phasing schedule has been maintained to ensure accuracy'. It is additionally stated that there has been 'regular contact' with representatives of those developments along with development management officers of the Council and that 'there is clear evidence for all sites counted'.
60. The Council at the Inquiry stated that the trajectory in their Appendix E was erroneous as it showed large sites being phased incorrectly to include only sites under construction rather not what was expected from them. Whilst the Council suggest that the 1,096 figure is valid, they confirmed at the Inquiry that at the present time no 'pro-forma' questions are sent to the particular house builders or any other written communications with developers, rather it is derived from officers opinion. There was no written evidence to support the trajectories. Moreover, the District Council do not do their own monitoring rather it is undertaken by the County Council which further distances their officers from understanding the sites constraints and the County Council did not submit evidence to the Inquiry on this matter.
61. Whilst the District Council offered reassurance about the genuine assumptions to the trajectories, there was no evidence from the housebuilders themselves, which is particularly important as they are in clear positions to understand their own site and its particular constraints. The Framework glossary refers to the need for clear evidence to demonstrate the deliverability, and accordingly I cannot conclusively conclude that any more than 892 dwellings are deliverable, and so 204 dwellings should be deleted from the supply.
62. The Ppg also states a windfall allowance may be justified. Paragraph 72 of the Framework confirms the need for compelling evidence and any allowance should be realistic having regard to strategic land availability assessment, historic windfall and expected future trends. The Council include 112 dwellings as a foreseen windfall allowance. However, this is in addition to small sites with planning permission. In the two years 2026/27 and 2027/28 this would indicate 102 dwellings which far surpasses the windfall completions to date which the Appellant quantifies at 58 dwellings per year<sup>11</sup>. I therefore find that there is not compelling evidence to assume greater than historic delivery and therefore 53 dwellings should be deleted from the supply.
63. The Council suggest total supply is 2,198 dwellings, whereas the Appellant suggests 1,664 thereby leading to the respective positions of 4.74 and 3.59 years supply. Taking the above deletions into account, I therefore find that the supply at 1 April 2023 is 3.59 years based on the particular evidence before this Inquiry.
64. The Local Plan review suggests the potential for improving supply in the future although at this particular stage it is not guaranteed when suitable and deliverable sites will be found. In addition, the Council will have to make

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<sup>10</sup> Paragraph 2.4 Statement of Common Ground on Housing Land Supply

<sup>11</sup> Mr Pycroft Proof of Evidence paragraphs 6.35 -6.37



further provision to contribute to the needs of the National Park. Moreover, since 2011 there has been a near consistent under delivery of housing completions in East Hampshire against the adopted housing requirement<sup>12</sup>. I therefore find that the future prospects are uncertain.

65. The Appellant advocated that meeting supply will entail making up the difference between 4 and 5 years supply sometime in the future, although the Council argued that as the supply is a rolling figure, completions (loss of supply) will be replaced by new permissions (additions to supply). The Ppg refers to an allowance to maintain a 4 year target for up to 2 years, but in any event, this will have to be assessed in the Local Plan review including its examination.

### **Development Plan and Planning Balance**

66. The proposal being development on a site largely outside the settlement policy boundary would conflict with Policies CP10 and CP19 of the Core Strategy and similarly would be contrary to NP Policy 1. As above I also have found conflict with CP20 in that the proposal would result in limited/very limited landscape harm.
67. I have also found that overall, there would be conflict with CP29: whilst the proposal has several notable design attributes it would cause limited/very limited harm to the countryside setting of the village.
68. The proposal would provide a significant area for public open space which would accord with Policy CP28 and NP Policy 9.
69. Considering the above collectively there is some accordance but also some conflict with the Development Plan policies. When taken as a whole, I find that the proposal would be contrary to the Development Plan.
70. As I found above the Local Planning Authority cannot demonstrate a four year housing land supply and in such circumstances paragraph 11(d) of the Framework is triggered. Paragraph 11(d) criterion ii requires consideration of whether any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
71. Paragraph 7 of the Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. In order to achieve this paragraph 8 of the Framework provides three overarching objectives: economic, social and environmental.
72. In terms of the economic objective the proposal would provide up to 60 houses which would have benefits from their construction: £7 million<sup>13</sup> cost is quoted by the Appellant and uncontested. The housing land supply shortfall is significant with uncertain prospects for improvement and paragraph 60 of the Framework confirms the Government's objective of significantly boosting the supply of homes.
73. The Appellant suggests the proposed dwellings would be completed in 1.7<sup>14</sup> years. I find this would appear to be marginally optimistic but not wholly

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<sup>12</sup> Mr Pycroft Proof of Evidence table 3

<sup>13</sup> Paragraph 9.4.7 Ms Fitzgerald Proof of Evidence

<sup>14</sup> Paragraph 9.4.7 Ms Fitzgerald Proof of Evidence

unrealistic bearing in mind the typical 30 dwellings a year build rate on other sites, as raised earlier. Indeed, the site is largely greenfield, and construction would not be expected to be constrained. Whilst demolition of the existing dwelling would be required at the outset, there is space to do such work. Additionally, it was explained at the Inquiry that marketing would be undertaken by a specialist team with contacts in hand and it is not the practice of the Appellant to withhold implementation of development sites. The reserved matters would have to be timely, and I conclude a good number of the dwellings would be likely to contribute to the housing land supply.

74. In terms of the social objective, the Framework refers to the need to provide sufficient number and range of homes to meet the needs for present and future generations. Bearing in mind the housing land supply shortfall there is a pressing need to increase supply from deliverable sites. The proposal would provide a range of new homes, in terms of size, form and tenure.
75. The affordable housing would also contribute to the social objective, particularly as 40% of the dwellings would be affordable which is a very significant proportion. Notably, the average cost of a home in East Hampshire in 2022 was 12.5 times the area average salary compared with 5.17 in 1997<sup>15</sup>. The Inspector's report examining the Local Plan in 2013 identifies an acute need for affordable housing and thereafter since 2019 the number of people on the housing register<sup>16</sup> has increased whilst affordable housing delivery has substantially fallen. The Council's HEDNA<sup>17</sup> records in 2022/23 a shortfall of 502 affordable homes in that year alone.
76. The affordable housing would contribute to the local need and support the community as a whole helping to retain villagers and the Parish Council submissions remark on the scarcity of 20-40 year olds. The proposal would provide an accepted standard of everyday living for those currently waiting for suitable homes. I therefore find that the housing provision would have substantial economic and social benefits.
77. The Section 106 obligations for funding towards the recreation ground pavilion would benefit existing as well as new residents which would contribute to the social objective. In addition, over £700,000 in CIL would be generated of which 25% would go to the Parish Council which would also benefit the area.
78. In terms of the environmental objective the proposal would lead to limited landscape harm becoming very limited over time. Conversely, the occupants of the dwellings would be close to facilities without reliance upon car use, thereby helping towards low carbon living as advocated within this criterion of paragraph 8. Also, the proposal would promote the sustainable access to facilities and provide traffic calming. Additionally, the proposal has been demonstrated to potentially improve biodiversity, which would be a benefit.
79. In the light of the above I therefore conclude that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development. The benefits of the proposed development and presumption in favour of

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<sup>15</sup> Paragraph 8.1.9 Ms Fitzgerald Proof of Evidence

<sup>16</sup> Figure 1 page 43 Ms Fitzgerald Proof of Evidence

<sup>17</sup> Housing and Economic Development Needs Assessment

sustainable development in the context of the paragraph 11(d) balance therefore lead me to conclude that the appeal should be approved not in accordance with the development plan as material considerations indicate a decision otherwise is appropriate.

### **Conditions**

80. Paragraph 56 of the Framework and the Planning practice guidance, Use of planning conditions (PPG), provide the tests for the imposition of conditions. There was considerable agreement on the wording of conditions. However, the Framework is clear that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning, and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the suggested conditions accordingly.
81. A condition is needed to confirm which details are the subject of reserved matters. Similarly, the conditions on timing and approved plans help provide clarity and certainty. Similarly, a condition is warranted to confirm the maximum number of dwellings as density has been a consideration.
82. Rather than the standard 3 years for the submission of application(s) for reserved matters, it was discussed at the Inquiry whether this should be reduced to 2 years. Whilst the Appellant indicated this may not be necessary it was acknowledged that it might help demonstrate the site's deliverability. I find this would encourage the proposal's implementation and support its contribution to the 5-year housing land supply requirement, in accordance with paragraph 77 of the Framework.
83. The two conditions on construction management are combined due to overlap in their requirements. The provisions are needed to safeguard the reasonable living conditions of local residents and highway safety. It is worded as pre-commencement to ensure that the required measures are in place from the outset.
84. A condition is needed to ensure that the visibility splays to the sides of the access are kept clear in the interests of safety. A condition requiring details of levels, drainage and lighting strategy of the new roads to be included in reserved matters would ensure that the roads can be considered comprehensively.
85. A condition to investigate and potentially remediate land contamination is suggested. The field has been used for agriculture in the past and it is possible that some chemicals may have been used. This is warranted as a precaution to ensure the health of the new residents.
86. The landscaping details are a reserved matter, but a condition is needed on the timing of planting and any replacement of lost specimens. A condition is also needed to ensure that tree works, and their protection, are undertaken to conserve important specimens. In addition, a condition is needed to promote biodiversity on the site and ensure a net gain.
87. A condition on approval of a detailed surface water drainage scheme is necessary so that additional water run-off from the new hard surfaces is accommodated on site to avoid exacerbating flooding. The condition requires submission of details in compliance with the strategy submitted as part of this

proposal. Similarly, conditions are warranted on maintenance of the above and use of porous surfaces.

88. The archaeological conditions would ensure that any significant remains are properly recorded. One is worded as pre-commencement out of necessity.

### **Conclusion**

89. I therefore conclude that the appeal should be allowed, subject to the conditions in the conditions annexe below and the Section 106 agreement.

*John Longmuir*

INSPECTOR

### **Appearances**

#### For the Council

Mr Scott Stemp Counsel, No 5 Chambers,

Mr Carl Griffiths BA(Hons) MPlan Planning Manager Capita

Mr Adam Harvey BA(Hons) MA MRTPI Planning Policy Manager East Hampshire

Ms Holly Drury BSc(Hons) MSc MCIHT Principal Transport Planner Hampshire CC

#### For the Appellant

Mr Christian Hawley, Counsel, No 5 Chambers,

Mr Clive Burbridge BSc(Hons) MSc MRTPI FCIHT FIHE CMILT, Director of Transportation, Icen Projects

Mr Colin Whittingham BSc(Hons) MSc MCIWEM C.WEM PIEMA, Director, RSK

Mr Ben Pycroft BA(Hons) Dip TP MRTPI, Director, Emery Planning

Ms Silke Gruner (BHons) CMLI, Director (Landscape), Icen Projects

Ms Kathryn Fitzgerald BA(Hons) MPlan MRTPI, Planning Manager, Gladman Developments Ltd

#### Interested parties

Mr Paul McAllister Four Marks Parish Council

Dr Arthur Barlow Chairman Fight for Four Marks

Dr David Aston Local resident

Mr Brian Timms Local resident

Mr Frank Mallony Local resident

### **Documents submitted during the Inquiry**

INQ1 Opening statement from the Appellant

INQ2 Opening statement from the Council

INQ3 East Hampshire Five Year Housing Land Supply Position Statement

INQ4 Addendum to above

INQ5 Hampshire County Council note on highway obligations

INQ6 Appellant: Note on flood risk

INQ7 Appellant: Transport Response Note to Residents Concerns

INQ8 Suggested conditions

INQ9 Draft legal agreement

INQ9 Council closing

INQ10 Appellant closing

### **Conditions annexe**

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission and the development shall be begun either before the expiration of two years from the date of this permission or before the expiration of two years from the date of approval of the last reserved matters to be approved whichever is the latter.
2. No development shall start on site until plans and particulars showing details relating to appearance, landscaping, layout, and scale of the development shall be submitted to, and approved by the Local Planning Authority. These details shall comprise the 'reserved matters' and shall be submitted within the time constraints referred to in Condition 1 above before any development is commenced.
3. The development shall be carried in accordance with the following approved plans: Location Plan: CSA/3402/117 Rev A, Site Access Drawing: 22-T082-01 Rev F and Framework Plan.
4. No more than 60 dwellings (Use class C3) shall be constructed on the site.
5. No development shall start on site until a construction method statement has been submitted to and approved in writing by the Planning Authority, which shall include:
  - a) A programme of and phasing of demolition and construction work;
  - b) The provision of long-term parking for all site operatives and visitors;
  - c) The arrangements for deliveries associated with all construction works;
  - d) Methods and phasing of construction works;
  - e) Access and egress for plant and machinery;
  - f) Protection of pedestrian routes during construction;
  - g) Location of temporary site buildings, compounds, construction material, and

plant storage areas;

h) Location of temporary site buildings, compounds, construction material, and storage areas;

i) Details of the methodology for ensuring dirt is not transferred onto the highway from the site (wheel washing), and onwards mitigation should this fail, such as the employment of mechanical road sweepers, and the subsequent refresh of street lining (as and when required) should this be damaged during the process;

j) A public communication strategy, including a complaints procedure;

k) Loading and unloading of plant and materials;

l) Storage of plant and materials used in constructing the development;

m) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

n) Measures to control the emission of dust and dirt during construction to include a site specific dust management plan; and

o) Measures to control noise and vibration during construction.

6. The approved lines of site splays as shown on drawing 22-T082-01 Rev F and 22-T082-07 shall be kept free of any obstruction exceeding 0.6m in height above the adjacent carriageway.

7. The details submitted in relation to the reserved matters stage shall include details to demonstrate an appropriate street design. These details shall include:

a) Street Lighting Strategy;

b) Drainage Strategy and Design details in relation to the site and any new street and footpath;

c) Final ground levels plan; and

d) Final materials plan;

The above matters should be implemented in accordance with the approved plans.

8. No above ground development shall commence until the reserved matters for landscaping details together with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority. All landscaping shall be carried in accordance with the approved scheme and the approved implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9. Prior to commencement of development activities, an ecological mitigation and management strategy (to include but not be restricted to: details of protection measures for retained habitat; details; details such as timings, locations and ongoing maintenance of mitigation, compensation and enhancement measures for ecological features) shall be submitted to, and agreed in writing by, the Local Planning Authority. Such details shall be in accordance with the mitigation, compensation and enhancement measures detailed within the Ecological Impact Assessment (EcIA) and Biodiversity Net Gain (BNG) Assessment (CSA, November 2023). Any such measures shall thereafter be implemented in strict accordance with the agreed details.

10. No development shall begin until a detailed surface water drainage scheme for the site, based on the principles within the Flood Risk Assessment, has been submitted and approved in writing by the Local Planning Authority. The submitted details shall include:

- a. A technical summary highlighting any changes to the design from that within the approved Flood Risk Assessment; and
- b. Winter groundwater monitoring and infiltration test results undertaken in accordance with BRE365 and providing a representative assessment of those locations where infiltration features are proposed
- c. Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
- d. Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
- e. Evidence that urban creep has been included within the calculations.
- f. Confirmation that sufficient water quality measures have been included to satisfy the methodology in the Ciria SuDS Manual C753.
- g. Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.

11. Details for the long term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings. The submitted details shall include:

- a. Maintenance schedules for each drainage feature type and ownership; and
- b. Details of protection measures.

12. The proposed hard surfaces shall either be made of porous materials or provision shall be made to direct run-off water from the hard surfaces to a permeable or porous surface within the site.

13. No development shall start on site, including demolition, until an Arboricultural Method Statement and Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

14. No development shall commence until the applicant has submitted, and the Local Planning Authority has approved in writing, a written scheme for the programme of archaeological evaluation within that Development Phase area. The programme of archaeological evaluation shall then be implemented in accordance with the agreed scheme.

15. No development shall commence until the applicant has submitted, and the Local Planning Authority has approved in writing a Written Scheme for recording all historic assets within that Development Phase area. The recording of all historic assets shall then be implemented in accordance with the agreed scheme.

16. Following completion of archaeological fieldwork within the Development site a report shall be produced in accordance with an approved programme including where appropriate post-excavation assessment, specialist analysis and reports,

publication and public engagement related to that Development Phase area and submitted to the Local Planning Authority.

17. No development shall commence on site until the following details have been submitted to and approved in writing by the Local Planning Authority:

- (a) a scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site;
- (b) a written report of the findings which includes, a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the Local Planning Authority and identified as unnecessary in the written report, an appraisal of remediation options and proposal of the preferred option(s) identified as appropriate for the type of contamination found on site;
- (c) and a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages. Site works and details submitted shall be in accordance with the approved scheme and undertaken by a competent person.

The above reports and site works should be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

18. Before any part of the development is first occupied or brought into use a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming the approved remediation scheme has been implemented in full shall both have been submitted to and approved in writing by the Local Planning Authority.

The verification report and completion certificate shall be submitted in accordance with the approved scheme and undertaken by a competent person in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

19. All development on a Development Phase shall be stopped immediately in the event that contamination not previously identified is found to be present on that Development Phase, and details of the contamination shall be reported immediately in writing to the Local Planning Authority. Development on that Development Phase shall not re-start until the following details have been submitted to and approved in writing by the Local Planning Authority, in consultation with the Environment Agency:

- (a) scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site.



(b) a written report of the findings which includes, a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the Local Planning Authority and identified as unnecessary in the written report, an appraisal of remediation options and proposal of the preferred option(s) identified as appropriate for the type of contamination found on site.

(c) a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages;

and before any part of the relevant Development Phase is occupied or used (unless otherwise first agreed in writing by the Local Planning Authority) a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming that the approved remediation scheme has been implemented in full in that Development Phase shall both have been submitted to and approved in writing by the Local Planning Authority.

The above site works, details and certification submitted shall be in accordance with the approved scheme and undertaken by a competent person in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

This condition shall apply to individual phases of development

*End of conditions*

**Appendix 7: West Parley Bellway Email December 2022**

## planningpolicy

---

**From:** David Nash [REDACTED]  
**Sent:** 06 December 2022 12:59  
**To:** Karen Barnes; Debbie Turner  
**Cc:** Simon Packer  
**Subject:** RE: Land East of New Road, West Parley

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Karen and Debbie,

Bellway's latest projected annual completion details below – assumes legal completions (sales) start from December 23 with two sales outlets 24/25-27/28.

Kind regards

David

David Nash  
**Planning Manager**

[REDACTED]  
**Bellway Homes Limited (Wessex)**  
Embankment Way  
Castleman Business Centre  
Ringwood  
Hampshire  
BH24 1EU  
www.bellway.co.uk



---

**From:** Karen Barnes [REDACTED]  
**Sent:** 24 November 2022 14:22  
**To:** David Nash [REDACTED]  
**Cc:** Simon Packer [REDACTED]  
**Subject:** FW: Land East of New Road, West Parley

---

**ALERT:** This message originated outside of Bellway's network. **BE CAUTIOUS** before clicking any link or attachment.

---

Hi David,

See the below request from Dorset for housing delivery updates for West Parley – are you able to complete please?

Thanks.

**Karen Barnes**  
Senior Planner

**Turley**

Mobile: [REDACTED]  
Office: [REDACTED]

We are a CarbonNeutral® certified company.

We support blended flexible working which means that co-owners will respond to you during their working hours and we appreciate that you will respond during

Our co-owners are contactable in the usual ways and we suggest using mobile numbers in the first instance.



Think of the environment, please do not print unnecessarily  
This e-mail is intended for the above named only, is strictly confidential and may also be legally privileged. If you are not the intended recipient please do not read, print, re-transmit, or delete any attachments. Instead, please notify the sender and then immediately and permanently delete it. Turley bank account details will not change during the course of an instruction and we will not make any payments into an incorrect bank account. Turley is a trading name of Turley Associates Ltd, registered in England and Wales Registered No 2235387 Registered Office 1 New York Street, London EC4A 3DF. [Terms and Conditions](#)

**From:** Debbie Turner [REDACTED]  
**Sent:** 24 November 2022 14:13  
**To:** Karen Barnes [REDACTED]  
**Subject:** RE: Land East of New Road, West Parley

You don't often get email from [REDACTED] [Learn why this is important](#)

Dear Ms Hingley

I'm currently updating Dorset Council's housing land trajectory. With regard to Land East of New Road, West Parley, would you be able to update us on your anticipated timeframe for delivery?

I'm particularly interested in the next five financial years (2022/23 to 2026/27) but any further information relevant to delivery of the site would also be helpful. If possible, please could you fill in the table below.

	2022/23	2023/24	2024/25	2025/26	2026/27
Anticipated delivery of homes		14	82	80	80

If you have any questions regarding this matter, please let me know.

Kind regards

**Debbie Turner**  
**Senior Planning Policy Officer**  
**Economic Growth and Infrastructure**  
**Dorset Council**

[REDACTED]  
[dorsetcouncil.gov.uk](http://dorsetcouncil.gov.uk)



## Appendix 8: Land at Howe Lane Application Screenshot

# Planning application: 3/19/0019/RM

Viewing a Planning application.

[Back to search results](#) | [New search](#)

Main Details	Location	View Documents	Consultees	Appeals	History
To view individual documents click on the required row, and the document will be downloaded.					
To download a selection of documents, place a tick alongside each of the relevant rows and then click on <b>Download selected files</b> .					
To download all of the documents, place a tick in the box alongside the header row to select all of the files, then click on <b>Download selected files</b> .					
<p><b>Please note:</b> If you are using Internet Explorer 11 you may incur problems trying to open documents or use the Online comments facility. If you do have such pro please go to Tools in the Browser menu, select Compatibility View Settings and then Add which should resolve these issues.</p>					
<b><u>Documents</u></b>					
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Plans and elevations plot 4</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Plans and elevations plot 28</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Plans and elevations Plot 17-21</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Street Scenes</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Full Site Plan</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Plans and Elevations Plot 22-23</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Site Plan South Section</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Tree protection plan</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Application Form - Without Personal Data</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations plot 5</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations plot 7</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations plot 6</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations plot 9</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations plot 10</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations plot 12</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations plot 11</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations Plot 14</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations Plot 13</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - Plans and elevations Plot 29</a> (unknown size)			
<input type="checkbox"/>		<a href="#">27/12/2018 - SUPERSEDED Site Sections Indicating Retaining Walls and raised patios</a> (unknown size)			

**Documents**

- [27/12/2018 - Pland and Elevations Plot 8](#) (unknown size)
- [27/12/2018 - Plans and Elevations Plot 15-16](#) (unknown size)
- [27/12/2018 - Plans and Elevations Plot 24-25](#) (unknown size)
- [27/12/2018 - Plans and Elevations Plot 26-27](#) (unknown size)
- [27/12/2018 - Block and Location Plan](#) (unknown size)
- [27/12/2018 - Drainage documentation](#) (unknown size)
- [27/12/2018 - Drainage documentation](#) (unknown size)
- [27/12/2018 - Drainage documentation](#) (unknown size)
- [27/12/2018 - Construction Method Statement](#) (unknown size)
- [27/12/2018 - Sustainability appraisal](#) (unknown size)
- [27/12/2018 - Landscaping details](#) (unknown size)
- [27/12/2018 - SUPERSEDED Landscaping details](#) (unknown size)
- [27/12/2018 - SUPERSEDED Landscaping details](#) (unknown size)
- [27/12/2018 - Tree survey](#) (unknown size)
- [30/01/2019 - Construction Phase Plan.pdf](#) (unknown size)
- [30/01/2019 - Turning Plan.pdf](#) (unknown size)
- [30/01/2019 - Refuse strategy](#) (unknown size)
- [31/01/2019 - construction method statement](#) (unknown size)
- [01/02/2019 - Planning Constraints](#) (unknown size)
- [05/02/2019 - CED Tree Team Comments](#) (unknown size)
- [05/02/2019 - CED Tree Team comments](#) (unknown size)
- [07/02/2019 - Dorset NET Response](#) (unknown size)
- [08/02/2019 - Site Notice](#) (unknown size)
- [11/02/2019 - Airport Safeguarding Response](#) (unknown size)
- [11/02/2019 - Wessex Water Map](#) (unknown size)
- [11/02/2019 - Wessex Water Consultee Response](#) (unknown size)
- [14/02/2019 - Verwood Town Council Response](#) (unknown size)
- [19/02/2019 - Dorset County Council Highways comments](#) (unknown size)

**Documents**

- [19/02/2019 - Tree Root Protection Plan rev. B](#) (unknown size)
- [19/02/2019 - Dorset Wildlife Trust comments](#) (unknown size)
- [19/02/2019 - Natural England Response](#) (unknown size)
- [20/02/2019 - Richardson L 3 Summer Fields Objection](#) (unknown size)
- [21/02/2019 - Charalambakis 4 Summer Fields Objection](#) (unknown size)
- [22/02/2019 - Tree Protection road reinforcement technical information](#) (unknown size)
- [22/02/2019 - CED Tree Team Comments](#) (unknown size)
- [24/02/2019 - SUPERSEDED Affordable Housing Allocation Plan](#) (unknown size)
- [25/02/2019 - DCC LLFA Response](#) (unknown size)
- [25/02/2019 - Environment Agency comments](#) (unknown size)
- [25/02/2019 - East Dorset Environment Partnership comments](#) (unknown size)
- [25/02/2019 - Design and Access Statement 3/13/0674/OUT](#) (unknown size)
- [28/02/2019 - Service Plan](#) (unknown size)
- [01/03/2019 - Dorset NET Response](#) (unknown size)
- [12/03/2019 - CED Conservation Comments](#) (unknown size)
- [13/03/2019 - SUPERSEDED Tree Protection Plan](#) (unknown size)
- [15/03/2019 - CED Tree Response](#) (unknown size)
- [19/03/2019 - DCC Highways Response](#) (unknown size)
- [19/03/2019 - Revised Drainage Plan](#) (unknown size)
- [21/03/2019 - SUPERSEDED Updated Ecology Report](#) (unknown size)
- [21/03/2019 - SUPERSEDED Updated BMEP](#) (unknown size)
- [21/03/2019 - SUPERSEDED Revised Arb Report march 2019](#) (unknown size)
- [27/03/2019 - Dorset Waste Partnership Response](#) (unknown size)
- [04/04/2019 - REVISED Site Plan South Section rev. B](#) (unknown size)
- [04/04/2019 - REVISED Plans and elevations Plot 1 rev. A](#) (unknown size)
- [04/04/2019 - REVISED Plans and elevation Plots 22-23 rev. A](#) (unknown size)
- [04/04/2019 - REVISED Street Scenes rev. A](#) (unknown size)
- [04/04/2019 - REVISED Site Sections Indicating Retaining Walls and raised patios rev. A](#) (unknown size)



**Documents**

- [04/04/2019 - REVISED Affordable Housing Allocation Plan rev. A](#) (unknown size)
- [04/04/2019 - Plans and elevations Garages & Stores](#) (unknown size)
- [29/04/2019 - SUPERSEDED Landscape Details Sheet 1 of 2 rev. C](#) (unknown size)
- [29/04/2019 - SUPERSEDED Landscape Details Sheet 2 of 2 rev. B](#) (unknown size)
- [29/04/2019 - REVISED Site Plan North Section rev. C](#) (unknown size)
- [29/04/2019 - REVISED Full Site Plan rev. C](#) (unknown size)
- [29/04/2019 - REVISED Plans and elevations Plot 4 rev. A](#) (unknown size)
- [29/04/2019 - REVISED Plans and elevations Plot 28.pdf rev. A](#) (unknown size)
- [29/04/2019 - REVISED Plans and elevations Plots - 17 - 21 rev. A](#) (unknown size)
- [29/04/2019 - REVISED Tree Protection Plan](#) (unknown size)
- [03/05/2019 - REVISED Arb Report April 2019](#) (unknown size)
- [08/05/2019 - Chris Edwards - Bournemouth Airport Safeguarding](#) (unknown size)
- [08/05/2019 - REVISED Landscape Details Sheet 2 of 2 rev. C](#) (unknown size)
- [08/05/2019 - REVISED Landscape Details Sheet 1 of 2 rev. D](#) (unknown size)
- [10/05/2019 - DC Floor Risk Management Team Response](#) (unknown size)
- [14/05/2019 - Wessex Water Response](#) (unknown size)
- [16/05/2019 - Dorset NET Response](#) (unknown size)
- [16/05/2019 - Verwood Town Council Response](#) (unknown size)
- [16/05/2019 - EDEP Response](#) (unknown size)
- [17/05/2019 - REVISED Updated Ecology Report](#) (unknown size)
- [17/05/2019 - REVISED Updated BMEP](#) (unknown size)
- [20/05/2019 - Natural England - Comments](#) (unknown size)
- [20/05/2019 - DC Tree Response](#) (unknown size)
- [03/06/2019 - BMEP Approval Land Howe Lane BH31 6JF REM UPDATED 31.05.19.pdf](#) (unknown size)
- [03/06/2019 - Land Howe Lane Verwood BMEP Mar 2019 V2 NET SIGNED.pdf](#) (unknown size)
- [05/06/2019 - Scheme of Delegation Form](#) (unknown size)
- [06/06/2019 - DC Engineers comments](#) (unknown size)
- [18/06/2019 - REVISED Landscape Proposals PLOT1-3 rev. C](#) (unknown size)

**Documents**

- [04/07/2019 - Officer Report](#) (unknown size)
- [04/07/2019 - Decision Notice](#) (unknown size)
- [15/02/2021 - DIS - C3, C5, C6, C9, C15, C16 - Application form redacted](#) (unknown size)
- [22/07/2021 - DIS - C5, C6 - BS5837 Tree Report in relation to design, demilition and construction](#) (unknown size)
- [22/07/2021 - DIS - C5, C6 - Plan No. 202 P1 - Proposed Site Plans showing Indicative Attenuation Layout](#) (unknown size)
- [22/07/2021 - DIS - C5,C6 - Arboricultural Method Statement](#) (unknown size)
- [04/08/2021 - DIS - C9 - footpath construction](#) (unknown size)
- [04/08/2021 - DIS - C15 - Nearside egde specificaiton](#) (unknown size)
- [04/08/2021 - DIS - C16 - proposed levels](#) (unknown size)
- [24/12/2021 - DIS C 3 5 6 9 15 16 Response](#) (unknown size)

Download Selected Files

Comments have closed on this application (si

**Appendix 9: South of Louviers Road P/RES/2021/02802 withdrawal letter**



**Planning Services**

County Hall, Colliton Park  
Dorchester, Dorset, DT1 1XJ

) 01305 838336- **Development Management**

) 01305 224289- **Minerals & Waste**

8 [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

Mr Nigel Jarvis

Mr Nigel Jarvis

[REDACTED]

[REDACTED]

[REDACTED]

**Date:** 4 May 2023

**Ref:** P/RES/2021/02802

**Case Officer:** Emma Thornett

**Team:** Western and Southern

) [REDACTED]

\* [REDACTED]

Dear

**Application No:** P/RES/2021/02802

**Application Type:** Reserved Matters

**Location:** Land South of Louviers Road Gention Way Weymouth DT3  
6FH

**Description:** Application for approval of reserved matters for appearance &  
landscaping in relation to outline approval WP/15/00341/OUT.

With reference to the above application, I can confirm that this application has now been formally withdrawn with effect from 3 May 2023.

If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely

**Emma Thornett**  
**Senior Planning Officer**

**Appendix 10: Curtis Fields Refusal notice**



## Planning Services

County Hall, Colliton Park  
Dorchester, Dorset, DT1 1XJ

📞 01305 838336- **Development Management**

📞 01305 224289- **Minerals & Waste**

🌐 [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

Betterment Properties  
(Weymouth) Ltd  
Unit 1, 2 Curtis Way  
Weymouth  
DT4 0TR

**Date:** 20 June 2024

**Ref:** P/MPO/2023/03270

**Case Officer:** James Lytton-Trevers

**Team:** Western and Southern



## Planning Decision Notice

### Modify Or Discharge A Planning Obligation

Town and Country Planning Act 1990

Town and Country Planning

(Development Management Procedure) (England) Order 2015

---

**Application Number:** P/MPO/2023/03270

**Location:** Phases 2-4 Curtis Fields Land South of Chickerell Road  
Weymouth DT4 0TR

**Description:** Modify section 106 agreement dated 17 August 2016 -  
Relating to Phases 2-4 at Curtis Fields (WP/14/00777/OUT) -  
to modify a portion of the affordable housing requirements from  
30% to 26.24% following receipt of independent viability report  
(revised description)

---

Dorset Council **refuses** the request to Modify or Discharge a Planning Obligation as detailed in the application.

---

### This permission is refused for the following reasons:

1. Having regard to Policy HOUS1 (iii) of the West Dorset, Weymouth & Portland Local Plan (2015) and the information submitted with the application, it is considered that requiring 30% affordable housing and financial contributions in accordance with the extant permission and legal agreement would not make the development economically unviable and hence the proposal is contrary to Policy HOUS1 of the adopted local plan.

---

**Decision Date:** 20 June 2024



*Mike Garrity*  
**Head of Planning**  
**Economic Growth and Infrastructure**

---

## **Planning Decision Notes**

### **Power to refuse planning permission**

This decision is issued by Dorset Council as the local planning authority set out by the Town and Country Planning Act 1990 (as amended) and the Town and Country (Development Management Procedure) (England) Order 2015 .

### **Site Notice**

If you have not already done so I would be grateful if you could take down and dispose of this application's site notice if it is still being displayed outside the property.

### **Appeals**

If you disagree with our planning decision or the attached conditions, then you can appeal to the Secretary of State (Planning Inspectorate) under section 78 (1) of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within Six Months of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against our enforcement notice, then you must do so within 28 days of the date of service of the enforcement notice.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

An appeal must be made by the applicant. Forms are available on-line at Appeals - Appeals - Planning Portal

The Planning Inspectorate can allow a longer period for giving notice of an appeal, but they will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Planning Inspectorate need not consider an appeal if it seems that we could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

The Planning Inspectorate does not normally refuse to consider appeals solely because we based our decision on a direction given by them.

For further information about making can be found at [www.planningportal.co.uk](http://www.planningportal.co.uk).

### **Southern Gas Networks – Overbuild Advisory**

There are several risks created by building over gas mains and services. If you plan to dig, or carry out building work to a property, site or public highway you should check your proposal against the information held at <https://www.linesearchbeforeudig.co.uk/> for any underground services.

### **Purchase Notices**

If either the Council or the Planning Inspectorate refuses permission to develop land or grants it subject to conditions, the owner, in exceptional circumstances, may claim that neither the land can be put to a reasonably beneficial use in its existing state, nor can the land be rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.



If this happens, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

**Appendix 11: Brewers Quay WP/14/01064/FUL decision notice**

South Walks House  
South Walks Road  
Dorchester  
DT1 1UZ

Tel: (01305) 838000  
Website:  
www.dorsetforyou.com



Miss McGregor  
Peter Brett Associates  
16 Brewhouse Yard  
London  
London  
EC1V 4LJ

Development Management  
Head of Planning (Development Management and Building  
Control)  
Jean Marshall

15 November 2016

**Town and Country Planning Act 1990  
Town and Country Planning (Development Management Procedure) (England) Order  
2015**

**GRANT OF PLANNING PERMISSION**

This permission does not carry any approval or consent which may be required under any enactment, bylaw, order or regulation (eg in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.

**Application No:** WP/14/01064/FUL

**Location of Proposal:** BREWERS QUAY, HOPE SQUARE, WEYMOUTH, DT4 8TR

**Description of Proposal:** Alterations and conversion of existing building to provide a museum; wet weather/ exhibition space and cultural experience space; 4 Class A1/A3 units; 35 Class C3 residential units and other associated works

In pursuance of their power under the above mentioned Act, Weymouth and Portland Borough Council Grant Planning Permission for the proposal described above.

Subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing No 1662-LP-01 B received on 17/12/2014  
Proposed Basement Plan - Drawing No 1662-P-04 received on 17/12/2014  
Proposed Ground Floor Plan - Drawing No 1662-P-05 received on 17/12/2014  
Proposed First Floor Plan - Drawing No 1662-P-06 received on 17/12/2014  
Proposed North Elevation - Drawing No 1662-P-24 received on 17/12/2014  
Proposed Mews Elevation 3 - Drawing No 1662-P-28 received on 17/12/2014  
Ground Floor Plan Coopers Building - Drawing No 1662-P-40 received on 17/12/2014  
1662-P-03A Revised Roof Plan and Site Layout (AMENDED) received on 25/03/2015  
1662-P-07A Revised Proposed Second Floor Plan (AMENDED) received on 25/03/2015  
1662-P-08A Proposed Third Floor Plan (AMENDED) received on 25/03/2015  
1662-P-10 A Revised Proposed Fifth Floor Plan (AMENDED) received on 25/03/2015  
1662-P-21 A Revised Existing and Proposed West Elevation (AMENDED) received on 25/03/2015  
1662-P-22 A Revised Existing and Proposed South Elevation (AMENDED) received on 25/03/2015  
1662-P-23 A Revised East Elevations (AMENDED) received on 25/03/2015  
1662-P-26 A Revised Proposed Mews Elevation 1 (AMENDED) received on 25/03/2015  
1662-P-27 A Revised Proposed Mews Elevation 2 (AMENDED) received on 25/03/2015  
1662-P-29 A Revised Proposed Elevations (AMENDED) received on 25/03/2015  
1662-P-30 A Revised Proposed Elevations (AMENDED) received on 25/03/2015  
1662-P-41 A Revised Proposed Sections (AMENDED) received on 25/03/2015  
1662-P-42 A Revised Sections (AMENDED) received on 25/03/2015  
1662-P-09 A Revised Proposed Fourth Floor Plan (AMENDED) received on 25/03/2015

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Before the commencement of development, unless otherwise agreed by the Local Planning Authority, details and samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority and the development shall be completed in accordance with these details.

Reason: To ensure that the external appearance of the completed development is sympathetic to the listed status of this building and its locality, which is designated as a Conservation Area.

4. The mortar mix to be used shall be agreed with the Local Planning Authority before work commences. The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that this aspect of the work is in sympathy with the character of the building.

5. Detailed drawings and specifications showing the design and construction of external doors and windows shall be provided to the Local Planning Authority and approved in writing prior to commencement of development, and the work shall be completed in accordance with the approved detail.

Reason: In order to ensure that the detailing is of sufficiently high standard.

6. The development hereby permitted shall not be occupied or utilised until the parking shown the approved plans have been provided. Thereafter, these areas shall be maintained, kept free from obstruction and available for the purposes specified.

Reason: In the interests of road safety.

7. Prior to the occupation of the development hereby approved, full details of a Travel Strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall show measures to reduce the need to travel to and from the site by private transport and the timing of such measures. The strategy shall be implemented in accordance with the details as approved.

Reason: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

8. No dwelling shall be occupied until secure space has been laid out within the site in accordance with details submitted to and approved by the Local Planning Authority for at least 70 bicycles to be parked, to include provision for both residents and visitors.

Reason: To ensure the provision of adequate cycle parking.

9. Development shall not commence until details of the continuous flood defence wall, and flood resistant construction techniques and resilient materials, in accordance with the Flood Risk Assessment (Peter Brett Associates LLP, Ref: 29205/4001, dated December 2014), has been submitted to and approved in writing by the Local Planning Authority. The building shall be re-developed in accordance with the approved details.

Reason: To reduce the consequences of flooding and facilitate recovery from

the effects of flooding as soon as possible.

10. A flood plan (Flood Emergency/Evacuation Plan) shall be prepared and submitted to the Local Planning Authority for their approval prior to the occupation of the building. Flood warning and emergency evacuation procedure notices shall be erected in numbers, positions and with wording all to be agreed with the Local Planning Authority. Thereafter the notices shall be kept legible and clear of obstruction.

Reason: To ensure that owners and occupiers of the premises are aware that the area is at risk of flooding, and the emergency evacuation procedure and route(s) to be used during flood events.

11. Before the commencement of development, the developer shall submit for the written approval of the Local Planning Authority: (a) a 'desk study' report documenting the site history; (b) a site investigation report documenting the ground conditions of the site, and incorporating a 'conceptual model' of all potential pollutant linkages, detailing the identified sources, pathways and receptors and basis of risk assessment; (c) a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed; (d) a detailed phasing scheme for the development and remedial works. The remediation scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented before the development is occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall provide written confirmation that all works were completed in accordance with the agreed details.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised.

12. Before the commencement of development, a further investigation and risk assessment shall be completed in accordance with a scheme to be submitted to and approved by the Local Planning Authority to assess the nature and extent of any contamination on the site. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to human health, property (existing or proposed, including buildings, crops, livestock, pets, woodland and service lines and pipes), adjoining land, groundwaters and surface waters, ecological systems, archeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. Before the commencement of development, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14. Before the commencement of development, the approved remediation scheme shall be carried out unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development

can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16. The applicant shall secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant to, and approved by the Planning Authority. This scheme shall cover archaeological fieldwork together with post-excavation work and publication of the results.

Reason: The area is of archaeological importance and the archaeology should be preserved by record.

17. Prior to the commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, detailed proposals for the phasing of the development, off street car parking for contractors, the delivery of materials and any requirements for external scaffolding/cranes and material deliveries, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be completed in accordance with the agreed scheme.

Reason: In the interests of highway safety, the amenities of the locality and the vitality and vibrancy of this important part of the town

18. The floor area of any retail (Class A1) unit hereby approved shall not exceed 333.9 m<sup>2</sup> gross and the layout of retail (Class A1) and restaurant/café (Class A3) units shall remain as detailed on the ground floor layout plan.

Reason: To protect the specialist nature of the development with regard to its important tourist location and relationship to the town centre.

19. Prior to the commencement of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority, detailed proposals for all hard and soft landscaping works shall be submitted to and be approved by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.

Reason: Landscaping is considered essential in order to preserve and enhance the visual amenities of the locality.

## **Informative Notes**

### **National Planning Policy Framework paragraphs 186 &187 Statement**

Environment Agency Informative

The development should include water efficient systems and fittings. These should include



dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered. Applicants are advised to refer to the following for further guidance  
<http://www.environment-agency.gov.uk/homeandleisure/beinggreen/118941.aspx>  
<http://www.savewatersavemoney.co.uk/>

Environment Agency Informative  
Sustainable Construction

Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced.

Environment Agency Informative

Pollution Prevention During Construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Environment Agency Informative

Waste Management

Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction. If any controlled waste is to be removed off site, then the site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on our website

<https://www.gov.uk/how-to-classify-different-types-of-waste>

Community Protection Informative

Due to the age of the building asbestos may be present. You are advised that the Environment Agency and Health and Safety Executive are made aware of this application and proposed demolition and any formal guidance produced by either enforcing body is referred to during the demolition phase of the development.

In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

The applicant was provided with pre-application advice.

This permission is subject to an agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated 11th November 2016.

**Signed:**

Jean Marshall

**HEAD OF PLANNING**

PLEASE REFER TO NOTES ENCLOSED

**Appendix 12: East Street 3/17/3058/FUL decision notice**



**Development Management**  
PO Box 9148  
Christchurch  
BH23 9JQ

## **Town and Country Planning Act 1990**

### **Town and Country Planning (Development Management Procedure) (England) Order 2015**

Mr Giles Moir  
Chapman Lily Planning Ltd  
Unit 5, Designer House  
Sandford Lane  
Wareham  
BH20 4DY

#### **Grant of Full Planning Permission**

Application reference no: **3/17/3058/FUL**

This permission does not carry any approval or consent which may be required under any enactment, by-law, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc.) other than Section 57 of the *Town and Country Planning Act 1990*.

*East Dorset District Council* in pursuance of powers under the above-mentioned Act hereby **PERMITS:**

**Demolition of the existing extensions and erection of 7, 2 bedroom, properties  
with associated parking and access**

**at 20-23 East Street WIMBORNE MINSTER BH21 1DT**

in accordance with the approved plans and subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

8757/200 rev D- Site, Block & Location Plan  
8757/201 rev A- Proposed Floor Plans & Elevations Plots 1 & 2  
8757/202 rev A- Proposed Floor Plans & Elevations Plots 3 - 5  
8757/203 rev A - Proposed Floor Plans & Elevations Plots 6 & 7  
8757/204 rev A - Street Scene & Site Section A-A  
TAP - 500 - Foul Water Sewer Diversion

## 5588/2 rev B - Measured Building Survey

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the details accompanying this application, details and samples of all external facing and roofing materials shall be made available for assessment on site and approved in writing by the Local Planning Authority before any on-site work commences. This shall include the material for the steps and any rendered surface. The dwellings facing Park Lane shall be in clay facing brick. All works shall be undertaken strictly in accordance with the details as approved.

Reason: This information is required prior to commencement of development to ensure satisfactory visual relationship of the new development to the existing surroundings.

4. No development shall take place until full details of both hard and soft landscape works and a timetable for their implementation have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The landscaping details shall include proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefacts and structures (eg. furniture, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.). Any plants found damaged, dead or dying in the first five years shall be replaced.

Reason: This information is required prior to commencement of development as the long term establishment, maintenance and landscaping of the site is necessary to preserve the amenity of the locality. This decision has also had regard to Policies HE1 and HE2 of the Local Plan and Government Guidance contained in the National Planning Policy Framework

5. Before planning permission is implemented, other than in respect of demolition works, a scheme shall be submitted to the Local Planning Authority to deal with potential contamination of the site. Such scheme shall include the following actions and reports, which must be carried out by appropriately qualified consultant(s):

(a) A Site History Report, which shall, by reference to site layout drawings of an appropriate scale, include a history of the site, past land uses, current and historical maps, site plans, locations of any known spillages or pollution incidents and the location and condition of old tanks, pits, fuel or chemical storage areas. (Please note it is the responsibility of the landowner, developer or consultant to provide and disclose all relevant information).

(b) Before any works commence on site, should (in the opinion of the Local Planning Authority) remedial works be required, consultants appointed to carry out intrusive site investigation work must submit their sampling strategy to the Local Planning Authority for approval.

(c) A Site Investigation Report (based on the information contained in the site history report), will be required where the appointed consultant and/or the Local Planning Authority anticipate that contamination may be present in, on or near the proposed development area. The site investigation report must characterise and identify the extent of contamination, identify hazard sources, pathways and receptors and develop a conceptual model of the site for purposes of risk assessment.

(d) Where contamination is found which (in the opinion of the Local Planning Authority) requires remediation, a detailed Remediation Statement, including effective measures to avoid risk to future and neighbouring occupiers, the water environment and any other sensitive receptors when the site is developed, shall be submitted to the Local Planning Authority. Any remediation scheme(s) or part(s) thereof recommended in the remediation statement, shall require approval to be obtained in writing from the Local Planning Authority.

(e) Development shall only take place in accordance with the approved Remediation Statement.

(f) If, during works on site, contamination is encountered which has not previously been identified, the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority. Any such scheme shall require approval to be obtained in writing from the Local Planning Authority.

(g) On completion of all the works detailed in the agreed Remediation Statement, a Remediation Completion Report must then be completed by the environmental consultant(s) who carried out the remediation work confirming that they have supervised all the agreed remediation actions. This report is to be submitted to the planning authority confirming that all works as specified and agreed have been carried out to the point of completion. Until the Planning Authority is in receipt of said Remediation Completion Report and is satisfied with the contents of the statement and the standard of work completed, it will be viewed that the remediation of the site is incomplete.

Reason: To preserve the amenity of future occupiers.

6. Following the demolition of the structures necessary for the implementation of this permission a schedule for remedial works to the rear elevation of the frontage buildings shall be submitted to the Local Planning Authority and approved in writing prior to the commencement of construction of the dwellings hereby approved.

Reason: To ensure the satisfactory appearance of the existing site prior to the construction of the new dwellings.

7. Before the development hereby approved is occupied or utilised the turning and parking shown on Drawing Number 8757/200 D must have been constructed. Thereafter, these areas, must be permanently maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.

8. Prior to the first occupation of the dwellings, details of storage for refuse and recycling, together with the access to it including details of a private refuse collection solution, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Furthermore unless agreed in writing with the Local Planning Authority the approved private refuse collection solution shall be retained in perpetuity.

Reason: In the interests of highway safety, visual amenity and the amenities of future occupiers of the development.

9. No development shall take place until a foul water drainage scheme and a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include appropriate arrangements for the discharge of foul water. The approved drainage scheme shall be completed in accordance with the approved details.

Reason: This information is required prior to commencement to ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of flooding.

10. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: This information is required prior to occupation of the development hereby approved to avoid surface water flooding.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting, or modifying that Order), no further windows, dormer windows, or doors (other

than those expressly authorised by this permission) shall be constructed above ground floor ceiling joist level in the northern elevation of Unit 3, the southern elevation of Units 5 and 6 and the northern elevation of Unit 7 as shown on Drawing 8757/200 (such expression to include the roof and wall) of the dwellings hereby permitted.

Reason: To avoid loss of privacy to adjoining properties and to accord with Policy HE2 of the Core Strategy.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactment thereof no extensions to the dwellings hereby approved shall be constructed under Schedule 2, Part 1, Classes A and B without express planning permission first being obtained.

Reason: To avoid overdevelopment of the site and harm to the Conservation Area and neighbouring amenity

The following Informative Notes are drawn to the Applicant's attention:

1. This grant of permission is to be read in conjunction with the Legal Agreement dated 11th May 2018 entered into between East Dorset District Council and David Francis Scott.
2. In view of the potential flood risks in this locality, the developer is advised to give consideration to the use of flood resilient construction practices and materials in the design and build phase. Choice of materials and simple design modifications can make the development more resistant to flooding in the first place, or limit the damage and reduce rehabilitation time in the event of future inundation.  
Guidance is available within the Department for Communities and Local Government publication 'Improving the Flood Performance of New Buildings – Flood Resilient Construction, May 2007' available at:-  
<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>
3. The National Planning Policy Framework Planning Practice Guidance states that Access considerations should include the voluntary and free movement of people during a 'design flood', as well as the potential for evacuation before a more extreme flood. Access and egress must be designed to be operational for changing circumstances over the lifetime of the development.

The Council's Emergency Planners should be consulted in relation to flood emergency response and evacuation arrangements for the site. It is recommended that the applicant prepare a Flood Warning and Evacuation Plan for future occupants. The Environment Agency does not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as they do not carry out these roles during a flood event. Their involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users



registered for this service further information can be found at:  
<https://fwd.environment-agency.gov.uk/app/olr/home>

4. Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced.

Water efficiency measures should be incorporated into this scheme. This conserves water for the natural environment and allows cost savings for future occupants. The development should include water efficient systems and fittings such as: dual-flush toilets; water-saving taps; water butts; showers and baths. Greywater recycling and rainwater harvesting should also be considered.

5. Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

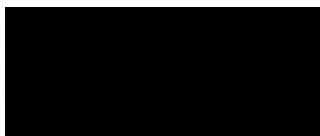
Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. It is recommended that the applicant refers to the Pollution Prevention Guidelines, which can be found at:  
<https://www.gov.uk/guidance/pollution-prevention-for-businesses>

6. Should this proposal be granted planning permission, then in accordance with the waste hierarchy, the Environment Agency advises the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction.

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on the website <https://www.gov.uk/how-to-classify-different-types-of-waste>

The applicant's attention is drawn to the need to comply with all conditions imposed on this permission. There may be conditions that require the submission of additional details and these may be needed before the commencement of the approved development. Failure to comply with all conditions may result in the Council serving a breach of condition notice against which there is no right of appeal. Note that legislation requires the payment of a fee in respect of requests to discharge conditions.

Signed



Head of Planning

Decision Date: 16 May 2018

## NOTES TO THE APPLICANT

### **Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012)**

In accordance with the above, East Dorset District Council has worked with the applicant in a positive and proactive way by offering to engage in pre-application discussions and, where possible, by enabling problems to be resolved within applications in accordance with its Development Management Charter. Where the applicant chooses to engage in pre-application discussions, these will be referred to in the application report. In responding to pre-application enquires and determining formal applications, East Dorset District Council always seeks to look for solutions rather than problems so that applications for sustainable development can be approved, thereby resulting in improvements to the economic, social and environmental conditions of the area.

### **Policy considerations and reasons**

In reaching this decision the policies in the Development Plan for the area, which currently comprises the Christchurch and East Dorset Local Plan Part 1 – Core Strategy 2014, were taken into account. Saved policies within the East Dorset Local Plan 2002 were also taken into account. These include specifically the following policies:

KS1	Presumption in favour of sustainable development
KS2	Settlement Hierarchy
KS12	Parking Provision
LN1	The Size and Type of New Dwellings
WMC1	Wimborne Minster Town Centre Vision
LN2	Design, Layout and Density of New Housing Development
HE1	Valuing and Conserving our Historic Environment
HE2	Design of new development
HE3	Landscape Quality
ME1	Safeguarding biodiversity and geodiversity
ME2	Protection of the Dorset Heathlands

### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, or to grant it subject to conditions, then you may appeal to the Secretary of State under Section 78 of the Town and Country

Planning Act 1990. The appeal will be dealt with, on behalf of the Secretary of State, by The Planning Inspectorate.

- If you want to appeal your Local Planning Authority's decision then you must do so within six months of the date of this Notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application, and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.
- Appeals must be made using the Appeals Casework Portal which is available at <http://www.planningportal.gov.uk/planning/appeals/> alternatively, please call The Planning Inspectorate on 0303 444 5000.
- The Planning Inspectorate can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of the appeal.
- The Planning Inspectorate need not consider an appeal if it seems that the Local Planning Authority could not have granted planning permission for the proposed development, or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order, and to any directions given under a development order.
- In practice the Planning Inspectorate does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.

### **Purchase Notice**

If either the local planning authority or the Planning Inspectorate refuse permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

**Appendix 13: Ham Farm RMs Applicant**

[Back to search results](#) | [New search](#)

Main Details	Location	View Documents	Consultees	Appeals	History
Application No	P/RES/2023/05868		Type	Reserved Matters	
Case Officer	Kirsten Williams		Committee / Delegated		
Status	Under Officer Consideration		Committee Date		
Proposal	Erection of 151 dwellings and associated infrastructure - including informal and formal public open space. (Reserved matters application to determine access, appearance, landscaping, layout and scale following the grant of Outline planning permission 2/2018/0036/OUT) .				
Valid Date	14/11/2023		Neighbour Expiry		
Decision			Issue Date		
Authority			Agent	Mr Gareth Jackson	
Applicant	Redrow Homes Ltd		Agent's Address	St Catherine's Court Berkeley Place Bristol BS8 1BQ	
Applicant's Address	Redrow House Unit 1 Faraday Office Park Rankine Road Basingstoke RG24 8QB				

## Planning application: P/RES/2022/04960

Viewing a Planning application.

[Back to search results](#) | [New search](#)

Main Details	Location	View Documents	Consultees	Appeals	History
Application No	P/RES/2022/04960		Type	Reserved Matters	
Case Officer	Kirsten Williams		Committee / Delegated	Committee	
Status	Under Officer Consideration		Committee Date	05/03/2024	
Proposal	Erection of 108 dwellings and associated infrastructure including informal and formal public open space pursuant, (reserved matters application to determine access, appearance, landscaping, layout and scale) following the grant of outline planning permission 2/2018/0036/OUT.				
Valid Date	17/08/2022		Neighbour Expiry		
Decision			Issue Date		
Authority			Agent	Ms Suzy Birdseye	
Applicant	Redrow Homes Ltd		Agent's Address	St Catherines Court, Ground Floor Berkeley Place Clifton Bristol BS8 1BQ	
Applicant's Address	Redrow House Unit 1 Faraday Office Park Rankine Road Basingstoke RG24 8QB				

**Appendix 14:** Land-south of Milbourne Business Centre Agent  
Correspondence

## Jim Bennett

---

**From:** Ken Parke [REDACTED]  
**Sent:** 12 June 2024 11:10  
**To:** Jim Bennett  
**Subject:** FW: Planning Application P/RES/2021/05662 - Land south of Milborne Business Centre Blandford Hill Milborne St Andrew DT11 0HZ  
**Attachments:** Letter to Agent\_PRES202105662(2).pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Jim, thank you for the attached correspondence. The applicants are updating the budget and will submit as soon as possible. We will also advise of mitigation. Please take this response as complying with the requirement to respond within 14 days to advise of intentions – which are to update the budget and submit a scheme of mitigation which may involve in whole or in part some contributions.

Kind Regards

Ken Parke



Anniversary House  
23 Abbo • Road  
Bournemouth BH9 1EU

Tel [REDACTED]  
Fax [REDACTED]

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Ken Parke Planning Consultants Limited is registered in England and Wales at

13 Queens Road, Westbourne, Bournemouth BH2 6BA

Company no:4653064 VAT 807 5083 33

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**From:** Kat Burdett [REDACTED]  
**Sent:** Monday, June 10, 2024 4:34 PM  
**To:** Ken Parke [REDACTED]  
**Subject:** FW: Planning Application P/RES/2021/05662 - Land south of Milborne Business Centre Blandford Hill Milborne St Andrew DT11 0HZ

---

**From:** [Jim.Bennett](mailto:Jim.Bennett@kppcltd.co.uk) [REDACTED]  
**Sent:** Monday, June 10, 2024 12:55 PM  
**To:** Info - Ken Parke Planning Consultants <[info@kppcltd.co.uk](mailto:info@kppcltd.co.uk)>  
**Subject:** Planning Application P/RES/2021/05662 - Land south of Milborne Business Centre Blandford Hill Milborne St Andrew DT11 0HZ

Dear Sir

Please find attached:

Letter in respect of nutrient mitigation

Kind regards  
Development Management  
Dorset Council

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**Appendix 15:** Land south of Station Road Urban Design, Landscape & LLFA Objection



**Dorset Council, Flood Risk Management Team**  
Dorset Highways, County Hall, Dorchester

[LLFAplanning@dorsetcouncil.gov.uk](mailto:LLFAplanning@dorsetcouncil.gov.uk)

**Lead FRM Officer: Rob Hanson**  
**Direct Dial: [REDACTED]**

**Date: 01 February 2024**

### **Internal LLFA Consultation – Surface Water (SW) Management**

**Our Ref:** PLN20-006/7

**Proposal:** Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref.2/2019/1799/OUT).

**Your Ref:** P/RES/2023/05768

**Location:** Land at Station Road Stalbridge

**Grid Ref:** 374230, 117990

#### **To: Robert Lennis**

We write in response to the above re-consultation, sent to us as relevant Lead Local Flood Authority (LLFA), and statutory consultee for Surface Water (SW) management in respect of major development (as defined within Article 2(1) of the Town & Country Planning, Development Management Procedure, England Order 2015) and legislated for under The Town and Country Planning (Development Management Procedure) (England) Order 2015, schedule 4, paragraph (ze). Given that the proposal under consideration relates to development of 10 or more dwellings it requires our ongoing input as statutory consultee.

This consultation response follows comments by us dated 9<sup>th</sup> November 2023. We recommend you review any earlier responses from us, as a reminder of the site from a flood risk context and the rationale behind our approaches thus far.

We reiterate that all (major) development proposals are to be supported by a site-specific drainage strategy in accordance with the recommendations of the revised National Planning Policy Framework (July 2018 – NPPF), relevant technical guidance and best practice. Accordingly, the management of surface water runoff must demonstrate that the proposed development is not to be placed at risk and that no off-site worsening is to result.

In our previous correspondence we issued a holding objection because the latest surface water drainage strategy included the use of a surface water pumping station. Pumping of surface water is not considered sustainable by the LLFA and is only ever to be considered as an option of last resort. We also had concerns with regards to the potential for some areas of ponding of surface water during exceedance events.

The applicant has submitted the below document in response:

- Technical Note for Land at Station Road, Stalbridge (Ref: Acl835/23024/TN) by Adama Consulting (Date: 2<sup>nd</sup> January 2024)

The document referenced above provides additional detail regarding the latest proposals for surface water drainage from the applicant's site. As a result, we can acknowledge the following:

- The applicant has explored some alternatives to a pumped surface water system and discussed their reasons why they think that these alternatives will not be viable as a means to achieve a gravity discharge to the nearby watercourse.
- The applicant has provided some survey information which provides site levels along with an invert level for the southern watercourse.
- The applicant has included a copy of the most recent ground investigations as an appendix to the submitted Technical Note. Results from bore holes and trial pits indicate that soil types across the site are mostly clays and mudstones up to approximate depths of 2.5-5m below ground level.

The LLFA accepts that the development site is very flat and this poses a number of challenges when designing a suitable surface water management scheme. The technical note submitted has gone some way in explaining the options that have been considered by the applicant and its discussion of these does help to clarify the applicant's thinking when dismissing some of these.

**However, the LLFA is not satisfied that all alternative options to pumping have been exhausted, and as such the latest surface water drainage proposals iteration cannot be supported by the LLFA. Therefore, we recommend that our (Holding) Objection to the reserved matters application remains.**

The following concern needs to be addressed before the LLFA can consider withdrawing our holding objection:

- The LLFA does not accept the proposed pumped surface water drainage system and does not accept that the applicant has demonstrated that all other options have been fully exhausted.

All alternatives to the pumping of surface water must be considered in order to pursue a gravity discharge of surface water from the development. In our previous response the LLFA suggested alternatives and these could include, but not be restricted to, the following options: reconsideration of the position of the pond, the use of multiple smaller attenuation features, increased use of above ground conveyance and consideration of alternative outfall locations. It is acknowledged by the LLFA that some of these options have been discussed but dismissed by the applicant in their most recent response.

However the LLFA notes that layout and scale of the proposed development is yet to be determined by the reserved matters application and as such the developer should also consider if changes to the layout and scale of the development could allow a gravity discharge of surface water to be achieved.

The SuDS manual Section 8.5 of the SuDS Manual contains some advice for very flat sites such as this. Paragraph 8.5.2 suggests *'On very flat sites, it is often not possible to construct piped drainage systems with sufficient falls to achieve minimum self-cleansing velocities. So using shallow SuDS components such as swales, pervious pavements or high capacity linear drainage channels is an advantage in these situations. Good SuDS design should aim to divide the site into small sub-catchments and provide local combined storage and conveyance components.'* Could the site layout be adjusted to accommodate more above ground conveyance components? Could more space be created for a larger and shallower attenuation basin? Or perhaps the same volume of attenuation could be achieved through the use of multiple, shallower attenuation features spread across the site?

The LLFA would also like to see the applicant consider further investigation of deep bore soakaways. We acknowledge that testing to date has not produced favourable results for infiltration, but deeper investigations can sometimes find more suitable soil types further below ground. The applicant has mentioned high groundwater levels but these may be perched. Results from further investigations should be provided before infiltration is fully ruled out.

Also has the applicant looked into discharging surface water further downstream of the site? The applicant could look to negotiate access to a different part of the watercourse with a neighbouring landowner or discuss the possibility of a surface water sewer requisition with Wessex Water.

Insufficient information has been provided regarding SW management from the development. As such, we are unable to ascertain, to our satisfaction, the appropriateness of any SW management in accordance with the Ministerial statement 'Sustainable Drainage System' 2014, chapter 14 of the NPPF and Planning Policy Guidance (PPG). As relevant LLFA in this matter we are unable to confirm that the applicant has met DEFRA's technical guidance or relevant local and national policies concerning drainage.

Our (Holding) Objection may be overcome via the submission of further or additional details outlining a site-specific SW management scheme. Accordingly, we ask to be re-consulted on the SW scheme if further information is supplied. Our objection will be maintained until an adequate a SW scheme has been approved in-principle. We may at that stage request suitable planning condition/s and informative/s to cover detailed design, future maintenance and potential requirement for other permissions.

## **INFORMATIVES**

- If the applicant wishes to offer for adoption any highways drainage to DC, they should contact DC Highway's Development team at [DLI@dorsetcouncil.gov.uk](mailto:DLI@dorsetcouncil.gov.uk) as soon as possible to ensure that any highways drainage proposals meet DCC's design requirements.
- Prior Land Drainage Consent (LDC) may be required from DC's FRM team, as relevant LLFA, for all works that offer an obstruction to flow to a channel or stream with the status of Ordinary Watercourse (OWC) – in accordance with s23 of the Land Drainage Act 1991. The modification, amendment or realignment of any OWC associated with the proposal under consideration, is likely to require such permission. We would encourage the applicant to submit, at an early stage, preliminary details concerning in-channel works to the FRM team. LDC enquires can be sent to [floodriskmanagement@dorsetcouncil.gov.uk](mailto:floodriskmanagement@dorsetcouncil.gov.uk).

Please do not hesitate to contact me should you require further clarification of our position or the scope of any additional information that is required.

**Yours Sincerely,**

**Rob Hanson,  
Flood Risk Engineer.**

## Application details

<b>Ref:</b> P/RES/2023/05768	<b>Applicant:</b> Hampshire Homes Ltd.	<b>Case Officer:</b> Robert Lennis
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<b>Address:</b> Land At E 374230 N 117990 Station Road, Stalbridge
<b>Description:</b> Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref. 2/2019/1799/OUT)
<b>Case Officer comments to Consultee:</b>
<b>Consultee:</b> Helen Lilley CMLI, Senior Landscape Architect
<b>Date:</b> 02 February 2024
<b>Has a Pre-application discussion taken place with you?:</b> No

<b>Support</b>	
<b>Support subject to condition(s)</b>	
<b>Unable to support</b>	X
<b>No objection</b>	
<b>Request for further information</b>	
<b>Other</b>	Recommend referral to Design Review Panel.

## Summary

Substantial changes are required in order to comply with the requirements of NPPF paragraphs 135 (c.), 136 and 139, Policies 4, 7, 13 (f) and 15 (k), 24 of the LP, draft policy STAL3 of the emerging Dorset Local Plan and to align with principles of the National Design Guide. I recommend that the application is referred to Design Review Panel for further consideration.

## Site description/context/significance

The site measures approximately 5.60ha and is located on NE edge of Stalbridge outside the DDB. It comprises a relatively small irregular shaped parcel of land to the south of Station Road, which is currently used for the grazing of cattle. It is relatively flat and there is an existing drainage ditch along the S and W boundary, and a bridleway (N51/74) along part of the W boundary. Field hedges line the S, E and W boundaries, and there are TPOd trees around

the perimeter. Stalbridge Trailway and Stalbridge Site of Nature Conservation Interest/nature reserve are located to the SW.

### **Character of Stalbridge**

**The historic urban character of Stalbridge is closely bound up with its landscape setting and the quality of its historic fabric.** The medieval town plan survives in almost complete form and the associated streetscapes are largely intact. The location of the church and market are significant in terms of the medieval character. **There is a distinct edge to the E boundary of the settlement, which sits overlooking the site and the Blackmore Vale.** Much development has taken place in recent years, with the original village being reclassified as a town in 1992.

The North Dorset Landscape Character Assessment (2008) identifies that the site is located in the Blackmore Vale Landscape Character Area (LCA) which extends eastward from Stalbridge to the valley pasture of the River Stour. This is a strongly rural pastoral landscape, key characteristics of which include:

- A broad expansive clay vale which is tranquil and unified.
- A unique mosaic of woods, straight hedgerows and grassland fields 'dotted' with distinctive mature hedgerow oaks.
- Open views across the undulating to flat pastoral landscape to the chalk escarpment backdrop.
- Dense network of twisting lanes often with grass verges and sharp double 90<sup>0</sup> bends.
- Small hump backed bridges with low stone or brick parapets
- Many very small villages and hamlets built with locally distinctive materials, such as stone, red brick, tile and thatch.
- A network of ditches, streams and brooks which drain into the tributaries of the Stour
- Lydlinch Common (SSSI) and Stock Gaylard Deer Park (an SNCI) are both key locally important features.

### **Main issues**

- Character and design, connectivity, green infrastructure.

### **The proposal**

130 No. 2, 3, and 4 bed houses of up to 2.5 storeys, SuDS, a LEAP and open space.

### **Comments on proposal**

As identified by Urban Design, Planning Policy, Flood Risk Management and Highways colleagues there are some fundamental issues with the layout and design of the reserved matters scheme:

- The development is fenced in and pedestrians and children can only exit the site onto a main road (Station Road). A pedestrian route from the west of the development linking to the bridleway should be provided to enable easy and safe access to the existing playing field and play area, and into Stalbridge beyond.
- Vehicular access on the S boundary and a pedestrian access at the SW corner of the site should be provided.
- There are unresolved issues in relation to surface water drainage. Further investigations need to be undertaken, and the site layout may need to be adjusted to accommodate more above ground conveyance components, a larger/shallower attenuation basin, or multiple, shallower attenuation features spread across the site.
- Key features of the outline masterplan have not been carried through into the design.
- The scheme does not adequately reinforce locally distinctive patterns of development in regard to scale, building lines and definition of space.
- It is unlikely that the site could successfully accommodate 130 dwellings without significant implications on design quality.
- A comprehensive reconsideration of the site layout is required to achieve quality design.
- Few trees are proposed within the development and along new streets.
- Amendments to the highway layout, including the widening of carriageway in places and the inclusion of green or hardened service strips are required.

In addition to these issues, I have a number of concerns as follows:

- There would be little sense of connection with either the surrounding countryside, or with the settlement. The development would essentially be fenced in, and internal footpaths would not connect in to local Rights of Way or to other planned development.
- There would be little sense of place or identity. The central focal space that was a principal feature of the outline scheme is not carried through into the proposed scheme. Incidental internal spaces are lacking, and those that are shown on the layout plan would essentially be treeless, and dominated by parking. Streets would not be tree lined.
- The quality and character of the open space around the perimeter of the site would be compromised by a range of functional and/or engineered structures, including a foul sewer pumping station, above ground SuDS structures, concrete headwalls (with functional Key Clamp type railings), turning heads and parking bays etc. The above mentioned requirement to widen the carriageway in places and provide service strips may further impinge on the open space. There is also potential conflict between proposed tree planting and street lighting columns/service runs in some locations.
- Relatively little internal tree planting is proposed. This, along with a lack of incidental green space within the development, and a high proportion of hard surfacing would give the development a suburban feel. Additional green infrastructure needs to be incorporated both to improve the street scene, and to help assimilate the development into the rural setting. Additional space required for this is likely to have further implications on the number of dwellings that can be achieved on the site.

It is clear that substantial changes are required in order to comply with the requirements of NPPF paragraphs 135 (c.), 136 and 139, Policies 4, 7, 13 (f) and 15 (k), 24 of the LP, draft policy STAL3 of the emerging Dorset Local Plan and to align with principles of the National

Design Guide. In addition to this, the Inspector for 2/2019/1799/OUT appeal noted that the development would represent an intrusion into the existing countryside and would inevitably cause some harm to its intrinsic character and beauty adversely impact on the character of the landscape. It is therefore doubly important that the mitigation measures incorporated are commensurate with those proposed at outline stage, and that the scheme represents a sensitive response to the rural location on the edge of Stalbridge. As such I do not consider that the proposal adequately responds to the requirements of LP Policy 4 in respect to mitigation of impact on the character of the landscape either.

I am not therefore able to support the proposal and recommend that the application is referred to Design Review Panel for further consideration.

## Policy consideration

### NPPF (updated 2023)

- Paragraph 135 – Planning policies and decisions should ensure that developments:
  - (a) **will function well and add to the overall quality of the area**, not just for the short term but over the lifetime of the development;
  - (b) **are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;**
  - (c) **are sympathetic to local** character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - (d) **establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live,** work and visit;
  - (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (**including green and other public space**) and support local facilities and transport networks; and
  - (f) create places that are safe, inclusive and **accessible** and which promote health and well-being, with a **high standard of amenity** for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- Paragraph 136 - Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that **new streets are tree-lined**, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to **ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.**



- Paragraph 139 - **Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design**, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes.

(continues.....)

### North Dorset Local Plan Part 1 (adopted 2016)

- Policy 4 - The natural environment

(preceded .....)

#### Landscape Character

The landscape character of the District will be protected through retention of the features that characterise the area. Where significant impact is likely to arise as a result of a development proposal, **developers will be required to clearly demonstrate that that the impact on the landscape has been mitigated** and that important landscape features have been incorporated in to the development scheme.

(continues.....)

- Policy 7 – Delivering Homes

(preceded .....)

#### Residential Density

The design and layout of any development with a housing element should seek to achieve a residential density that:

- (a) makes effective use of the site; and
- (b) **respects the character and distinctiveness of the locality**; and
- (c) **is acceptable in terms of design and amenity, both for the intended occupants of the new development and the occupants of existing development in the vicinity.**

(continues.....)

- Policy 15 - Green Infrastructure

(preceded .....)

Development will be required to enhance existing and **provide new green infrastructure to improve the quality of life of residents and deliver environmental benefits.**

(continues.....)

- Policy 24 – Design

(preceded .....)

Development should be designed to **improve the character and quality of the area within which it is located**. Proposals for development will be required to justify how the relevant aspects of development form address the relevant design principles and standards set out in Figures 10.1, 10.2 and 10.3 of this policy and how the design responds to the local context. Developments will be permitted provided that the relevant aspects of development have been designed to reflect the relevant design principles and have satisfactorily addressed the relevant standards. **A proposal that uses development forms which do not reflect the relevant design principles and standards, or which otherwise conflict with the design principles, will not be permitted.** ..... Developments will be expected to incorporate existing mature trees and hedgerows and other landscape features into the public realm of the development layout and **provide sufficient additional landscape planting to integrate the development into its surroundings.**

(continues.....)

#### **Other material considerations**

- National Design Guide (updated 2021)
- Dorset Council Local Plan – Options Consultation (2021)

**APP REF:** P/RES/2023/05768

**ADDRESS:** Land At E 374230 N 117990 Station Road, Stalbridge

**APPLICANT:** Hampshire Homes Limited

**DESCRIPTION:** Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref.2/2019/1799/OUT)).

**CASE OFFICER:** Robert Lennis

### URBAN DESIGN OFFICER COMMENTS

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	X
REQUEST FOR FURTHER INFORMATION	X – revised parking plan which includes numbers of parking proposed.
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	No

#### Main issues:

- Density on the site layout exceeds that shown on the outline Masterplan.
- Density does not filter sufficiently with a lack of detached units to S & E.
- Scale proposed exceeds the prevailing character of predominantly two storey dwellings. Significant proportion proposed as 2.5 storey.
- Streets are not tree lined – para 136 (NPPF). Avenue of street planting from Illustrative masterplan removed with design of this scheme.
- Site layout includes haphazard building lines.
- Definition of space at junction heads would compromise sense of place.
- No direct link to Stalbridge Trailway
- The proposed open market mix is not compliant with Policy 7 of the NDLP.
- Proposals not tenure neutral – sited mainly at least desirable site location.
- Plot boundaries visible to the street should be walled boundaries.
- Architectural detailing on dwellings is significantly lacking.
- Materials palette should include stone to be fully reflective of Stalbridge.
- Rear amenity space should be revised for select plots – Policy 25 NDLP.
- No garage parking - conflicts with prevailing character of Stalbridge.

## Comments on proposal:

This is the reserved matters application for outline permission 2/2019/1799/OUT, allowed on appeal APP/D1265/W/21/3284485.

### Context and Character

The site is located on the northeastern edge of Stalbridge, to the south of Station Road and immediately east of an industrial estate. Therefore, the western boundary of this site is a particularly sensitive one with acoustic fencing required as noise mitigation. In terms of topography the site is largely flat with a small increase in the level change from east to west.

In terms of density, the outline permission is for up to 130 dwellings. The proposals within this application show 130 dwellings on the site layout and in the application description. The Illustrative Masterplan from outline was not plot numbered and did not show 130 dwellings (approximately 115 shown). Therefore, it seems unlikely that the site could successfully accommodate the full 130 dwellings without significant implications for the design quality of the scheme. The gross density of the proposals is 23dph (dwellings per hectare) with 130 dwellings on a site of 5.60 hectares. For comparison, the Bovis scheme to the south of this site is 120 dwellings at 6.59ha which equates to 18 dph gross density. In relation to density and the dispersal of dwelling types across the site, the proposals do not show a suitable filtering of the density where the site abuts the rural edges. Dwellings fronting to the southern and eastern boundaries are predominantly shown to be semi-detached. A greater proportion of detached dwellings is required here and in general within the mix in order to achieve this filtering of density. The Illustrative Masterplan from outline stage shows a greater quantum of detached dwellings fronting the aforementioned boundaries. When determining achieving appropriate densities, Paragraph 128 of the NPPF cites *“the desirability of maintaining an area’s prevailing character and setting”* as a key factor to take into account regarding the efficient use of land.

The site layout proposes perimeter block development which would allow for good natural surveillance of public spaces. These perimeter blocks are said to *“ensure that buildings contribute positively to the public realm”* within Manual for Streets (MFS) are considered to be a positive aspect of these proposals. The Design & Access Statement (DAS) asserts that the development will *“emphasise a high quality character throughout the development”*. I disagree with this statement.

Regarding scale, the DAS states: *“Two storey dwellings are quite prominent in Stalbridge and the surrounding area”*. Despite this fact, the application puts forward 25% of the proposed dwellings as 2.5 storey. This is not considered an appropriate design response in terms of character for a rural edge site, particularly for those 2.5 storey dwellings proposed on the edge of the scheme. Within the DAS for the outline for this site, 2.5 dwellings were indicatively shown

on a Building Heights Plan. These taller dwellings were specifically limited to the centre of the site with the density and massing filtering out to the edges of the scheme. This approach does not appear to have been utilised within the plans for this application to the detriment of the proposed character. The recent development north of Lower Road, Stalbridge (application 2/2019/0162/REM) is comprised exclusively of two storey dwellings. The Lower Road site has many similarities to the site within this application; it occupies the east of Stalbridge, is an edge of settlement site and is on the same contour line.

The proposed layout lacks cohesive building lines which impacts negatively on the character of the scheme. Building for Healthy Life (BHL) cites *“Staggered and haphazard building lines that are often created by placing homes with a mix of front and side parking arrangements next to each other”* as red criterion and a catalyst to stop and re-think the design. Given that haphazard building lines are widespread across the proposed site layout, a comprehensive reconsideration of the site layout is necessary in order to achieve quality design at this site. Paragraph 136 of the NPPF states; *“Planning policies and decisions should ensure that new streets are tree-lined”*. This is a key consideration that has implications for design quality and the character of a development. Ensuring that streets are tree-lined is not a consideration that the layout appears to have factored in.

The approach to the definition of junctions through built form is limited by the presence of parking proposed at key spaces. The image below highlights two key areas of the site which would provide a poor sense of place as currently designed. This is backed up by the indicative street scene with the overwhelming presence of close board fencing at the junction head which would reinforce the notion that this place was designed for vehicles and not people.

Annotated excerpt of the site layout



Indicative Street Scene for plots 54-56



Design cues should be taken from the recently developed Bovis scheme to the south of this application site in terms of the definition of space at key junctions. The plans and image of the completed development below show how the positioning of dwellings at junction heads helps to define space. The wide frontage dwelling shown on the image on the right is plot 8 from the site layout.

Excerpt from site layout (2/2019/0162/REM)



Completed development - Bagber Rd, Stalbridge



The Stalbridge Railway is an excellent recreational resource for the town and for prospective residents of this development. The Railway is not mentioned at all within the DAS which gives the impression that the context in which the site resides is not fully appreciated. Paragraph 135 (c.) of the NPPF states; *“Planning policies and decisions should ensure that developments: are sympathetic to local character and history, including the surrounding built environment and landscape setting”*. I do not consider that the plans show how the development can be sympathetic to the local character of Stalbridge. Policy 24 of the North Dorset Local Plan (NDLP) states; *“In places that already have a positive image or character, the design of new development should respond to and reinforce locally distinctive patterns of development, landscape and culture”*. For the reasons outlined above, relating to scale, building lines and definition of space, it cannot be considered that these proposals reinforce locally distinctive patterns of development.

## **Movement & Connections**

There are a number of Public Rights of Way (PROW) in close proximity to the site. The Stalbridge Trailway and bridleway N51/74 run parallel to the SW corner of the site. As previously raised, the DAS in this application makes no reference to the Stalbridge Trailway. If this scheme could facilitate a link between the site and the Stalbridge Trailway it would be a valuable connection for prospective residents of the development. The link would enhance the walkability of the scheme and further encourage active travel.

The three turning heads shown on the site layout all facilitate informal parking within them which would render the turning head obsolete as a turning feature. Parking spaces that radiate from a turning head, provide additional parking while actively discouraging informal parking within the turning head. This method should be utilised where turning heads are shown. Aesthetically, the design and siting of the proposed turning heads would reduce the quality of the public realm as these are proposed to jut out into open space or act as a break to tree planting as shown below.

Excerpt from the Site Layout



## **Streets & Spaces**

The street hierarchy proposed broadly coalesces with the indicative outline plans. The starkest difference from the pattern of streets shown at outline is the approach to the entrance to the site. The image below shows the Illustrative Masterplan with the annotation “*Avenue street planting will line the spine road, softening the built form of the development, as well as framing views out towards the public open space and beyond. A focal square will create pedestrian priority through shared surfacing*”. These are key features of the masterplan envisaged for the site and from which permission has been gained that have been abandoned within the Reserved Matters application to the detriment of the design of the scheme.

Excerpt from Illustrative Masterplan



Excerpt from the Site Layout



The public open space (POS) appears to broadly follow the quantum and siting shown within the outline plans. Regarding play spaces, the plans propose a Locally Equipped Area for Play (LEAP). The LEAP is proposed to be situated at the SW corner of the site which is also consistent with the indicative outline plans. As designed, this would receive passive surveillance from the dwellings fronting towards the LEAP.

## **Homes**

The proposed open market mix is divergent from the supported position within Policy 7 of the NDLP which states; “*In the period to 2031, the Council will support the delivery of about 40% of market housing in North Dorset as one or two bedroom properties and about 60% of market housing as three or more bedroom properties*”. Regarding affordable housing the policy states, “*In the period to 2031, the Council will support the delivery of about 60% of affordable housing in North Dorset as one or two bedroom properties and about 40% of affordable housing as three or more bedroom properties*”.



In the absence of a comprehensive accommodation schedule from the applicant, I have produced the following tables to show the proposed breakdown of mix between open market housing and affordable housing.

Open Market Mix                      77/130 dwellings                      60% of the total

Unit type	No. of units	% of Open Market mix	% in relation to Policy 7
2B	15	20%	20%
3B	58	75%	80%
4B	4	5%	

Affordable Mix                      53/130 dwellings                      40% of the total

Unit type	No. of units	% of Open Market mix	% in relation to Policy 7
2B	33	62%	62%
3B	19	36%	38%
4B	1	2%	

As the tables show, the proposed affordable mix accords with Policy 7. The open market mix does not follow Policy 7 with a greater proportion of larger dwellings proposed, predominantly 3B dwellings.

The application proposes 53 / 130 dwellings as affordable housing which meets the 40% requirement stipulated within Policy 8 of the NDLP. Affordable housing is largely proposed to be situated in a cluster at the least desirable part of the site which undermines the application’s tenure neutral credentials. The NDG defines “tenure neutral” as *“Housing where no group of residents is disadvantaged as a result of the tenure of their homes. There is no segregation or difference in quality between tenures by siting, accessibility, environmental conditions, external facade or materials”*. Regarding the siting of affordable housing Policy 8 of the NDLP states *“Affordable housing should be designed to be indistinguishable from other housing on a development site. On a larger site, the affordable units should be pepper-potted amongst the market housing, or where there is a high proportion of affordable housing, grouped in small clusters amongst the market housing”*. To an extent this is the case within the proposals, given that the same housetypes are proposed for open market and affordable dwellings. Open market and affordable dwellings are also proposed to adjoin as semi-detached units on four instances across the site layout. I also note that the Housing Enabling Officer considers that *“The affordable housing is well designed and spread appropriately around the development”*.

The housing mix and type of dwelling would have a significant impact of the residential capacity of the site. A necessity for a higher proportion of detached dwellings than is currently shown would likely require a larger amount of space

per plot. The need for a higher quantity of larger detached dwellings was identified within the 'context and character' chapter due to the necessary filtering of density that is required and expected for rural edge developments.

The development would also benefit from the introduction of flatted development which would allow 1B dwellings to be incorporated into the scheme. Flatted development was envisaged within the Illustrative Masterplan for the site but, as with several other aspects, this has not been carried forward into the reserved matters plans. Flatted development would offer diversity in the housing mix and unit type while offering a dual aspect of natural surveillance on the front and rear elevations.

There is somewhat of a disconnect between the character analysis undertaken at outline and reserved matters stage and what is proposed within this submission in terms of materials and detailing. Material finishes proposed include red, brown, buff bricks and render paired with brick detailing. Roof tiling is proposed as 'slate grey' and 'cottage red'. The materials proposed appear appropriate to the local palette but would benefit from the addition of stone. Stone could be used to denote feature plots within the scheme and would enhance the quality of the materials palette, while offering local distinctiveness.

Plot boundaries that would be visible to public spaces are generally proposed as brick walls with close board timber infill panels. As the street scene drawings over the page show this would not provide a particularly attractive boundary for the public realm. It is recommended that brick walled boundaries are incorporated on all boundaries highlighted green on the 'Site Layout – Boundary Materials' plan (or plots in these positions subject to revised submissions). This should also apply to plot boundaries, or plot boundaries in the position of plots 24 and 40.

#### 'Indicative Street Scenes'



Architectural detailing is significantly lacking with an absence of chimney stacks within the plans. As the street scene drawings above demonstrate, the absence of this detailing detracts from the design quality of the scheme. Chimney stacks would not only elevate the quality of dwellings individually but also provide variation to roofscapes across the scheme. Chimneys are characteristic of Stalbridge and their omission from the plans is further evidence that the submitted plans do not propose a development that is in harmony with the local vernacular. Chimney stacks were identified within the DAS for both outline and reserved matters.

Quoins would be another addition to the detailing of dwellings which would elevate the design quality of the proposed homes while making the dwellings appear locally distinctive. Multiple dwellings identified within the 'Context Analysis' within the DAS of this application incorporate quoins. Varied door colours would add distinction and diversity to individual dwellings within the street scene. These different coloured doors would be particularly effective for dwellings that are the red brick and cottage red tile pairing as this combination could appear monochromatic. This combination would apply to all three of the affordable terraces on the western boundary as currently proposed.

Dual aspect dwellings are essential for turning the corner within a scheme that includes perimeter block development. This would be carried out to good effect with the housetype 3BedC which is proposed for the vast majority of corner units whether that be as a detached unit or as a semi-detached unit. However, the 4 bed detached housetype shown within the submission should not be used to turn the corner within the scheme as is shown for plot 54. The only fenestration on the side elevation would be the bathroom window which wouldn't provide adequate frontage and natural surveillance to the street.

In terms of the design of individual plots, the position of plot 34 would expose a vast quantity of the rear boundary to the streetscene at key junctures. Being part of the gateway of the site, the plot here should be reconsidered to ensure that there is minimal plot boundary exposure and where it does exist it is comprised exclusively of a walled boundary. The orientation of dwelling 122 as designed would have a poor outlook immediately onto double banked parking.

Private amenity spaces are generally shown to match or exceed the ground floor footprint of the assigned dwelling. However, there are instances within the layout where;

- Parking encroaches on the rear amenity space (plots 53 & 54).
- There is a disparity in rear amenity space size between adjoining and identically sized dwellings / plots (plots 7-8, 26-27 & 39-40).
- Rear amenity space is an odd shape which would impact on its usability (plots 51, 94 and 95).

- Neighbouring plots where smaller dwellings are afforded larger garden sizes than large dwellings (plot 8 with plot 9, plot 35 with plot 36, plot 128 with plots 126-127).

Policy 25 of the NDLP states; *“Residential development will be permitted provided that it provides private open space in the form of gardens or communal open spaces appropriate to the needs of the intended occupants.”*

## **Parking**

Proposed parking predominately takes the form of frontage parking and tandem parking. Curiously, the submitted parking plan (‘Site Layout – Parking & Bins’) does not include the numbers of parking proposed. This plan should be revised with numbers of allocated, unallocated and visitor parking clearly specified. Only when this information has been provided, can the proposed parking provision be suitably assessed.

The parking shown within the plans is largely unrelieved by street planting which would create an environment dominated by hard surfacing and is poor in terms of placemaking. A notable example of this on the site layout is plots 55-56 which are proposed to be engulfed by unrelieved hard surfacing associated with parking. The NDG advises that; *“Well-designed parking is attractive, well-landscaped and sensitively integrated into the built form so that it does not dominate the development or the street scene”*. By this widely respected definition, the parking proposed within these proposals cannot be considered to be well-designed. This is illustrated effectively by the image below.

Excerpt of the Site Layout to show poor arrangement of allocated parking.



The absence of garage parking within the proposals reads as a glaring omission in relation to the character of Stalbridge. The indicative site plan from the outline application (2/2019/1799/OUT) included garages which would be in-keeping with the character of the town.

## **Conclusion**

In conclusion, I am unable to support these proposals. It is disappointing to see such generic proposals that do not suitably respond to the prevailing character of Stalbridge. The site layout proposed within this application has eroded several of the positive aspects of the Illustrative Masterplan from the outline permission.

In terms of local policy, the submission does not meet Policy 7 or Policy 24 of the NDLP. Given that the proposals do not include streets that are tree-lined and given that they are not sympathetic to local character, the proposals also go against Paras 135 and 136 of the NPPF. There are numerous examples highlighted within these comments that do not follow guidance (NDG, BHL, MFS) on good design. As such, the development proposals within this application cannot be considered to be well-designed. Paragraph 139 of the NPPF states; *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance”*.

In the event of a revised submission for this application, I cannot envisage how the array of design issues could be resolved without a reduction in the density of the scheme. The outline permission is for ‘up to’ 130 dwellings and I recommend that any revised submission seeks to utilise a reduction in dwellings at this site to resolve design issues relating primarily to character but also to streets / spaces, housing mix and parking.

## **Policy and Guidance consideration:**

### National Planning Policy Framework (NPPF)

Paragraphs 128, 135, 136, 139

### North Dorset Local Plan (2016)

Policy 7 – Delivering Homes

Policy 8 – Affordable Housing

Policy 24 – Design

Policy 25 – Amenity

### National Design Guide (2021)

### Manual for Streets (2007)

### Building for Healthy Life (2020)

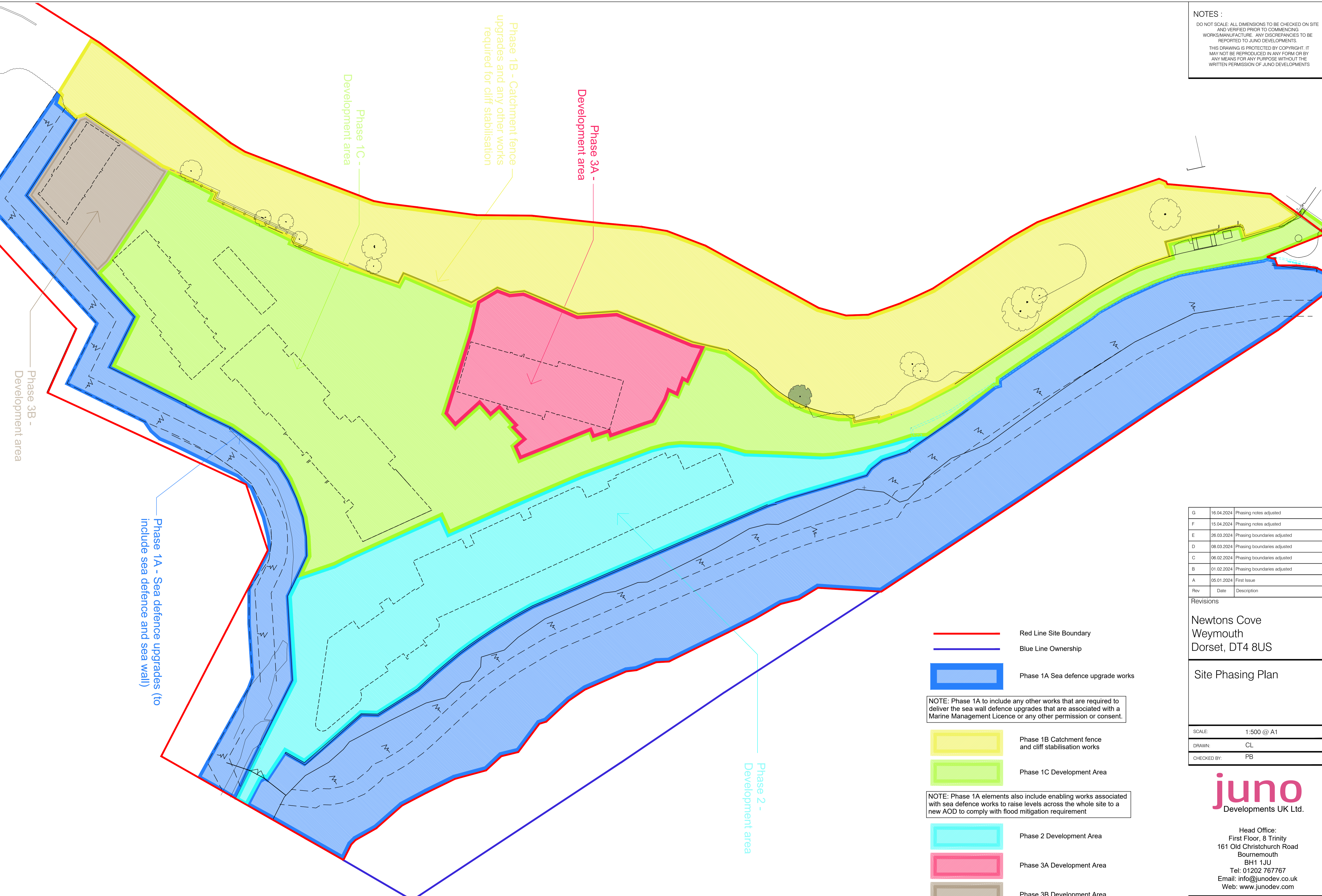
**OFFICER:** Sophie Smith

**TITLE:** Urban Design Officer

**DATE:** 02/02/23

## Appendix 16: Land at Newtons Road Phasing Plan

**NOTES :**  
 DO NOT SCALE: ALL DIMENSIONS TO BE CHECKED ON SITE AND VERIFIED PRIOR TO COMMENCING WORKS/MANUFACTURE. ANY DISCREPANCIES TO BE REPORTED TO JUNO DEVELOPMENTS.  
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Phase 3B - Development area

Phase 1A - Sea defence upgrades (to include sea defence and sea wall)

Phase 1C - Development area

Phase 1B - Catchment fence upgrades and any other works required for cliff stabilisation

Phase 3A - Development area

Phase 2 - Development area

- Red Line Site Boundary
- Blue Line Ownership
- Phase 1A Sea defence upgrade works
- Phase 1B Catchment fence and cliff stabilisation works
- Phase 1C Development Area
- Phase 2 Development Area
- Phase 3A Development Area
- Phase 3B Development Area

NOTE: Phase 1A to include any other works that are required to deliver the sea wall defence upgrades that are associated with a Marine Management Licence or any other permission or consent.

NOTE: Phase 1A elements also include enabling works associated with sea defence works to raise levels across the whole site to a new AOD to comply with flood mitigation requirement

Rev	Date	Description
G	16.04.2024	Phasing notes adjusted
F	15.04.2024	Phasing notes adjusted
E	26.03.2024	Phasing boundaries adjusted
D	08.03.2024	Phasing boundaries adjusted
C	06.02.2024	Phasing boundaries adjusted
B	01.02.2024	Phasing boundaries adjusted
A	05.01.2024	First Issue

Revisions  
 Newtons Cove  
 Weymouth  
 Dorset, DT4 8US

Site Phasing Plan

SCALE: 1:500 @ A1  
 DRAWN: CL  
 CHECKED BY: PB



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Drawing No.  
 JDMXX-NC-0001

## Appendix 17: BRID5 EA objection



Matthew Pochin-Hawkes  
Dorset Council - West  
Development Services Division  
County Hall Colliton Park  
Dorchester  
Dorset  
DT1 1XJ

**Our ref:** WX/2012/120301/11-L01

**Your ref:** 1/D/11/002012

**Date:** 28 June 2024

Dear Mr. Pochin-Hawkes,

**DEVELOP LAND BY THE ERECTION OF 95 DWELLINGS (51 HOUSE AND 44 APARTMENTS), NEW AND REFURBISHED COMMERCIAL FLOOR SPACE, ASSOCIATED CAR PARKING AND NEW VEHICULAR AND PEDESTRIAN ACCESSES FOLLOWING DEMOLITION OF SOME COMMERCIAL UNITS. APPEARANCE AND LANDSCAPING RESERVED FOR FURTHER APPROVAL. (REVISED SCHEME)**

**SOUTH WEST QUADRANT, ST MICHAELS TRADING ESTATE, BRIDPORT**

In response to the emails dated 21st June 2024 and 27th June 2024 from Steph Howard of SSP to Matthew Pochin-Hawkes, we offer the following comments.

We note the query from the consultant with regards to our request to update some of the flood data and assessment for this application. On this point, we wish to highlight that despite this being a long-standing application, it has not yet been determined. The NPPF requires planning applications to meet the most up-to-date information, methodologies and best practices. It is the responsibility of the developer, and not the Environment Agency, to ensure that the FRA provides an appropriate up-to-date assessment of all sources of flooding, and to provide a development that is safe over its lifetime.

In recognition of the late stage of this application, we have acknowledged that a pragmatic precautionary approach to updating the understanding of flood risk for the lifetime of the development at this site may be sufficient to help re-evaluate whether the development would remain acceptable and safe over its lifetime.

When earlier FRA versions and addendums for this application were undertaken by the consultant, they were fortunate to be able to directly use the available modelled 40% climate change data. Changes to climate change allowance requirements however, now necessitate a 47% climate change allowance. Since this is not directly available from our model data, a bespoke evaluation is required (which as we have explained, could be achieved by extrapolation on a stage discharge curve). Unfortunately, our available model data also does not include an 85% climate change model run or corresponding flood level data which could have served as a conservative proxy flood level. Furthermore, where in some cases it can be acceptable to adopt the available 1 in 1000-year event flood levels, this is often found to be exceeded by the 1 in 100 year event plus 47% allowance flood level. Therefore we have advised that this is checked in this case, especially given the scale of the development and sensitivity of flood risk at

this location.

It is important to ensure that the design flood levels including the up to date 47% climate change allowance is established to meet the requirements of the NPPF and PPG. This future design flood level is used to re-assess whether the existing flood defences could overtop in this area over the lifetime of the development. If indeed this is the case, the proposals themselves, including ground floor freeboard levels may need to be reassessed. To date this assessment has not been provided.

The emails above and the Addendum dated 16th May 2024 provide discussion based on a stage discharge rating curve assessment. However, a stage discharge rating curve should show peak flow data vs modelled flood levels, not river level vs return period as shown on the charts in Appendix A of the Addendum. As such, this evidence does not allow an extrapolation of flood level including 47% climate change to be made or provide any basis for any sensitivity / precautionary assessment and discussions that should be considered due to the methodology chosen and age of the existing model and flood data.

Further, the email (21<sup>st</sup> June) states "The latest objection states that the EA now require further assessment of nodes upstream of the site (and North of West Street) which were not required in the previous assessment nor mentioned in their earlier objection.". On this point and keeping in mind that the submitted addendum links back to the original approved FRA (SSP, Second Issue dated 16-05-17), the FRA raises this potential flood risk source in several places (paras. 5.4, 5.7 and 7.1). It is on this basis that in our recent email dated 15/05/2024 to Steph Howard, we raised that the overtopping fluvial flood flow path from north of West Street should also be re-checked due to increase in climate change requirements.

We note that the consultant considers that they have provided a 'more accurate assessment' but we remain of the view that they have not yet provided satisfactory information. We are aware that the consultant has requested our Product 5 data and that this will be provided by our Customer Engagement Team in due course.

Yours sincerely,

**Mr. Bob Sherrard**  
**Sustainable Places - Planning Advisor**

Phone: [REDACTED]

Email: [REDACTED]

## Appendix 18: Portland Lodge Hotel NE objection

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I have reviewed the revised sHRA which although an improvement does not fully address the fact that the scheme will result in the permanent loss of land designated as an SAC to carparking and thereby prevent future restoration of the SAC feature. Natural England notes that the sHRA suggests that there is not a mechanism that will allow the restoration and ongoing management of the bank in situ. Here we would note that while legal mechanisms do exist it is also likely that restoration could be secured through any future planning permission for Portland Lodge Hotel site.

As set out in our previous response any permission should consider whether the scheme can meet the requirements of Regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest. Specific guidance can be found on the Defra website: <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/sites/> <<http://www.defra.gov.uk/habitats-review/implementation/process-guidance/sites/>>

- \* Your Authority s alternatives test should consider all options including potential alternative schemes for the site that would avoid or be less harmful to the SAC. In this case avoid or minimise any necessary land take.
- \* Whether the scheme is meets the overriding public interest test is a matter for your Authority.
- \* Natural England is satisfied that given the relatively small scale of the impacts on the SAC these could be fully compensated, however, the compensation measures required cannot be on land already designated as SAC. Rather, a suitable area of non designated alternative land should be identified where restoration to the SAC qualifying habitats could be appropriately secured.

**Appendix 19:** Land at Green Worlds Dorset Council Monitoring Report  
Extract



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## Issues with our online forms



We are experiencing issues with some of our online forms. We are working quickly to get this fixed, if you have an urgent enquiry please contact us [by phone or email](#). Sorry for any inconvenience.

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# Monitoring Report 11: Site Specific Policies

This report is one of a series of topic based reports which together constitute the Christchurch and East Dorset Authorities' Monitoring Report.

These reports will be regularly updated. The date that the information was last updated is indicated alongside each table/section as appropriate. Further topic areas can be viewed in the [Christchurch and East Dorset Authorities' Monitoring Report](#).

## Local Plan Part 1 - Core Strategy Policies

The following table sets out site specific policy proposals in the Core Strategy and identifies what progress has been made to date (not necessarily in this monitoring period) on their delivery against plan targets.

Site and policy	Progress	Plan targets
WMC4 Allendale area , Wimborne	Due to Local Government Review a new Civic Hub is currently not being progressed. The policy is not being taken forward as part of the current East Dorset Local Plan Review at Options stage.	A new Allendale Community Centre, District Council offices, other public sector offices, public parking, a riverside park.

Site and policy	Progress	Plan targets
RA2 - Furzehill Village Envelope	EDDC working towards exchange of contracts on land with preferred developer selected through tender process. Planning application currently being prepared but not yet submitted for residential scheme. Allocation is carried forward through the Local Plan Review at Options stage.	Policy supports redevelopment for residential, offices, hotel/community use or residential/non- residential institutions.
WMC9 Leigh Park area Wimborne	This is dependent on vacation of the site by Wimborne Rugby Club. No decision has yet been taken to vacate the existing rugby club site. Principle of new rugby club provision has been secured on the WMC8 site.  Allocation taken forward through East Dorset Local Plan Review at Options stage (Policy Option 5.6). No further discussions have taken place on the relocation of the Rugby Club.	1.5 hectares open space, youth club facilities
FWP5 West Parley Village centre	The Parley Crossroads improvement and enhancement will be delivered following the implementation of the East and West of New Road link roads. Planning applications for the East and West of New Road allocations are currently progressing. The design of the Cross Roads improvement is being progressed by DCC as part of the LEP BIG programme. DCC have identified funding for the delivery of the cross roads improvement. This policy has been carried forward through the East Dorset Local Plan Review at Options stage(Policy Option 5.16).	Environmentally enhancement, new public spaces, shops, services, wholesale changes to Parley crossroads.
VTSW2 South of Howe Lane, Verwood	Policy carried forward through the East Dorset Local Plan Review at Options stage (Policy Option 5.26). Further capacity required but scheme not yet implemented.	Educational use - upper school accommodation

Table last updated January 2019

## Delivery of site specific saved local plan polices

The following table lists the saved site specific policies from Christchurch Local Plan and East Dorset Local Plan, and sets out progress on their implementation.

## Progress on saved Christchurch Borough Council 2001 policies

Policy	Proposal	Progress
H6	Housing;	
	Land rear of 108-116 Stour Road	Undeliverable, flood zone 3a – Policy reviewed and not carried forward as part of Local Plan Review.
	Land at Wick Lane	Complete
H7	The Grove / Barrack Road - Housing	Part developed - remainder undeliverable due to flood risk.
EO3	Bridge Street / Stony Lane mixed development	<p>Site identified in Core Strategy (CH1) as a strategic site. Policy CH1 is proposed to be carried forward with amendments in the Local Plan Review (Policy Option 5.9) which maintains this strategic site.</p> <p>Site being considered for mix use development in the Local Plan Review at Options stage (Policy Option 5.2). Site forms part of Town Centre Floodrisk Study Area and SPD area where a strategic approach is being progressed to address flood risk issues to facilitate mixed use development through the Local Plan Review.</p>
ES5	Land West of High Street 'The Lanes' - mixed use	Former sorting office /Cornfactor site completed. The remainder of this allocation is still to be implemented. The Local Plan Review is carrying forward this allocation for A1 – A5 uses at Options stage in Policy Option 5.12.
ES8	Land adjoining Royalty Inn - retail	This allocation is no longer deliverable due to implementation of a planning consent. The allocation has been considered as part of the Local Plan review and is not being carried forward.
T4	Castle Lane relief road corridor	Not currently in Local Transport Plan (LTP) programme and is not being carried forward as part of the Local Plan review.
T5		
Barrack Road Junction improvements:	Barrack Road / Jumpers Road- traffic signals	Completed.
	Barrack Road / Stour Road traffic signal improvement	Not in LTP programme and no current plans to progress. Not currently included as part of the Local Plan Review.
	Barrack Road / Sopers Lane junction improvements	Not in LTP programme and no current plans to progress. Not currently included as part of the Local Plan Review.



<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
T11	1-13 High Street rear servicing	No longer required and not included in Local Plan Review.
T12	Rear servicing:  37-47 Bargates  Magistrates Car park if extended to 34-66 Bargates	No longer required and not included in Local Plan Review.
T14 Cycle Routes	1) Chapel Gate To Christchurch Hospital	Completed
T14 Cycle Routes	2) Avenue Road	Completed
T14 Cycle Routes	3) Tricketts Cross Bridlepath	Completed - permissive path put in by Eco around back of timber yard
T14 Cycle Routes	4) Iford To Town Centre	Part completed where deliverable. Not on current LTP priority list.
T14 Cycle Routes	5) Stour Road	Mostly completed where deliverable. Not on current LTP priority list.
T14 Cycle Routes	6) Avon Buildings To Avon Causeway	Not currently on LTP priority list.
T14 Cycle Routes	7) Stanpit To Tuckton	Mostly cycle route signing. Not on current LTP priority list
T14 Cycle Routes	8) The Runway To Stanpit	Completed
T14 Cycle Routes	9) Mundeford Woods To Mundeford Quay	Completed
T14 Cycle Routes	10) Coastal Cycle Path	Part completed (Mundeford Quay to Avon Beach)
T14 Cycle Routes	11) Castle Avenue To Somerford	Completed

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
T14 Cycle Routes	12) Somerford To Town Centre	Brief being developed with PB. Study completed but scheme not progressed due to funding issues, but could be part funded through developer contributions in the future.
T14 Cycle Routes	13) The Runway To Highcliffe School	Completed
T14 Cycle Routes	14) Christchurch By-Pass	General maintenance / vegetation clearance of existing cycleway has been completed.
T14 Cycle Routes	15) Stony Lane	Completed
T14 Cycle Routes	16) Mudeford Woods	Completed
T14 Cycle Routes	17) Somerford To Roeshot Hill	Completed
P1	Parking - rear of 13 Wick Lane	Completed 2008. No net gain in parking spaces due to sale of development land.
P2	Extension of Magistrates car park	No longer required to meet town centre parking requirements. Allocation has not been carried forward through Local Plan Review. Planning application has been submitted for Magistrates Court Site as a whole for mixed use scheme which reconfigures parking provision.
P3	Car parking rear of Globe Inn Highcliffe	No longer required and not carried forward as part of the Local Plan Review.
L21	Dudmoor - country park	Allocation will not be implemented as within 400m of Dorset Heathland. Policy is not being carried forward as part of the Local Plan Review.
CF3	Recreation/community facilities -Land adjacent to Stanpit recreation facilities	Allocation part implemented through delivery of the interpretation centre at Stanpit Marsh. This policy will be superseded by the Christchurch Coastal Country Park proposal.

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
CF4	Highcliffe community facility	Northern part of the site now incorporated into new development. Existing buildings in residential use. Policy not considered deliverable and not included as part of Local Plan review.
CF7	New cemeteries adjacent to St Marks cemetery Highcliffe  rear of St Luke's cemetery Burton	The land adjacent to St Marks Cemetery Highcliffe is not considered needed and there is a current housing proposal for this site.  Land to the rear of St Luke's cemetery Burton has not been implemented and the allocation is carried forward as part of the Local Plan review at Options stage.

Table last updated January 2019

## **Progress on saved East Dorset District Council 2002 policies**

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
FWP1	Housing - Green Worlds, Ringwood Road, Ferndown	Land not yet brought forward for development, but the landowner has undertaken some pre-application discussions with the Council. The site is now heavily treed which could preclude a higher density development. The site is being considered as part of the East Dorset Local Plan Review at Options stage (Policy Option 5.13)
FWP2	Employment use Ferndown Industrial Estate east of Cobham Road / north of Wimborne Road	Reserved matters applications being submitted and site under construction.
FWP11	Bracken Road - open space	Part of area to be developed as community woodland in co-operation with local residents. Project delayed because of asbestos contamination. Consultant's Report produced. The planned remediation works have been initiated, with partial clearance of the site achieved. Site to be reviewed in light of further asbestos works required.
SL1	Employment - military testing ground St Leonards	Allocation not considered likely to come forward and not carried forward as part of the Local Plan Review.

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
SL3	<p>Heathland restoration</p> <p>a) land west of Wayland Road</p> <p>b) land between Grange and Foxbury Roads</p> <p>c) to the south-east of St Leonards Hospital</p> <p>d) the Shamba complex south of Lions Hill</p> <p>e) Matchams SSSI, and</p> <p>f) Wattons Ford Common.</p>	<p>Proposed heathland restoration areas have not been progressed. Following discussion with Natural England not being considered as part of Local Plan Review.</p>
WM2	<p>Library extension West Moors Library</p>	<p>Allocation not yet implemented. Carried forward through the Local Plan Review at Options stage through draft Policy 5.25.</p>
WM3	<p>Open space, pitches and facilities - land adjacent to Fryer field, West Moors and Riverside Road.</p>	<p>Allocation not implemented. As part of Local Plan Review area proposed for protection as open space only without detailed allocation.</p>
WIMCO1	<p>mixed use redevelopment - Old Road / Victoria Road, Wimborne</p>	<p>Part of site has been developed to the north. Old Road car park considered as part of asset review and car parking study. Allocation is not being carried forward as part of the Local Plan review.</p>
WIMCO9	<p>Play area east of Canford Bottom</p>	<p>Allocation not yet implemented.</p>
WIMCO23	<p>Land off Old Road and Mill Lane- car parking</p>	<p>Old Road and Mill lane currently being used as car parks. Sites considered as part of Council asset and car parking review.</p>
V16	<p>Heathland restoration</p> <p>a) land to the south, south west and west of Dewlands Common</p> <p>b) land to the south of Noon Hill</p> <p>c) land to the east of Stephens Castle</p> <p>d) land at Horton Common</p>	<p>Proposed heathland restoration areas have not been progressed. Following discussion with Natural England not being carried forward as part of Local Plan Review.</p>

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
V17	Land off Dewlands Road Verwood - heathland re-creation	Proposed heathland restoration area has not been progressed. Following discussion with Natural England not being carried forward as part of Local Plan Review.
V26	Junction improvements at Manor Lane and St Michaels Road Verwood	Related to scheme below
V30	New Springfield Distributor Road	Dorset County Council (DCC) corporate funded scheme has now been completed.
V31	Manor Lane improvements once Springfield distributor Road complete	Related to scheme above
CHASE2	Redevelopment of former saw mill Cranborne for business use	Allocation not yet implemented. Carried forward as part of the Local Plan Review at Options stage (Policy Option 5.30).
CHASE3	Speed reduction measures Cranborne	Not on current LTP priority list and not carried forward as part of the Local Plan Review.
CHASE6	Residential development Sixpenny Handley	Allocation has been reviewed as part of Local Plan review process and is carried forward (Policy Option 5.35). DCC have confirmed site capable of coming forward without by-pass. Pre app discussions currently being undertaken for this site.
CHASE7	Residential development land adjacent to Frogmore Lane, Sixpenny Handley	Allocation has been reviewed as part of Local Plan review process and is carried forward through (Policy Option 5.35) at Options stage.
CHASE11	Speed reduction measures Sixpenny Handley	Already has village 30mph and 20mph limit covering school / village centre. Scheme is not currently on LTP priority list and policy not carried forward as part of the Local Plan Review.
CHASE15	Speed reduction measures Witchampton	Already has village 30mph and 20mph Zone covering school / village centre. Scheme is not currently on LTP priority list and policy not carried forward as part of the Local Plan Review.
SM3	Open space and sports facilities Station Road, Sturminster Marshall	Allocation not yet implemented. Carried forward as part of the Local Plan Review at Options stage through Policy Option 5.37.

Policy	Proposal	Progress
GBV4	Proposed open space between High Street and Stewards Lane, Shapwick	Allocation has not yet been implemented. Allocation is carried forward through the Local Plan Review at Options Stage (Draft Policy 5.34).

Table last updated January 2019.

## Planning Policy - East Dorset area

Email: [planningpolicy@dorsetcouncil.gov.uk](mailto:planningpolicy@dorsetcouncil.gov.uk)

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## Appendix 20: East of Wareham Road Screenshot

# Planning application: 6/2021/0282

Viewing a Planning application.

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Main Details	Location	View Documents	Consultees	Appeals	History
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<p><b>Please note:</b> If you are using Internet Explorer 11 you may incur problems trying to open documents or use the Online comments facility. If you do have such pro please go to Tools in the Browser menu, select Compatibility View Settings and then Add which should resolve these issues.</p>					
<input type="checkbox"/> <b>Documents</b>					
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<input type="checkbox"/>		<a href="#">20/05/2021 - Application Form Redacted</a>			(unknown size)



**Documents**

- [20/05/2021 - Arboricultural Assessment and Method Statement - 17125-AA2-CA \(May 2021\)](#) (unknown size)
- [20/05/2021 - Badger Survey Report - 813.33 \(March 2020\)](#) (unknown size)
- [20/05/2021 - CIL Forms - Land East of Wareham Road](#) (unknown size)
- [20/05/2021 - Cover Letter - Full Application \(Wareham Road\)\(1\)](#) (unknown size)
- [20/05/2021 - Double Garage 2-B Plans and Elevations \(ref. DG2-B\)](#) (unknown size)
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- [20/05/2021 - Vehicle Swpet Path Analysis - Refuse \(Sheet 4 of 4\) \(ref. 0902-01-ATR-104 rev A\)](#) (unknown size)
- [24/05/2021 - 813.11 34c Landscape Strategy Plan](#) (unknown size)
- [24/05/2021 - 0902 01 Phl 1012 A Preliminary Highways Layout](#) (unknown size)
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- [12/08/2021 - Ecological Appraisal APPENDIX A - 813.13 rev A \(June 2017\) Redacted](#) (unknown size)
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**Appendix 21:** Land at Policemans Lane Urban Design Objection & Screenshot

**APP REF:** 6/2019/0717

**ADDRESS:** Land at Policeman's Lane, Upton

**APPLICANT:** Lewis Wyatt Ltd

**DESCRIPTION:** Erection of 92 dwellings with access via Osprey Close, associated landscaping, drainage and footpaths onto Watery Lane.

**CASE OFFICER:** Peter Walters

### **URBAN DESIGN OFFICER COMMENTS**

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	x
NO OBJECTION	
REQUEST FOR FURTHER INFORMATION	
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	no

#### **Summary:**

The application site sits on the western edge of Upton abutting the A35 trunk road to the west and the Frenches Green scheme built by Wyatt Homes to the north. Watery Lane runs along the site's eastern boundary, which is a rural single track lane, unsuitable for vehicles. The site is well screen by existing vegetation along this boundary.

#### **Main issues:**

The principle of development on the site is accepted. However, matters concerning the design of the proposals and whether they will achieve a high quality place as set out in the provisions of the NPPF, National Design Guide, Building for a Healthy Life and the Purbeck Local Plan is still to be considered.

#### **The proposal:**

The proposal is a full planning application for the construction of 92 dwellings, associated landscaping, open space and access. The scheme is an extension of the Wyatt Homes development at Policeman's Lane. Houses are a mix of larger detached, and semi detached housing. There are also 3 apartment blocks at the western end of the site. The affordable housing units are located nearest to the boundary with the A35 with full market housing to the eastern edge of the site. 2 areas of open space are incorporated into the scheme where existing trees are to be retained.



### **Comments on proposal:**

**Layout** - The form and layout of the scheme is a continuation of the development at Policeman's Lane with access to the proposed development through this scheme with a secondary access onto Osprey Close and Watery Lane.

Larger detached houses are positioned away from the A35 with all but 2 affordable housing units located on the western side of the site, closest to the A35.

The grouping together the affordable housing in smaller units where the layout of spaces is dominated by parking with no landscaping will **not** result in a mixed and sustainable community and is therefore contrary to paragraph 116 of the National Design Guide: ***'Where different tenures are provided, they are well-integrated and designed to the same high quality to create tenure neutral homes and spaces, where no tenure is disadvantaged'***.

And is also contrary to Policy AH: Affordable Housing in the Purbeck Local Plan ***'.....the affordable housing element of schemes should be fully integrated or 'pepper potted' through the site..'*** There appears to be no exceptional circumstances that justify a departure from this policy and it is considered that the layout must be revised to address this.

**Detailed design and materials** - The design and access statement refers to a 'Rural Dorset vernacular' including cottages of various shape and size with an informal architectural language and a limited palette of materials. While the architectural approach is simple and understated it is not clear that it has been informed by the best of examples of local context (for example Lytchett Minster). The NPPF is clear that design must be ***'sympathetic to local character and history, including the surrounding built environment and landscape setting*** (para 127c NPPF).

Aerial photos of the area show that the majority of the roofs within the immediate area of the site are grey in colour (except those in the newly completed Wyatt's scheme). However, proposals for the scheme show roofing material consisting of a mix of slate and plain tile (likely to be red in colour). Such a roof colour would not only be out of keeping with the original context of the area, but it is also very prominent within developments particularly where the roof pitches are high (as in the design of the house types proposed here).

Policy D: Design in the Purbeck Local Plan specifically references ***'localised traditions of building materials'*** and therefore red plain tile roofs are not appropriate and careful consideration of brick and render colours are required to ensure they are in keeping with traditional local colours.

As it stands proposed materials are only shown within the elevational drawings and in the selected street scenes, there is no plan that can be approved that clearly illustrates the mix of materials across the site. It is recommended that a condition is added to any approval that requires a materials plan to be submitted and approved in order to ensure that brick and render colour and roof material is appropriate to the context of the site, is not overly dominant within the development and in the surrounding area and delivers a cohesive street scene which has a clear rhythm with elements of uniformity to strengthen this.

**Landscaping and Biodiversity** - The Council's Landscape Architect has already commented on the proposals and I would strongly reiterate the points she raised about the lack of landscaping within the scheme.

No street trees have been proposed within the development which would have multiple benefits including reducing the impact of parked cars, particularly within the areas of courtyard parking and improving the quality of the space and the well being of residents.

The lack of adequate landscaping is contrary to para 127 of the NPPF '*Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.*

In addition to this paragraph 77 of the National Design Guide states that: ***A well-designed movement network defines a clear pattern of streets that: incorporates green infrastructure, including street trees to soften the impact of car parking, help improve air quality and contribute to biodiversity*** and paragraph 90 that the incorporation of ***nature contributes to the quality of a place, and to people's quality of life, and it is a critical component of well designed places. They include natural and designed landscapes, high quality public open spaces, street trees, and other trees, grass, planting and water.***

Adding to this, houses have very little in the way of front gardens and no front boundary treatments. While the illustrative street scenes show there to be some shrub planting in reality houses sit tight against the pavement. This coupled with the lack of any verges or street trees creates a very hard, urban environment that has no amenity or environmental benefits and is inappropriate within the context of the site's setting on the rural edge of Upton. It is therefore contrary to paragraph 127c of the NPPF ***design must be 'sympathetic to local character and history, including the surrounding built environment and landscape setting.'***

The design and access statement and the BMEP alludes to features that will be included within landscaping plans that will support biodiversity but I can see no

record of a consultation response from the Council's NE team to ensure that this document is approved as part of the RM to ensure that the site delivers a net gain in biodiversity and accords with Policy BIO: Biodiversity and Geodiversity '*Plans should incorporate any opportunities for biodiversity in and around the development..*' and Policy D; Design plans should '*Demonstrate support for biodiversity through sensitive landscaping and through in-built features, which provide nesting and roosting facilities for bats and birds*'.

**Energy Efficiency** - No details have been provided as to how the scheme will meet the provisions of Policy D: Design in regards to renewable energy and there is also no indication of the provision of electric car charging points in line with paragraph 110e of the NPPF '***development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.***'

**Policy consideration:**

In addition to the policies already mentioned above, Policy D of the Purbeck Local Plan makes reference to the requirement for housing schemes to meet 14 of the 20 criteria set out in Building for Life. This document has since been superseded and is now known as Building for a Healthy Life. Although the number of criteria has been reduced to 12, the principles of the document remain although it is considered not as a scoring system but as a design process to lead discussions. The current proposals flag a number of red lights and therefore fail to meet clear criteria within national and local planning policies aimed at improving the quality of design and placemaking within new developments. In light of this, there are some necessary changes to the design, layout and landscaping that are required before the proposals are considered acceptable.

**OFFICER: Sophie Duke**  
**TITLE: Senior Urban Designer**  
**DATE: 24/05/2021**

# Planning application: 6/2019/0717

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<input type="checkbox"/>	<a href="#">30/12/2019 - Arboricultural Assessment and Method Statement</a> (unknown size)				
<input type="checkbox"/>	<a href="#">30/12/2019 - Attachment Summary</a> (unknown size)				
<input type="checkbox"/>	<a href="#">30/12/2019 - Badger survey</a> (unknown size)				
<input type="checkbox"/>	<a href="#">30/12/2019 - Bat Survey Report</a> (unknown size)				
<input type="checkbox"/>	<a href="#">30/12/2019 - Bin and Cycle store-HA-B plans and elevations</a> (unknown size)				
<input type="checkbox"/>	<a href="#">30/12/2019 - Block plan</a> (unknown size)				
<input type="checkbox"/>	<a href="#">30/12/2019 - Boundary treatment plan</a> (unknown size)				
<input type="checkbox"/>	<a href="#">30/12/2019 - Carport, bin and cycle store-B plans and elevations</a> (unknown size)				

**Documents**

- [30/12/2019 - Design and access statement](#) (unknown size)
- [30/12/2019 - Dormouse Survey Report](#) (unknown size)
- [30/12/2019 - Double garage 2-B Plans and elevations](#) (unknown size)
- [30/12/2019 - Drawing schedule](#) (unknown size)
- [30/12/2019 - Ecological appraisal - appendix A](#) (unknown size)
- [30/12/2019 - Ecological Appraisal](#) (unknown size)
- [30/12/2019 - Engineering layout](#) (unknown size)
- [30/12/2019 - Engineering layout](#) (unknown size)
- [30/12/2019 - Environmental noise assessment](#) (unknown size)
- [30/12/2019 - Exceedance flow routes plan](#) (unknown size)
- [30/12/2019 - Flood risk assessment](#) (unknown size)
- [30/12/2019 - Geotechnical Investigation and Contamination Assessment Report](#) (unknown size)
- [30/12/2019 - Great crested newt HSI and eDNA Survey](#) (unknown size)
- [30/12/2019 - Illustrative Landscape masterplan](#) (unknown size)
- [30/12/2019 - Landscape and visual Appraisal](#) (unknown size)
- [30/12/2019 - Proving layout](#) (unknown size)
- [30/12/2019 - Lighting Lux Plan](#) (unknown size)
- [30/12/2019 - Location plan](#) (unknown size)
- [30/12/2019 - Longitudinal sections](#) (unknown size)
- [30/12/2019 - Longitudinal sections](#) (unknown size)
- [30/12/2019 - Location and designations plan](#) (unknown size)
- [30/12/2019 - LVIA Methodology](#) (unknown size)
- [30/12/2019 - LVIA Planning Policy](#) (unknown size)
- [30/12/2019 - Supporting photographs](#) (unknown size)
- [30/12/2019 - Manual for managing trees on development sites](#) (unknown size)
- [30/12/2019 - Parking and cycle layout plan](#) (unknown size)
- [30/12/2019 - Planning Statement](#) (unknown size)
- [30/12/2019 - 2-4-777-HA-B Plans and elevations](#) (unknown size)

**Documents**

- [30/12/2019 - 2-4-777-HA-R plans and elevations](#) (unknown size)
- [30/12/2019 - 2-4-777-HA-R-T3 Plans and elevations](#) (unknown size)
- [30/12/2019 - 2-4-875-HA-B-T3 plans and elevations](#) (unknown size)
- [30/12/2019 - 3-5-894-HA-R plans and elevations](#) (unknown size)
- [30/12/2019 - 3-5-1006-HA-B Plans and elevations](#) (unknown size)
- [30/12/2019 - 3-5-1006-HA-B-T3 Plans and elevations](#) (unknown size)
- [30/12/2019 - 1036-HA-R-Variant Plans and elevations](#) (unknown size)
- [30/12/2019 - Apartment Block1-BC plans and elevations](#) (unknown size)
- [30/12/2019 - Apartments block2-3-BC Plans and elevations](#) (unknown size)
- [30/12/2019 - Apartments-HA-BC Plans and elevations](#) (unknown size)
- [30/12/2019 - Broadstone-Compton-BR-Cottage-Variant Plans and elevations](#) (unknown size)
- [30/12/2019 - 3-1036-Compton-B-Cottage-Variant Plans and elevations](#) (unknown size)
- [30/12/2019 - 3-1036-Compton-Corfe-B-Cottage Plans and elevations](#) (unknown size)
- [30/12/2019 - 3-1036-Compton-Corfe-R-Cottage Plans and elevations](#) (unknown size)
- [30/12/2019 - Dewlish-Dewlish-Branksome-BR-Cottage-Variant Plans and elevations](#) (unknown size)
- [30/12/2019 - Dewlish-Glanvilles-BR-Cottage-BR-Cottage-Variant Plans and elevations](#) (unknown size)
- [30/12/2019 - 3-1082-Edmondsham-B-Cottage Plans and elevations](#) (unknown size)
- [30/12/2019 - Flat block type 3-HA-B-V1 Plans and elevations](#) (unknown size)
- [30/12/2019 - Flat block type 3-HA-B-V2 Plans and elevations](#) (unknown size)
- [30/12/2019 - FOG Type2-B-Variant Plans and elevations](#) (unknown size)
- [30/12/2019 - 3-1136-Glanvilles-B-Cottage Plans and elevations](#) (unknown size)
- [30/12/2019 - Glanvilles-Branksome-B-Cottage-Variant Plans and elevations](#) (unknown size)
- [30/12/2019 - Kington-Branksome-BR-Informal/Cottage-variant Plans and elevations](#) (unknown size)
- [30/12/2019 - 3-1348-Kington-Kington-B-Cottage-Variant plans and elevations](#) (unknown size)
- [30/12/2019 - 3-1348-Kington-R-Cottage Plans and elevations](#) (unknown size)
- [30/12/2019 - Quadruple Garage 2-B plans and elevations](#) (unknown size)
- [30/12/2019 - Reptile survey Report](#) (unknown size)
- [30/12/2019 - Block plan](#) (unknown size)

**Documents**

- [30/12/2019 - Single garage 2-B plans and elevations](#) (unknown size)
- [30/12/2019 - Street scene](#) (unknown size)
- [30/12/2019 - Swept path analysis and visibility splays](#) (unknown size)
- [30/12/2019 - Transport assessment](#) (unknown size)
- [30/12/2019 - Tree protection plan](#) (unknown size)
- [30/12/2019 - Triple garage 2-B-Variant plans and elevations](#) (unknown size)
- [30/12/2019 - Twin garage 2-B Plans and elevations](#) (unknown size)
- [30/12/2019 - Twin garages 2-B-Variant1 Plans and elevations](#) (unknown size)
- [30/12/2019 - Twin garages 2-B-Variant2 Plans and elevations](#) (unknown size)
- [16/01/2020 - Biodiversity - BMEP - redacted](#) (unknown size)
- [21/01/2020 - Cover Letter - amended](#) (unknown size)
- [21/01/2020 - 3-1036-Corfe-B-Cottage Plans and elevations](#) (unknown size)
- [21/01/2020 - 3-1099-Evershot-B-Cottage 1 Plans and elevations](#) (unknown size)
- [21/01/2020 - 3-1348-Kington-B-Cottage Plans and elevations](#) (unknown size)
- [21/01/2020 - Street Scenes](#) (unknown size)
- [22/01/2020 - Consultation Response - Cllr Pipe](#) (unknown size)
- [04/02/2020 - Consultation Response - Highways England](#) (unknown size)
- [06/02/2020 - Neighbour Response - Katherine De Zoysa & Nilantha De Zoysa](#) (unknown size)
- [10/02/2020 - Neighbour Response - Megan and William Perkins](#) (unknown size)
- [12/02/2020 - Neighbour Response - Katy Pringle](#) (unknown size)
- [14/02/2020 - Neighbour Response - Christine Burbidge](#) (unknown size)
- [15/02/2020 - Neighbour Response - Claire pardy](#) (unknown size)
- [15/02/2020 - Neighbour Response- Andrew and Sandy Plain](#) (unknown size)
- [15/02/2020 - Neighbour Response - Claire and Stuart Cannie](#) (unknown size)
- [18/02/2020 - Consultation Response - Education services](#) (unknown size)
- [18/02/2020 - Consultation Response - Rights of Way](#) (unknown size)
- [19/02/2020 - Neighbour Response - Shelley Summers](#) (unknown size)
- [21/02/2020 - Neighbour Response - Barbara Coughtrey](#) (unknown size)

**Documents**

- [22/02/2020 - Neighbour Response - Simon and Sophie Cooper](#) (unknown size)
- [23/02/2020 - Neighbour Response - Mr NJ Hancock](#) (unknown size)
- [23/02/2020 - Neighbour Response - Mr NJ Hancock](#) (unknown size)
- [24/02/2020 - Neighbour Response - Robin and Gemma Wilcox](#) (unknown size)
- [24/02/2020 - Email from Town Council & Barbara & John Coughtrey](#) (unknown size)
- [24/02/2020 - Neighbour Response - Fiona Senior](#) (unknown size)
- [24/02/2020 - Consultation response - Senior Landscape Architect](#) (unknown size)
- [24/02/2020 - Neighbour Response - Barbara Coughtrey](#) (unknown size)
- [26/02/2020 - Neighbour Response - Bernie & Mark Allen](#) (unknown size)
- [27/02/2020 - Neighbour Response - Charmaine snelling](#) (unknown size)
- [27/02/2020 - Neighbour Response - Lillie Forder-white](#) (unknown size)
- [27/02/2020 - Neighbour Response - Ali Rawlings](#) (unknown size)
- [27/02/2020 - Neighbour Response - Debbie Talbott](#) (unknown size)
- [27/02/2020 - Neighbour Response - Helen Zambuni](#) (unknown size)
- [27/02/2020 - Neighbour Response - Karen Atkins](#) (unknown size)
- [27/02/2020 - Neighbour Response - Sarah Bennett](#) (unknown size)
- [27/02/2020 - Neighbour Response - Daniel and Davina Nation](#) (unknown size)
- [27/02/2020 - Neighbour Response - Claire Lovell](#) (unknown size)
- [27/02/2020 - Neighbour Response - Deimante Sabutyte](#) (unknown size)
- [27/02/2020 - Neighbour Response - Michael Atkins](#) (unknown size)
- [27/02/2020 - Neighbour Response - Julia Meineck](#) (unknown size)
- [27/02/2020 - Neighbour Response - Aimee Dunkley](#) (unknown size)
- [27/02/2020 - Neighbour Response - Daniel Meineck](#) (unknown size)
- [27/02/2020 - Neighbour Response - Helen Jenkins](#) (unknown size)
- [27/02/2020 - Neighbour Response - Clare & George Martin](#) (unknown size)
- [27/02/2020 - Neighbour Response - Sarah Langdale](#) (unknown size)
- [27/02/2020 - Neighbour Response - Colin Wrigglesworth](#) (unknown size)
- [27/02/2020 - Neighbour Response - Mrs Griffin,](#) (unknown size)



**Documents**

- [27/02/2020 - Neighbour Response - Mark and Julie Andrews](#) (unknown size)
- [27/02/2020 - Neighbour Response - Amanda Fripp](#) (unknown size)
- [27/02/2020 - Neighbour Response - Elizabeth wiles](#) (unknown size)
- [27/02/2020 - Neighbour Response - Mr & Mrs Tucker](#) (unknown size)
- [27/02/2020 - Neighbour Response - Sonia Elliott](#) (unknown size)
- [27/02/2020 - Neighbour Response - Dean neville](#) (unknown size)
- [27/02/2020 - Neighbour Response - Zoe Pipe](#) (unknown size)
- [27/02/2020 - Neighbour Response - Paul Cox](#) (unknown size)
- [27/02/2020 - Neighbour Response - Hayley Whiffen](#) (unknown size)
- [27/02/2020 - Neighbour Response - Carl westwood](#) (unknown size)
- [27/02/2020 - Neighbour Response - Trevor Knott](#) (unknown size)
- [27/02/2020 - Neighbour Response - Gemma Stroud](#) (unknown size)
- [27/02/2020 - Neighbour Response - K Staddon](#) (unknown size)
- [27/02/2020 - Neighbour Response - Selina McAllister](#) (unknown size)
- [28/02/2020 - Neighbour Response - Helen](#) (unknown size)
- [28/02/2020 - Neighbour Response - Lauren Anderson](#) (unknown size)
- [28/02/2020 - Neighbour Response - Tina Jewell](#) (unknown size)
- [28/02/2020 - Consultation Response - Town council comments](#) (unknown size)
- [28/02/2020 - Neighbour Response - Yvonne Hulls](#) (unknown size)
- [04/03/2020 - Neighbour Response - Helen Crossley](#) (unknown size)
- [04/03/2020 - Neighbour Response - Sarah Bennett](#) (unknown size)
- [04/03/2020 - Consultation Response - LLFA](#) (unknown size)
- [05/03/2020 - Neighbour response - Mr & Mrs White - 25/02/20](#) (unknown size)
- [05/03/2020 - Neighbour response - Mr Hagger - 25/02/20](#) (unknown size)
- [05/03/2020 - Neighbour response - - Mr & Mrs Morse - 14/02/20](#) (unknown size)
- [12/03/2020 - Consultation Response - Wessex Water](#) (unknown size)
- [12/03/2020 - Consultation Response - Wessex Water](#) (unknown size)
- [12/03/2020 - Consultation Response - Historic England](#) (unknown size)

**Documents**

- [12/03/2020 - Neighbour Response - Sophie Cooper](#) (unknown size)
- [12/03/2020 - Neighbour Response - Helen Crossley](#) (unknown size)
- [12/03/2020 - Consultation Response - Public health](#) (unknown size)
- [01/04/2020 - Consultation Response - Senior Tree and Landscape Officer](#) (unknown size)
- [15/06/2020 - Consultation Response - Housing](#) (unknown size)
- [18/08/2020 - Consultation Response - Environment Agency](#) (unknown size)
- [24/05/2021 - Neighbour Response - Upton Hedgehogs 20/05/21](#) (unknown size)
- [25/05/2021 - Consultation Response - Urban Design Officer](#) (unknown size)
- [05/08/2021 - Consultation Response - Highways 03/08/21](#) (unknown size)
- [19/08/2021 - Linn E, 17 Osprey Close](#) (unknown size)

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Comments have closed on this application (si

**Appendix 22: North Quay Car Park Decision Notice P/FUL/2023/01846**



## Planning Services

County Hall, Colliton Park  
Dorchester, Dorset, DT1 1XJ

) 01305 838336- **Development Management**

) 01305 224289- **Minerals & Waste**

8 [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

Mrs Clare Spiller  
Chapman Lily Planning Ltd  
Unit 5 Designer House  
Sandford Lane  
Wareham  
BH20 4DY

**Date:** 25 July 2023

**Ref:** P/FUL/2023/01846

**Case Officer:** Bob Burden

**Team:** Western and Southern

)

\*

## Planning Decision Notice

### Full Planning Application

Town and Country Planning Act 1990  
Town and Country Planning  
(Development Management Procedure) (England) Order 2015

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<b>Application Number:</b>	P/FUL/2023/01846
<b>Location:</b>	Former Council Offices, North Quay, Weymouth, DT4 8TA
<b>Description:</b>	Demolition of the existing (former council) building, alterations to the existing car park and provision for additional car parking spaces.

---

Dorset Council **grants** planning permission for this development as detailed in the application. In making this decision the Council considered whether the application could be approved with or without conditions or should be refused.

This planning permission does not cover Building Regulations Approval or any other Byelaw, Order or Regulation. Please see our website [www.dorsetcouncil.gov.uk/planning-buildings-land/building-control/building-control](http://www.dorsetcouncil.gov.uk/planning-buildings-land/building-control/building-control) for more details about making a building regulation application and contacting our Building Control Team.

---

### This planning permission is subject to the following conditions:

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1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan

70085295-WSP-00-XX-DR-C-00001 P05 Proposed Car Park Schematic Layout

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

3. This permission for use as an additional car parking area shall be limited to the period ending 31 July 2026. At the end of this period the use of the additional car parking area shall cease, and the land restored in accordance with a scheme which shall first have been submitted to and approved in writing by the local planning authority. The agreed restoration scheme shall be completed by 31st October 2026.

Reason: To exercise control over the temporary use and to enable review of the potential redevelopment of the site.

4. No development approved by this permission shall be commenced until a Demolition/Construction Management Plan (based on the already submitted CEMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and within an agreed timetable.

The plan shall include pollution prevention measures, (including details of any crusher equipment to be used), arrangements for the protection of local residents from noise, vibration and dust from the development and proposals to ensure that-

Hours of works are limited to-

08.00- 17.00 Monday-Friday

08.00-16.00 Saturday

No working on Sundays or Bank Holidays

The start up of vehicles and machinery is only carried out in a designated area, as far way from residential/sensitive areas as practicable.

The start up of vehicles/equipment etc. is limited to 30 minutes prior to the hours of demolition/construction only.

Details of the construction traffic shall be provided.

Reason: To protect residential amenity, to minimise the likely impact of construction traffic on the surrounding highway network, prevent pollution of the water environment and to protect water quality interests.

5. The surfacing of the additional car park area shall be similar to the existing car park in materials, finish and colour.

Reason: To protect the character of the conservation area

6. The car park extension hereby approved shall not be first brought into use until the surface water drainage scheme shall have been fully installed in accordance with for Surface Water Management Statement, by WSP, version 2, and dated 21 February 2023. The scheme shall thereafter be maintained in accordance with the Drainage Maintenance and Management Plan Report by WSP, ref DR001, rev 1 and dated 24 February 2023.

Reason: To ensure appropriate site drainage and its maintenance.

7. The detailed biodiversity mitigation, compensation and enhancement set out within the approved Biodiversity Plan dated 10/5/23 certified by the Dorset Council Natural Environment Team on 16/5/23 must be implemented in accordance with any specified timetable and completed in full (including photographic evidence of compliance being submitted to the Local Planning Authority in accordance with section J of the Biodiversity Plan prior to the substantial completion, or the first bringing into use of the development hereby approved, whichever is the sooner. The development shall subsequently be implemented entirely in accordance with the approved details and the mitigation, compensation and enhancement/net gain measures shall be permanently maintained and retained.

Reason: To mitigate, compensate and enhance/provide net gain for impacts on biodiversity.

8. Prior to the commencement of any development hereby permitted, a scheme detailing arrangements for archaeological observation and recording that shall take place during any excavations (beyond the footprint of the building to be demolished) within the application site shall be submitted to the local planning authority for approval. The development shall thereafter be carried out in accordance with the approved scheme of observation and recording.

Reason: To ensure any archaeology is correctly and adequately recorded.

9. Prior to the commencement of the development hereby approved the following information shall be submitted to and agreed in writing by the Local Planning Authority:  
1) a 'desk study' report documenting the site history. 2) a site investigation report detailing ground conditions, a 'conceptual model' of all potential pollutant linkages, and

incorporating risk assessment. 3) a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed. 4) a detailed phasing scheme for the development and remedial works (including a time scale). 5) a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of time. The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented before the development hereby permitted first comes in to use. On completion of the development written confirmation that all works were completed in accordance with the agreed details shall be submitted to the Local Planning Authority.

Reason: To ensure potential land contamination is addressed.

10. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved in writing by the Local Planning Authority. On completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

Reason: To ensure risks from contamination are minimised.

11. Prior to the commencement of any development hereby approved, all existing trees and hedges shown on approved plan 70085295-WSP-00-XX-DR-C-0001 P05 to be retained, shall be fully safeguarded in accordance with BS 5837:2005 (Trees in relation to construction - recommendations) or any other Standard that may be in force at the time that development commences and these safeguarding measures shall be retained for the duration of construction works and building operations. No unauthorised access or placement of goods, fuels or chemicals, soil or other material shall take place within the tree protection zone(s).

Reason: To ensure that trees and hedges to be retained are adequately protected from damage to health and stability throughout the construction period and in the interests of amenity

12. Before the development is utilised the accesses, geometric highway layout, turning and parking areas shown on Drawing Number 70085295-WSP-00-XX-DR-C-00001 Rev P05 must be constructed, unless otherwise agreed in writing by the Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site.

13. The car park hereby approved shall not be first brought into use until a Flood Warning Plan and means of its implementation shall first have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out and maintained in accordance with the agreed details.

Reason: In the interests of minimising risk to public safety.

14. No development shall be commenced until a scheme detailing measures for the protection of the historic boundary walling to the south of the application site, along with details of the extent of other boundary walls to be protected and the measures to do so shall first have been submitted to and approved in writing by the local planning authority. Such measures as are agreed shall be fully carried out prior to any commencement of works or operations relating to the demolition of the building. The measures shall be retained for the duration of the demolition of the building and completion of the approved car park construction. Thereafter, these works shall be removed within 2 months of completion of the car park.

Reason: To protect the boundary walling from damage.

### **Informatives:**

#### 1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.

2. For brownfield sites the Environment Agency also encourage any measures to improve the quality of surface water runoff. Table 26.2 of the CIRIA (753) SuDS manual, details a pollution hazard level for commercial roof land use, of 'Low' and lists a value for Total



Suspended Solids, Metals and Hydrocarbons. The table also details a pollution hazard level for non-residential carparking land use, of 'Low' and lists a value for Total Suspended Solids, Metals and Hydrocarbons. Although the existing land use of the building and the proposed land use both have a 'Low' pollution hazard level, the proposed use (car park) has slightly higher values for Total Suspended Solids, Metals and Hydrocarbons. There may be opportunity to improve the quality of surface water runoff by fitting an oil separator, or gross pollutant traps to remove rubbish and sediment. There may be opportunity to install these within the drainage network when the site works are undertaken.

---

**Decision Date:** 25 July 2023



*Mike Garrity*  
**Head of Planning**  
**Economic Growth and Infrastructure**

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## **Planning Decision Notes**

### **Power to grant planning permission**

This permission is issued by Dorset Council as the local planning authority set out by the Town and Country Planning Act 1990 (as amended) and the Town and Country (Development Management Procedure) (England) Order 2015.

### **Site notice**

If you have not already done so I would be grateful if you could take down and dispose of this application's site notice if it is still being displayed outside the property.

### **Conditions**

You should not start work until you have agreed with the Council the information requested by the conditions. If you fail to do this the works on site could be unauthorised and the Council may consider enforcement action.

The information must be submitted in writing. There is a standard form which you can download from the website [www.dorsetcouncil.gov.uk/planning](http://www.dorsetcouncil.gov.uk/planning). A fee is required each and every time you apply to discharge any or all of the conditions (£34 per request for householder applications, £116 per request for all other applications).

Please check that any plans approved under the building regulations match the plans approved in this planning permission or listed building consent. Do not start work until revisions are secured to either of the two approvals to ensure that the development has the required planning permission or listed building consent

### **Appeals**

If you disagree with our planning decision or the attached conditions, then you can appeal to the Secretary of State (Planning Inspectorate) under section 78 (1) of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within Six Months of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against our enforcement notice, then you must do so within 28 days of the date of service of the enforcement notice.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. <https://www.gov.uk/appeal-planning-decision>

An appeal must be made by the applicant. Forms are available on-line at Appeals - Appeals - Planning Portal

The Planning Inspectorate can allow a longer period for giving notice of an appeal, but they will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Planning Inspectorate need not consider an appeal if it seems that we could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

The Planning Inspectorate does not normally refuse to consider appeals solely because we based our decision on a direction given by them.

For further information about making can be found at [www.planningportal.co.uk](http://www.planningportal.co.uk)

### **Southern Gas Networks – Overbuild Advisory**

There are several risks created by building over gas mains and services. If you plan to dig, or carry out building work to a property, site or public highway you should check your proposal against the information held at <https://www.linesearchbeforeudig.co.uk/> for any underground services.

### **Purchase Notices**

If either the Council or the Planning Inspectorate refuses permission to develop land or grants it subject to conditions, the owner may claim, in exceptional circumstances, that neither the land can be put to a reasonably beneficial use in its existing state, nor can the land be rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

If this happens, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

### **Street Naming and Numbering**

The Council is responsible for street naming and numbering within our district. This helps to effectively locate property for example, to deliver post or in the case of access by the emergency services. If this permission results in the creation, deletion or change to an address, you must let us know. You need to register the new or changed address by completing a form. You can find out more and download the form from our website [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

## Appendix 23: CHIC2 Landscape, Ecology & Urban Design objection

**From:**  
**Sent:** 18 December 2023 19:17  
**To:**  
**Subject:** WD/D/20/002569

---

Dear Penny,

Many thanks for consulting the Natural Environment Team on this application. In summary, the latest information submitted appears to some of the more straightforward points raised previously, particularly those around planting, however there are areas where there has been very little change. There are also areas where there is an absence of information, despite concerns being raised previously, for example regarding potentially significant ecological impacts on the ecological corridor where the golf netting is proposed in the south of the site. For ease of reference I have set these comments out in a similar structure to the previous comments, and have carried over comments where they are still relevant.

**Biodiversity Net Gain:**

A biodiversity metric was submitted following our previous comments. However changes have since been made to the layout and landscaping of the proposal and therefore the Metric will need to be amended before we can provide comments.

**Ecological connectivity:**

A little has been done to strengthen to E-W links in the middle of the site where the layout of the Village Green has been amended however landscaping within the rest of the Green Corridors, and the Biodiversity Corridors, has seen little change and therefore our previous point, that ecological connectivity should be strengthened across the development site, still stands. Reference is now made in the DAS to “larger scale trees”, where green corridors cross the Central Avenue, and it appears that some thought has been given to this, but it’s very difficult to say how effective this will be at maintaining connectivity for bats without seeing details of street lighting along the Central Avenue, and how this interacts with the green corridors, trees etc.

As a general point we would ask that a clear commitment is made to retaining ecological connectivity in the outline phases of this application, that is consistent with the provision of ecological buffers and dark corridors in the reserved matters phase.

A plan has been submitted demonstrating the extent of the ecological buffers and dark corridors throughout the site. This is useful in demonstrating the intention for ecological connectivity however this will not be achieved in practice without additional planting. It will also be necessary for the application to demonstrate that the dark corridors are kept dark, noting that the ecology report and DAS state that “Dark corridors for bats to be created/maintained with any lighting directed away from the buffer zone and light spill not exceeding 1lux”. See further comments below regarding lighting.

## **All POS including Eastern Boundary (CA1), Southern Entrance (CA2), Green Corridors (CA5) and Biodiversity Corridors (CA7)**

No additional information about the phasing of landscape planting has submitted. As mentioned previously we would encourage planting is undertaken in advance of construction, and that where possible planting is contained within the first phase of the development. This is not only incentivised by the biodiversity metric but is a requirement of policy CHIC2:

*“Strategic planting is carried out in advance of the site being developed, in accordance with an agreed strategic landscape phasing plan, to reduce the impact of the development on longer views particularly along the northern and eastern boundaries. This should include a connecting corridor of semi- natural green space along the eastern margin of the allocation and biodiversity enhancement.”*

### **Southern Entrance (CA2)**

Much of CA2 is within the higher potential ecological network, and is within the E-W Chickerell Wildlife Corridor as described in policy CNP4 of the Chickerell Neighbourhood Plan. Much more should be done to mitigate the impacts of fragmentation of this important corridor, including tree planting to bridge the road, as suggested above.

It would be preferable for public access to this area to be limited as far as possible, and the scrub allowed to grow dense so that it provides suitable habitat for nesting birds.

### **Green Corridors (CA5)**

The east-west route towards the top of the site is now included within the CA5 character area however the landscaping has not changed to reflect this. We consider it important to strengthen this corridor by providing additional native scrub, woodland and hedgerow planting.

The recently submitted cut and fill plan shows a large amount of cutting to level in Green Corridor B where there should be a retained hedgerow. We presume this will either result in the hedgerow sitting considerably higher or it not being retained. This isn't clearly shown on the landscaping plans so we would ask that the application gives greater consideration to how this hedgerow, and its ecological function, will be retained, and that this is clearly demonstrated in the supporting documents.

### **Biodiversity Corridors (CA7)**

Biodiversity corridors do not currently provide connectivity throughout the western boundary of the site. (As above, a plan combining all green and ecological corridors may go some way to helping to understand this). In the middle of the site this is, in part, due the school site which we understand is a reserved matter. It will be necessary for the application to demonstrate that ecological connectivity along the western edge of the site is maintained, in the absence of any detail of ecological buffers and corridors within the school site, noting that the north and east of

this area have been identified as having high bat activity and therefore are among the most important ecological features on the site.

### **Lighting:**

The latest lighting booklet appears to demonstrate a significant improvement when it comes to impacts of light spill within the defined dark corridors, particularly in the Biodiversity Corridors where lighting is by bollards which have limited light spill. Internal roads are lit by fewer columns with much reduced light spill into the dark corridors in the west of the site. It is therefore a concern that it is now proposed to adopt the internal roads, which presumably would require reverting to the previous lighting scheme. In any case we would like to see the lighting plans extended to show street lighting along the Central Avenue, and in the south of the site at the access within the wildlife corridor, in order for the application to demonstrate that the dark corridors are kept below 1lux, or limited as far as possible.

### **Protected and Notable Species:**

Additional information regarding impacts on protected species has not been provided so the following comments are carried over:

#### **Reptiles and amphibians**

DAS refers to 'toad tunnels' to provide connectivity under the spine road. Please provide locations, within an ecological enhancement plan for the site, and details of implementation and management within LEMP.

A capture and translocation exercise for Slow Worm and Common Lizard and Grass Snake is recommended prior to clearance or construction work within field F7, and around P1. It is proposed that these species will be moved to an area of retained habitat and safeguarded rough grassland. No further information is provided. Please provide details of the receptor site, its current carrying capacity and how this will be improved if required and how this will be managed and maintained long-term.

#### **GCN**

A translocation exercise is also proposed for GCN for habitats within 250m of off-site ponds. It is stated that a Natural England licence will likely be necessary before any development work can commence within field F6, which lies within 250m of the off-site ponds. Please confirm whether this is the case or whether the application will use the District Level Licence within Dorset. Please also provide details of the receptor site for GCN and how this will be safeguarded in the long-term

### **Biodiversity Plan**

-  
It is unclear how the applicants wishes to address ecological impacts, and whether this is through provision of a Biodiversity Plan and LEMP, or simply through a detailed LEMP.

**Golf Netting:**

A plan and elevation view have been provided for the proposed fencing along the boundary between the proposed development and the existing golf course to the east. The fencing is hundreds of metres long, up to 30m in height in places and located within the ecological corridor in the south of the site. It appears that there is potential for significant impacts on wildlife, particularly bats and birds, either as a result of habitat fragmentation, or collision/entanglement with the netting itself. The application will need to demonstrate how significant effects on protected and notable species will avoided or mitigated. Currently this subject is given one sentence in the EclA and does not satisfy that there will be no effects.

We also require greater detail as to how to netting will be installed as it appears to be located within the hedgerow and scrub which comprises this boundary., presumably necessitating some vegetation removal.

If public access to CA2 is limited, as suggested above, this may remove the need for the netting along this part of the site.

Kind regards

**Sam Williams**  
**Lead Senior Ecologist**  
**Place Services**  
**Dorset Council**



[dorsetcouncil.gov.uk](http://dorsetcouncil.gov.uk)



**Dorset**  
Council





**APP REF:** WD/D/20/002569

**ADDRESS:** Land East of Chickerell and South of Coldharbour, Chickerell

**APPLICANT:** Mr G Allison - Persimmon Homes

**DESCRIPTION:** Outline application for 393 dwellings with full details supplied in respect of 186 dwellings (phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), details of the internal spine road, landscaping, drainage, car parking, golf ball fencing of various heights up to 30m, public open space, associated works and diversion of three public right of ways and with all matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space, landscaping, drainage and associated works.

**CASE OFFICER:** Penny Canning

### URBAN DESIGN OFFICER COMMENTS

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	x
REQUEST FOR FURTHER INFORMATION	
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	

**Site description:** The site, known as CHIC2 (Chickerell Urban Extension), is allocated for housing and related community facilities within the West Dorset, Weymouth and Portland Local Plan. The principle of development on the site is therefore acceptable. The policy within the plan clearly sets out design parameters and states that development must be in accordance with a masterplan that is to be prepared by the developer and agreed by the local authority.

The updated **NPPF** is unambiguous in its stance on the importance of design, and this is clearly set out in **Para 126** *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'* with **Para 134** clearly stating that *'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.*

The test for development proposals is therefore not whether they avoid bad design, but that they are achieving good design as contained in the National Design Guide and National Model Design Code as well as relevant local and neighbourhood plan policies.

The importance of ensuring that proposals reflect and reinforce the character and identity of the surrounding area, in terms of both landscape and built form, is fundamental in creating a development which is embedded within its local context.

In terms of built form, referencing local context includes street patterns, boundary treatments, set-backs, plot ratios and detailed design features. However, it is also accepted that there needs to be some flexibility so that layouts and street patterns can also prioritise pedestrians and cyclists, minimise the impact of parked cars and make more efficient use of land, while also ensuring that there is space for open spaces, sustainable drainage features, trees and other landscaping.

**Comments on proposal:**

**Identity/Character:** The submitted DAS outlines different character areas that include details on landscape and built form of 8 different parts of the site however these do not always align with character areas shown on the ‘materials/character areas composite plan (drawing no PA\_LP04.5).

DAS (August 2023 revision)	Materials/ Character area plan
Eastern Boundary (landscape only)	
Southern Entrance (landscape only)	
Central Avenue	?
Village Green	Village Green
Green Corridors	?
Garden Streets	Garden Streets
Biodiversity Corridors	?
Crescent Green	Crescent Green
	Garden Avenue
	Garden Edge Street

The materials/ character plan outlines the materials used to create character and there are clearly defined areas - albeit with an anomaly (stone clad terrace within a Garden Street area units 184-186) which does seem out of place.

However, there is a lack of detail and inconsistency to more fundamental aspects of the design that would significantly contribute to the creation of distinct character areas. These include building setbacks, approach to front boundaries, parking and street design (including landscaping). For example within the Garden Edge Street as shown below, dwellings to the south (nos 45-48) have small front gardens, whereas to the north (nos 10-14) units do not have front gardens, a more consistent approach would strengthen the character of these ‘Edge Streets.’



Extract showing a 'Garden Edge Street'

Similarly, along the Garden Avenue/ Central Avenue there are different approaches to parking within the same character area. While a variety of solutions should be included along such a long stretch, this should be done in a considered way that still has the result of creating a clear identity for identified parts of the site.



Extract of central Spine Road/ Garden Avenue/ Central Avenue

The weakness of defined character areas was raised in previous comments (dated 14/02/2023) and have not been addressed adequately in revisions to the scheme. Please refer back to these for more detailed comments on individual character areas.

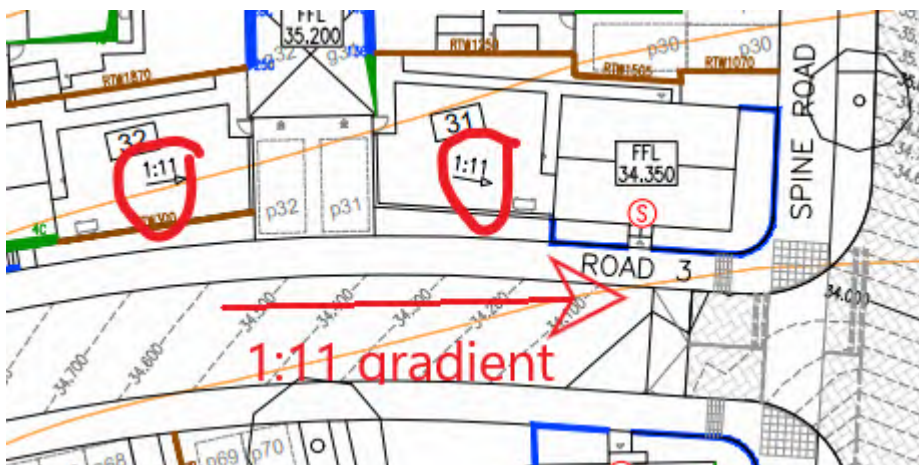
**Movement and Connections:** Good links have been made into surrounding networks. These respond well to pedestrian and cyclist desire lines and will help link the site with existing and new facilities.

The permeability of the site has been improved with a reduction in the number of cul de sacs; where these still exist, footpaths ensure links for walkers and cyclists. Crossing points have been provided along the spine road and although the DAS includes details of these crossing points and junctions, they should be clearly shown on submitted plans.

However, the topography of the site and the layout of the routes pose significant challenges for all people but particularly those with disabilities.

**Inclusive Mobility** provides guidance to ensure that the design of places meets the needs of disabled people, people travelling with small children or carrying luggage or heavy shopping as well as people with temporary mobility problems (e.g. a leg in plaster) and many older people. **Para 4.3** states: *'Generally, pedestrian environments should be level, which means that there should be no gradient in excess of 1 in 60. Effort should be made to ensure that the route is smooth, since even small dips or gaps in paving joints might present a hazard such as to people who use a stick or a crutch. If a level route is not feasible, then gradients should not exceed 1 in 20.'*

Although the gradients of footways have not been provided, those of private gardens adjacent to routes gives a good indication of their approximate slope.





The steep gradient of these routes causes significant restrictions for pedestrians and cyclists and their ability to easily move throughout the scheme, reducing the likelihood that residents and others will use more active forms of travel and will instead resort to using cars.

**National Design Guide para 102:** *'In well-designed places, streets are public spaces that are open to all. They encourage people to walk and cycle rather than to depend upon cars, particularly for short, local journeys. They are accessible to all and designed to meet the needs of their most vulnerable users.'*

**Parking:** The DAS contains information on parking typologies across the site. **DAS Para 5.43** states *'Through preapplication discussions with the Local Highway Authority, the Local Planning Authority and the community through consultation exercises it clearly understood that the proposed development should provide a sufficient parking that will not lead to inconsiderate dangerous parking on the highway through either under provision or poor design leading to inconvenient parking. It continues in para 5.48:* *'Save for dwellings fronting the spine road, parking should be conveniently located at the front of a property meaning it is conveniently located to ensure it is fully used and cars are not parked anti socially on the highway or other areas at the front of properties. As a development, this arrangement is highly sought after by prospective purchasers.'*

	Name	Type	Allocated?	Description	Comments
1	Parking square	Off-plot	Optional	Group(s) of parking bays located adjoining the main carriageway providing convenient access to dwellings.	Convenient access to parking. Good surveillance from neighbouring properties.
2	Parking court	Off-plot	Optional	Group(s) of parking bays and/or garages located within a shared courtyard.	Generally limited to up to 8 dwellings.
3	Parallel	On-street	No	Parking located along the roadside. Accessed directly off the road.	Can be marked or unmarked. Easily accessible. Maximum rows of 4 bays. To be limited in extent.
4	Perpendicular	On-plot/ Off-street	Yes	Parking located perpendicular along roadside. Accessed directly off the road.	Can be marked or unmarked. Easily accessible. Generally suited to streets where speeds are kept to a minimum. Maximum rows of 4 bays.
5	Attached/ integral garage	On-plot	Yes	Private garage adjoining the dwelling, often allowing access directly to house.	To be set back from public domain to allow parking in front. Convenient access to dwelling. Could be attached to neighbouring property and allows for room above.
6	Drive through	On-plot	Yes	Parking bay and/or garage access through a covered arch on the street.	Helps avoid car dominated street scene whilst providing secure on-plot parking.
7	Hard standing	On-plot	Yes	Parking bay located next to dwelling.	Can be located against the back edge of public domain or set back to allow additional parking in front. Can be joined to neighbouring parking bay.
8	Detached garage	On-plot	Yes	Private garage often located next to dwelling. Garages to be set back from prominent frontages. Careful design required to mitigate impact of parked cars on the streetscene.	Must be set back to allow parking in front. Can be joined to neighbouring garage.

### DAS – typical parking typologies

However, there are multiple instances where parking is not located at the front of the property and is poorly located in relation to the dwellings they serve. This limits their accessibility to occupiers and also increases the chances of cars parking indiscriminately.

Although in some instances this is mitigated due to the provision of on street visitor bays (example plot 2 and 6), this is the exception and mostly streets are poorly designed to accommodate informal parking. This will result in cars parking over pavements, blocking routes for pedestrians and cyclists. The incorporation of additional on street parking bays, supported by the increased use of verges and street trees acting as informal parking management would reduce the likelihood of this occurring.



Persimmon - Louviers Road, Weymouth

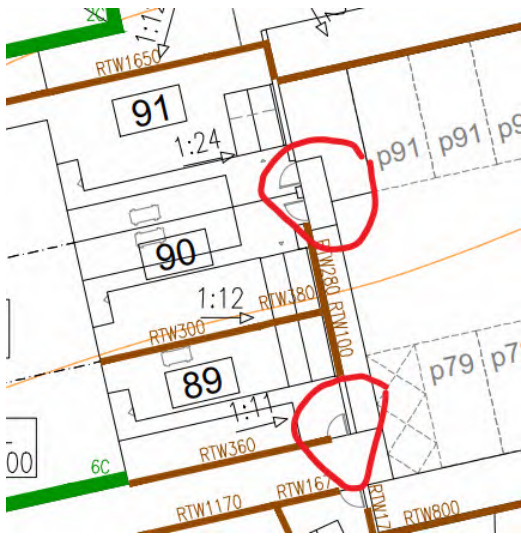
Where large parking courts have been provided, they are not well overlooked and serve multiple dwellings (not just those that front the Spine Road). In addition they contain significant retaining features that range in height from 640mm to 1700mm creating a

poor quality environment. **Para 5.119** of the **DAS** states: *'In forming the design proposals, the following key attributes have been included: Where parking courts or private drives are proposed they serve a limited number of dwellings and are well overlooked by the surrounding built form'*



Landscaping within the parking courts is limited to its edges and gives little value in breaking up the impact of parked cars. Within the northern most parking court there is a 2m strip of planting shown between the retaining features and rear gardens – it is not clear who's ownership this space is in, what purpose it serves or how it will be maintained.

Where there are retaining features within parking courts and direct access into rear garden, plans do not show the detail of how gardens will be accessed (stepped access or ramped).



In places where tandem, front and side parking has been provided, spaces sit tight against the edge of footpaths rather than being set back behind building lines. Not only does this have a detrimental impact on the visual quality of the street scene but also results in cars overhanging the pavement, reducing its width and impacting on the accessibility of the footway for all users, but in particular those with protected characteristics. **Manual for Streets para 6.3.22** states: *'There is no maximum width for footways. In lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2 m'.*

Examples on how this over run impacts the street scene are shown below.

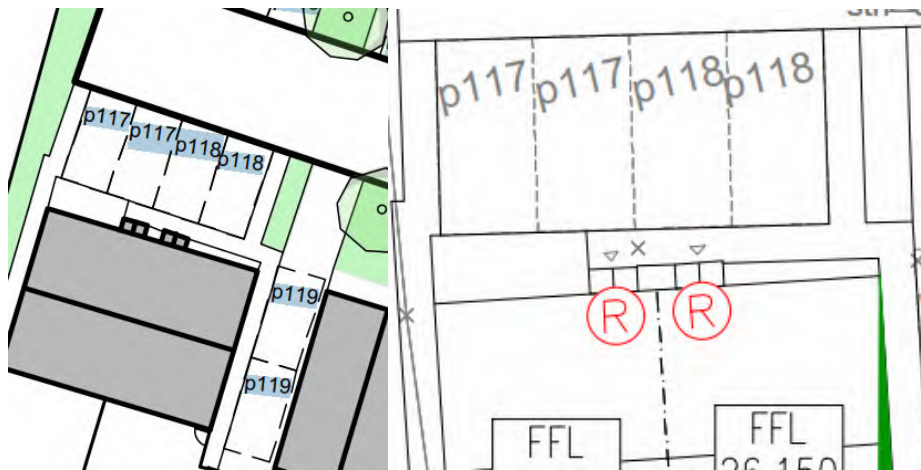
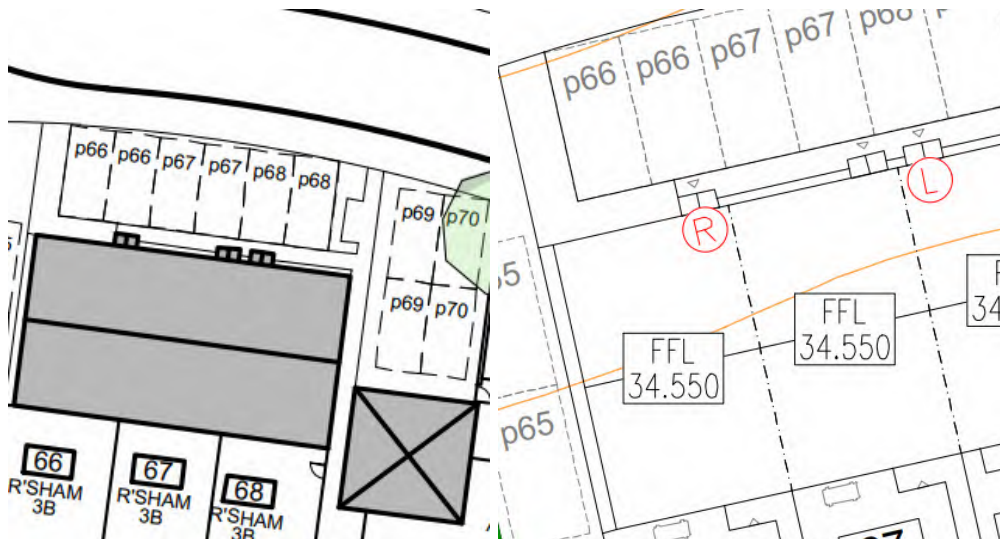


Persimmon – Barton Farm, Sherborne

Where parking is provided to the front of dwellings, the DAS states that there should be a maximum of 4 bays, in many instances this is not the case and there is a lack of planting to break up the impact of parked cars. In addition to this, there is approximately 0.5m provided between parking spaces and the fronts of houses – this has a significant impact on accessibility in particular for those who have mobility



difficulties, wheelchair users and those with buggies – this is illustrated in the plan extract below. In this instance to exacerbate the issue, unit 66 and unit 117, have ramped access – it is not clear how the space allows for this...



While there are some instances where a re- design of the street would resolve this specific issue and also present an opportunity for additional landscaping (see units 32-38 specifically), in other places a more fundamental change in the layout will be required to ensure that layouts achieve an acceptable level of inclusive design.

**National Design Guide para 85 'Well-designed car and cycle parking at home and at other destinations is conveniently sited so that it is well used. This could be off-street to avoid on-street problems such as pavement parking or congested streets. It is safe and meets the needs of different users including occupants, visitors and people with disabilities.'**

**Street and Spaces:** Improvements have been made to ensure more consistency in the building line which has helped define streets and in most cases a change in surface material identifies a no through road/ private drive aiding the legibility of the scheme.

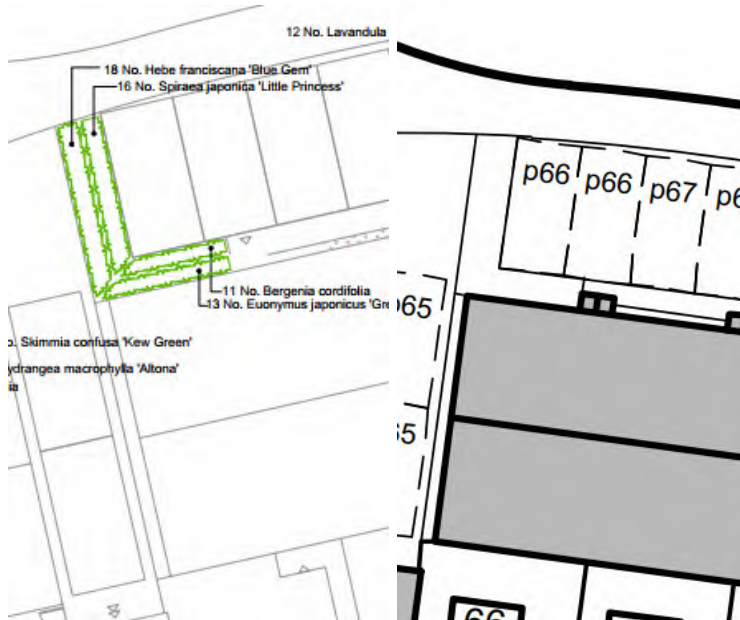
However, there is a lack of landscaping within the street which has been addressed by the Council's Landscape Architect. A varied but considered approach to landscaping and front boundary treatments will assist in adding character to the scheme, which cannot be adequately achieved by changing building materials.

Changes in levels will have a significant impact on the accessibility and visual quality of streets and spaces. Clarification is required on the level of cut and fill and how this impacts on hedgerows and other landscape features that are listed to be retained and also on existing neighbouring properties, specifically those that bound the site on its western side.

There are significant retaining structures throughout the site, in parking courts these extend to 1700mm in height and will then include a 1800mm rear garden fence, in some rear gardens, retaining walls are 2600mm.

The impact of this should be made clearer with a number of cross sections and street elevations provided.

In some streets, parking will dominate and it is particularly important to ensure that any proposed landscaping and tree planting in these areas are adequate to reduce their impact without hindering access to dwellings and parking spaces (see unit 66 below).



**Homes:** Affordable housing is well distributed throughout the site but provision tends to be in smaller units, conversely there is a lack of open market apartments provided which limits the schemes ability to provide a mixed and balanced community in line with **NPPF para 63** and **National Design Guide para 119** *'Good design promotes social inclusion by: contributing to creating balanced and mixed neighbourhoods that are suitable and accessible for all.'*

Changes in levels results in the majority of gardens sloping. In some cases these gradients are gentle but in many they are steeper than 1:20 which will limit their usability for those with disabilities. In extreme cases there are also gardens that have 1:8 and 1:9 slope which provide little amenity benefit.

The majority of units have either a ramped or stepped access, this limits the accessibility of dwellings, not only for those with disabilities but also the elderly and those with pushchairs. On those properties that have stepped access, it is not clear how many steps are required..

The layout of units 114 -116 presents an awkward relationship with no. 25 Mariners Way, by turning the units 90' anti clockwise, all dwellings will overlook the footpath to the north, giving a side boundary – side boundary relationship with no 25. Although this will result in units 117-119 overlooking the rear boundaries of 114-116 it will give all areas of parking a good level of passive surveillance; the addition of brick boundary walls will also improve their outlook.

While along the Spine Road some dwellings have railings as front boundaries,, throughout the rest of the site frontages are planted or left open. While planting can soften a street and add important landscaping features, where they are left open there is a risk that the overall quality of the street suffers as individual residents add features to help provide a more private space to the front of dwellings.



Planted front boundary – Persimmon- Barton Farm, Sherborne



Lack of front boundaries creates opportunities for inconsistency within the street  
Persimmon – Barton Farm, Sherborne

More detailed comments on the design of individual units has been provided separately. The importance of layout and structuring blocks of development so that there is coherence and balance is important in creating harmony within the street scene. In meeting policy **ENV12** of the **West Dorset, Weymouth and Portland Local Plan** plans should also show that the *'quality of the architecture is appropriate to the type of building with particular regard to its architectural elegance, symmetry and rhythm, and richness of detail.'*

Overall the architectural approach is very simple, while there is some variation in materials, dwellings lack features such as window cills, chimneys and verticality of windows.

**Addressing climate change:** The importance of resource conservation and the way in which the design of the scheme will respond to the impacts of climate change is critical. In May 2019 Dorset Council declared a Climate Emergency and there is a heightened expectation that the planning department will secure reductions in the carbon footprint of developments.

Plans show that all houses will be fitted with air source heat pumps and EV charging points, although there are no PV tiles proposed as part of these proposals. The submission should also include a comprehensive energy hierarchy that includes details on water/ soil disposal as part of the extensive cut and fill process, sustainable construction methods (including embodied energy and carbon) and how designs will maximise the contributions of natural resources, including passive measures for light, ventilation and heating.

**Conclusions and policy consideration:** While it is acknowledged that the site has been allocated for housing, due to significant topographical constraints, the design and build of the site poses many challenges. However, national policy has a clear stance regarding

the importance of delivering well design places and this is supported by policies in the **West Dorset, Weymouth and Portland Local Plan** as well as national guidance documents such as **The National Design Guide**.

Despite revisions made to the scheme, it is not considered that proposals meet national or local policies relating to well designed places.

ENV11. THE PATTERN OF STREETS AND SPACES i) Within and adjoining existing settlements, development should ensure that: • **streets and spaces are** well-defined, safe and **pleasant to use**, with active and overlooked public areas and secure private areas. In residential areas, or where pedestrian activity is high, the design of new vehicular routes should aim to keep traffic speed below 20mph

ENV12. THE DESIGN AND POSITIONING OF BUILDINGS i) **Development will achieve a high quality of sustainable and inclusive design**. It will only be permitted where it complies with national technical standards and where the siting, alignment, design, scale, mass, and materials used complements and respects the character of the surrounding area or would actively improve legibility or reinforce the sense of place. This means that...

**The quality of the architecture is appropriate to the type of building with particular regard to its architectural elegance, symmetry and rhythm, and richness of detail**

In moving forward, the applicant may wish to engage again with the Council's preferred Design Review partner who can work with the design team to address some of the issues raised.

**OFFICER:** Sophie Duke

**TITLE:** Senior Urban Design Officer

**DATE:** 15/10/2023

## Application details

<b>Ref:</b> WD/D/20/002569	<b>Applicant:</b> Mr D Buczynskij	<b>Case Officer:</b> Penny Canning
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<b>Address:</b> Land East of Chickerell and south of Coldharbour, Chickerell
<b>Description:</b> Outline application for 393 dwellings with full details supplied in respect of 186 dwellings (Phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), details of the internal spine road, landscaping, drainage, car parking, golf ball fencing of various heights up to 30m, public open space, associated works and diversion of three public rights of ways and with all matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space including field and skate park and changing facilities, landscaping, drainage and associated works.
<b>Case Officer comments to Consultee:</b>
<b>Consultee:</b> Sarah Barber, Senior Landscape Architect
<b>Date:</b> 15 <sup>th</sup> December 2023
<b>Has a Pre-application discussion taken place with you?:</b>

<b>Support</b>	
<b>Support subject to condition(s)</b>	
<b>Unable to support</b>	X
<b>No objection</b>	
<b>Request for further information</b>	X see comments below
<b>Other</b>	

## Summary

Thank you for re-consulting Landscape on the above Application. Prior to this submission – observations were provided in February 2023 that advised that the Proposals failed to comply with national and local planning policies.

I have provided detailed observations (below) on the revised Scheme proposals and have identified several areas of ‘concern’ relating to the creation of a suitably ‘well-designed’ place – given the challenging constraints presented by the Site’s topography and the design solutions presented.

The NPPF, in para.126 clearly states that “*The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*”.

Within Para.130 the NPPF states inter alia that: “*Planning policies and decisions should ensure that developments:*

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit*  
Para. 134 states that “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”

In considering the above NPPF paragraphs I would advise that the Proposals fall short of the standards required and further design development is required.

Turning to local planning policy – I would, again, advise that the Proposals fall short of the standards required with regards the adequate provision of landscaping to successfully integrate the Development with the character of the Site and its surrounding area. In relation to CHIC2 – whilst the Scheme does provide, to some degree, a traditional street with frontage development and a bus route, connecting corridors of semi-natural green spaces along the eastern margin and biodiversity enhancements – the details/design quality of these are compromised by extensive proposed cut and fill operations and engineered solutions and a conflict between lighting and landscaping. I have provided more detail below.

Taking the above into account I am unable to support this Scheme in its current form.

## **Site description/context/significance**

As per my previous observations (dated the 17<sup>th</sup> February 2023):

### **The Application Site:**

*The Site is allocated within the adopted West Dorset, Weymouth and Portland Local Plan (2015) under Policy CHIC2. This proposed Development covers the eastern part of the allocation. The Site is located to the immediate east of the existing settlement of Chickerell and north of the B3157 (Chickerell Link Road).*

*The Site comprises 26.6 ha of predominantly agricultural land which is split into nine medium-large fields that are primarily used for grazing. Each of the fields land parcels across the Application Site are generally bounded by a combination of hedgerows or stock fences.*

*The Application Site is formed by two areas albeit they are linked across Green Land to the south-west. The larger area (east) comprises the land proposed for residential development and primary school; the smaller area (south-west) is the land safeguarded for the provision of a sports facility.*

*The southernmost land parcel is occupied by attenuation ponds associated with the B3157 Link Road. This area is crossed over by over-head power lines with pylons and poles located within the fields.*

*A number of public rights of ways run through the surrounding area – with PRoW's running through the central Site area, entering the Site from Lower Putton Way and Mariners Way to the west, and exiting the Site to the south and north of the substation respectively. The footpaths provide links to School Hill, Green Lane and Wessex Stadium.*

*The surrounding local highway network comprises Green Lane, Putton Lane and School Hill which enable north/south distribution from within Chickerell, to the east of the Application Site. Lower Putton Lane and Mariners Way, together with primarily Glennie Way and East Street provide east/west distribution through Chickerell and onto the more strategic highway links. The B3157 (Chickerell Link Road), to the south of the site provides the main strategic link between Chickerell and Weymouth to the east, as well as providing the main access point into the Granby Industrial Estate*

### **Site Context:**

*The wider area comprises the predominantly residential urban area of Chickerell to the west, The Granby Industrial Estate to the south and agricultural fields to the north and east – with the notable exceptions of the solar farm to the north-east, the Chickerell electricity sub-station to the east and the Wessex Golf Centre to the south-east.*

*The Application Site lies outside of the Dorset AONB (which is located ~755m to the east of the Site at its closest point). The Site lies partly within land designated as Land of Local Landscape Importance (northern extent).*

## **Main issues**

Will the layout, scale and massing of the built form and its strategic landscaping contribute to the creation of a well-designed place.

Do the Proposals comply with National Planning Policy, National Design Guide and the West Dorset, Weymouth and Portland Local Plan?

Paragraph 130 of the NPPF states that with regard to design planning policy and decision making should ensure that developments;

*"a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to the local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

## **The proposal**

The Proposal concerns the detailed proposals for Phase A of the hybrid planning application comprising:

*Hybrid Planning application. An outline application for up to 393 dwellings with full details supplied in respect of 186 dwellings (Phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), including details of the internal spine road, landscaping, drainage, car parking, public open space, associated works and diversion of three public right of ways for Phase A. All other matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space including playing field and skate park, pavilion and changing facilities, landscaping and associated works."*

### Design and Access Statement:

The Proposals are supported by an updated 'Design and Access Statement' (dated August 2023). The previous version was dated December 2022.

Part 1 of the DAS provides an 'indicative masterplan' (see below):





### **Indicative Masterplan**

Within the 'Vision for Land East of Chickerell', P.9, the following is stated:

*There will be:*

- *A new verdant tree lined avenue;*
- *New readily accessible green spaces, sport and play facilities;*
- *A wide range of new tree planting opportunities;*
- *A highly connected network of foot and cycle paths;*
- *Houses of all sizes to meet a range of needs;*
- *New swales and permanently wet ponds;*
- *A new primary school; and*
- *Architecture and design that respects the area and signals a new ambition for green spaces that will uplift the spirit.*

5.70 of the updated DAS refers to proposed Character Areas which are now described as follows:

- **CA1:** Eastern Boundary
- **CA2:** Southern Entrance
- **CA3:** Central Avenue
- **CA4:** Village Green
- **CA5:** Green Corridors
- **CA6:** Garden Streets
- **CA7:** Biodiversity Corridors
- **CA8:** Crescent Green (previously described as 'Northern Entrance Landscaped Gateway')

A description of each Character Area is provided – along with indicative landscape sections.  
A Landscape Strategy Plan is provided on P.132 of the DAS

Part 2 of the revised DAS centres on the details of Phase A.

## Comments on proposal

My comments, below, follow the same 'structure' as my previous observations dated the 17<sup>th</sup> February 2023.

### Landscape and Visual Impact Assessment (LVIA)

The latest iteration of the LVIA appears to be dated November 2022. I previously provided advice on the content and structure of the LVIA in April 2021.

As previously advised – the LVIA provides references to National Policy (NPPF) 2021 but fails to acknowledge Para.131 which states:

*"Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained where possible".*

Within 6.3 Baseline Conditions – the LVIA states that a full and detailed description of the Site is given within Chapter 3 of the ES. I would advise that the Application Area has since changed and that the Site description is out of date.

6.3.63 of the LVIA refers to 'Users of Public Rights of Way (inside the Site). These are represented by Viewpoints A, B, C and D (Appendix 6.6). Photographs are dated 18/03/2021.

With reference my previous observations, dated 17<sup>th</sup> February 2023, and the various 'typos' relating to place names – I note that the latest iteration of the LVIA still contains these errors (ref. Paras 6.3.72, 6.3.78 and 6.3.81) where place/street names are incorrectly referenced.

Visual Amenity is dealt with within the LVIA from Para. 6.4.5. Appendices 6.1 and 6.2 contain judgements on 'landscape effects' and 'visual effects. I note that the proposed Golf Net (cited as being up to 30m – does this refer to 'height' or 'length'?) has been considered as part of the visual assessment (Appendix 6.2) however, I would advise that the effects from Viewpoint 6 (Hampshire Road) have been under valued regarding the potential visual effects of the proposed Golf Netting.

In assessing the visual impacts of the proposed Development and with reference the 'Design Workshop' held with Persimmon on the 24<sup>th</sup> February 2021- I requested a number of Accurate Visual Representations (AVR's) be produced for the most sensitive Viewpoints. The AVR's were requested as Type 4 Verified Visualisations with ref. LI TG 06/19 and the London View Management Framework AVR Levels). 4no. AVR's have been prepared and the locations of these are:

- AVR VP1: off Radipole Lane B3158 in the vicinity of the junction with Cumberland Drive: I did not request a visualisation from this VP. Within the AVR – the Golf Net is illustrated but I would advise that the details of this net may be subject to change.
- AVR VP4: From Wyke Road looking North-West towards the Site.
- AVR VP6: From Hampshire Road – looking North towards the Site. The Visualisation illustrates the potential visual effects of the Golf Netting – which would dominate the foreground view.
- AVR VP11: From PRoW s20/5 Crook Hill – looking North-East.

I had also requested an AVR from Lanehouse Rocks Road – but am unable to locate this.

Methodology used in the creation of the AVR's – the images have used, among others, the Landscape Institute Advice Note 01/11 – which is now out of date and has been superseded by TGN 06/19. Whilst the date for the baseline photography is given as May 2022 – it is unclear as to how recent the AVR's are? Do they represent the latest iteration of the Scheme Proposals?

I am unable to find any reference to these AVR's within the LVIA?

The LVIA is dated November 2022 and does not appear to consider recent amendments to the Scheme Proposals.

### **Mitigation of Impacts**

NPPF Para. 130 states that “Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Adopted Local Plan – Part iii) of Policy ENV1 requires appropriate measures to moderate the adverse effects of the development on the landscape, and Policy CHIC2 requires the development to include:

- development focused around a traditional street with frontage development connecting from the Chickerell Link Road to School Hill, and from School Hill to Chickerell Hill. The street should be able to accommodate a bus route. The development should also provide improved pedestrian /cycle links to Weymouth Town Centre and surrounding area;
- Strategic planting to be carried out in advance of the site being developed, in accordance with an agreed strategic landscape phasing plan, to reduce the impact of the development on longer views particularly along the northern and eastern boundaries. This to include a connecting corridor of semi- natural green space along the eastern margin of the allocation and biodiversity enhancement. A network of open green spaces, for amenity /recreation and drainage purposes, should run through the development and link to the open countryside;
- adequate on-site provision of community infrastructure;
- areas prone to surface water flooding to be kept free of built development and due consideration given to flood risk elsewhere.

Part ii) of the Local Plan Policy ENV10 requires the retention and protection of trees and other features that contribute to the area's distinctive character. NPPF Para.185 part c) and part iii) of Local Plan Policy ENV16 requires light pollution to be minimised.

These mitigation measures were included in the Local Plan Evidence Base – Landscape Assessment of Strategic Sites Part 1, which included the following suggested Mitigation for the Chickerell Urban Extension:

- *Careful consideration of the northern extents of development would be necessary to avoid the introduction of skyline development in local-medium distance views from the north.*
- *Strategic planting to the northern and eastern boundaries would be required to form strong visual containment of the site, and improve the landscape character of the open space separating Chickerell and Southill, with early implementation of a strategic landscape masterplan.*
- *Linked green spaces within the site, including substantial areas to the south of the site should be created preserve the key public footpath links to the surrounding countryside and preserve the separation between Chickerell and the Granby Industrial Estate.*
- *The form and character, including appearance and scale of development should take cues from the adjacent settlement edge of Chickerell.*

### **Strategic Landscape Buffers**

The latest Proposals are supported by a Strategic Landscape Masterplan (DRWG:P18\_2529-29 Rev:H dated 22/08/2023). This Masterplan is outdated with reference the latest Application Boundary owing to the loss of the south-western land parcel. This latest iteration of the Plan shows the revised locations of the tree planting -and indicates the positions of streetlights. An indication of the approximate mature canopies of proposed trees is illustrated.

The strategic landscaping is separated into the following types:

- Existing trees and hedgerows to be retained
- Proposed Feature trees
- Proposed tree planting – predominantly native/semi-native
- Proposed Avenue tree planting
- Proposed Edible Fruit trees
- Proposed woodland/tree block planting
- Proposed native hedgerow planting
- Proposed single species hedgerow planting
- Proposed ornamental shrub planting
- Proposed areas of native/semi-native/wildlife planting (ecological bias)
- Proposed areas of low growing ecological planting
- Proposed wetland marginal planting
- Proposed grassland is subdivided into 'amenity, long mown/meadow, wildflower, and wetland grassland.

Bulb planting has been removed from the proposals and this is seen as an improvement.

In addition to the above 'soft' areas are the proposed LEAP and naturalistic/informal play space area locations and grass mounding.

The approximate location/extent of the Golf Ball Netting is now indicated within the southern area of the Plan.

The landscape details are illustrated on the associated 'Detailed Soft On Plot Landscape Proposals sheets 1-7 inclusive.

#### **Green Infrastructure Parameter Plan (DWG. GIP01 Rev:a)**

The latest Plan to be submitted is Drawing No. GIP01 Rev. d and dated 08/09/23. The Drawing is now considered outdated as shows the sporting facilities to the south-west of the Site. The distribution of proposed tree planting across the Site appears to correspond with those detailed on the 'On-Plot' plans – which is seen as an improvement on the previous plans.

#### **Detailed Public Open Space Landscape Proposals: Drawings P18-2525 37 Rev. G dated 16/08/2023 Sheets 1-4 running North to South**

**Sheet 1 of 4** – this Drawing covers the northernmost area of the Site/Northern Access. I note that a number of amendments to the previous design are proposed. These include the following:

- Removal of bulb planting (improved)
- Increase in Woodland Buffer planting to the northern/north-eastern boundaries (improved)
- Increased species within Native Hedgerows (improved).
- Re-alignment of the Footway (it is now aligned more closely to the Spine Road)
- Reduction in tree planting between the peripheral Footway and the Spine Road
- The re-design of the northern POS and simplification of the paths across it (an improvement).
- Introduction of attenuation basins to the Eastern boundary and associated marginal planting.
- Revised planting proposals for the 'green link' running North-West to North-East with a reduction in the lengths of proposed Native Hedgerow and an increased number of native trees.
- A decrease in soft landscaping between the Western boundary Cycleway and the proposed built development edge.

In general terms – there are some improvements when compared to the previous submission. When looking at the areas of peripheral 'native species' planting – I advise that you liaise with the NET as to the suitability of the planting. I would, however, advise that the proposed Hedgerow planting across the Site appears rather 'disconnected'. I welcome the reduction in 'width' of the pedestrian routes that run off this Green Corridor (see below).



The lack of large 'avenue' trees along the Spine Road is disappointing – with a scatter-gun approach to species which tend to be small in scale.

**Sheet 2** covers the central area of the Site including Character Area 4 -Village Green. This central public area has been re-designed and 'simplified' in design terms – enabling a better pedestrian 'flow' across the site. The fragmented hedgerows have been removed which is also seen as an improvement to the layout of the space. The landscape proposals illustrate that the majority of the perimeter of the Green is to be 'enclosed' by a single-species hornbeam hedge (Carpinus betulus) within which an assortment of specimen trees are to be planted. The enclosure by hedging creates a slight 'tension' between the area being well-overlooked and being 'framed' as stated within the DAS? I also note that the 'hedging' is to run along the outer edge of the Green in some areas – but is 'set back' along the SW edge with ornamental planting proposed adjacent to the street. I would advise that the ornamental planting is located on the 'Village Green' side of the Hedge to provide consistency and identity. Where 'shading' may be an issue for the ornamental planting – a number of the proposed trees could be located to the 'central grassed area' of the Green. Feature paving is proposed for the 3no. main access points to the Green.

Large species of trees are proposed along the Spine Road to the immediate north of the Village Green – the 'avenue' planting comprises of no less than 3no. different species – and I would advise that a single species is used to strengthen 'identity' and to provide visual cohesion.



Avenue planting preferably to be single-species large trees.  
 Scope for additional specimen trees in centre – or is this for the Play Area?  
 Relocate ornamental planting to within the Village Green & move hedge out to road edge

Within the DAS CA4 it is stated that the Village Green Character Area will provide “opportunities for formal and informal play adventures” – no provision for 'play' is indicated on the revised Drawing.

**Sheet 3 of 4** comprises of proposed landscaping for the Eastern Boundary and the Spine Road. The latest proposals indicate that the 'naturalistic/informal play area is to be designed by the Town Council. I will defer to the NET for the suitability of the native species Woodland/Shrub/Marginal Planting.

With regards the treatment along the Spine Road – the proposals are for mixed species 'small-medium' sized trees (and not formal avenue planting). The random mix of tree species will fail to provide any sort of visual coherence along this main vehicular route.

### **The Character Areas**

With reference to 5.70 of the DAS the Site has been divided into 8no. Character Areas. These comprise the following:

- **CA1:** Eastern Boundary
- **CA2:** Southern Entrance
- **CA3:** Central Avenue
- **CA4:** Village Green
- **CA5:** Green Corridors
- **CA6:** Garden Streets
- **CA7:** Biodiversity Corridors
- **CA8:** Crescent Green (previously described as 'Northern Entrance Landscaped Gateway')

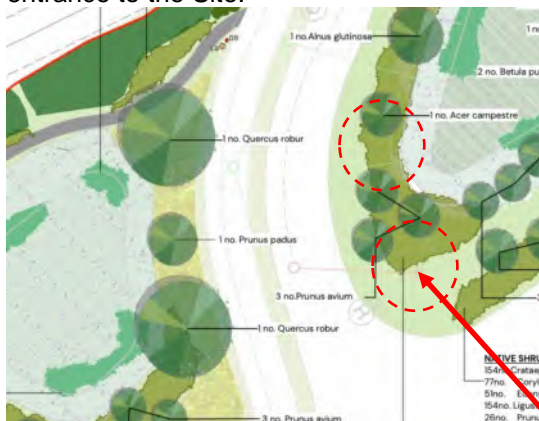
5.69 of the DAS states that the CA's will be "distinct from other areas" with each containing its own individual design components". My observations on the Character Areas are as follows:

#### **Character Area 1 – the Eastern Boundary:**

I am generally happy with the design approach to the Eastern Boundary. The tree planting proposed for the Spine Road/Central Avenue is disappointing in its selection of species and their scale. I also have concerns over the effects of the proposed Golf Netting on Eastern Boundary Area C – owing to the lack of information on its design and construction requirements.

#### **Character Area 2 – The Southern Entrance:**

The revised landscaping proposals for this area see the removal of the formalised 'Platanus x hispanica/Fagus sylvatica 'Rohanii' to the Site's interface with the B3157 Chickerall Link Road– which is seen as an improvement. I note the proposed planting of Quercus robur (Oak) to the western edge of the Spine Road – it would be preferable to see these larger forest trees planted to the eastern side also – to create more 'definition' and identity at the entrance to the Site.



Plant Oaks to either side of the Spine Road

A 'yellow dotted line' on the Detailed Public Open Space Landscape Proposals drawing (P18-2525\_37 Sheet 4 Rev. H) indicates the location of the Golf Ball Netting. This has the potential to be a significantly prominent and visually intrusive vertical element – particularly where it runs in close proximity to the Spine Road and adjacent to the eastern boundary Footway. I would advise that the proposed soft landscaping has not been designed with the mitigation of this substantial Net in mind – and that the planting will need to be modified when the requirements of the Net are finalised. It will not be possible to plant specimen trees adjacent to the Net as they will have no room for canopy growth. **Indicative Landscape Sections will be required to illustrate the proposed relationship of the Netting to the landscaped areas and the Spine Road.**

#### **Character Area 3 – The Central Avenue (Spine Road):**

Within the DAS it is stated that "the proposed development will have a clearly defined central avenue which is a tree-lined street extending between the southern entrance from the B3157 (Chickerell Link Road) and the School Hill entrance". I maintain my opinion that the approach to tree planting along this primary route is 'disappointing' with a proliferation of small-scale trees of mixed species. The use of a 'formalised' and structural approach using

larger trees is required particularly where the Central Avenue runs alongside/through proposed built development. The proposed 'irregular' spacing of trees also fails to create the necessary 'formal' approach that is required to delineate this principal route through the Site. I would advise that the tree planting along this Central Avenue could be greatly improved to achieve enhanced visual cohesion and a 'sense of place'. The detailed tree planting as specified would fail to create the visual presence as illustrated by the 'artists impression' within the DAS on P.109.

I am also concerned that the conflicts between street lighting locations may preclude the planting of trees as indicated. It, therefore, needs to be demonstrated that the proposed tree planting has been coordinated with any proposed above ground lighting to ensure that conflicts between tree canopies and lighting have been adequately mitigated (this also applies to below ground services).

**Character Area 4 – Village Green:**

This Area has been re-designed – with the removal of the previously retained fragmented hedge sections and the improvement of pedestrian routes. Within the DAS it is stated that a "key feature of the space will be the provision of a children's play space in the form of a LEAP". This facility is not shown on the detailed Drawing but is referred to within the DAS on P.115. Whilst I note the improvements to this area – I would advise the proposed peripheral single-species hedging is removed – and replaced with a high quality 1.2m high metal 'railing'.

There has been an improvement in relation to the 'building line' of the proposed Development to the southern edge of the Green (*defer to Urban Design*).

**Character Area 5 – Green Corridors:**

These are mainly focused around the retention and enhancement of existing hedgerows and largely run East to West across the Site and provide opportunities for enhanced green-infrastructure. These routes also provide footway and cycleway links through green corridors – with connections to the existing PRow network.

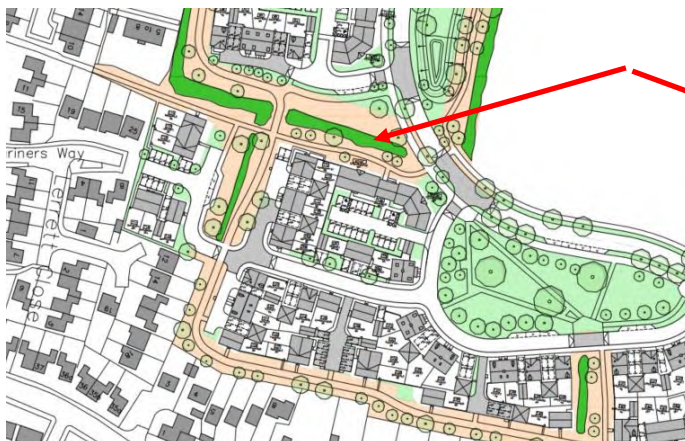


This is the northernmost 'Corridor'. I would advise that a more consistent tree canopy and hedge line could be achieved. The Hedges as shown appear disconnected. Larger canopy trees may be more desirable than the ones illustrated (*defer to NET*).



Heading southwards this Corridor proposes new native species Hedges – these contain only 4no. species and I would recommend that this is increased to a minimum of 5no. species. The inclusion of ornamental planting to the west and south of the Hedgerow appears anomalous within the predominantly 'native' character?

Above are extracts from Detailed POS Landscape Proposals Sheet 1 of 4.



Extract from Phase A POS Drawing



Phase A Cut & Fill Analysis P932/106 Aug '23

With reference the Phase A Cut and Fill Analysis Drawing P932/106 it is clear to see that extensive earth re-modelling is required from north to south across the Site. I would advise that this has the potential to directly impact on the retention/safeguarding of the existing hedgerows to the western boundary and the Green Corridors that run roughly east to west. In some areas (as indicated above) a reduction of ~4-4.5m is required in close proximity to identified Green Corridors which would clearly directly and negatively impact on the existing vegetation. I cannot see how the proposed cut and fill operations can be carried out without negative impacts on the retained vegetation. Further clarification is required on this matter – and representative cross-sections to show the Green Corridors and their relationship to the proposed adjacent Site levels.

**Character Area 6 – Garden Streets:**

The garden streets encompass the residential areas “not subject to a specific character or identity”. Within the DAS the following, inter alia, is stated-

- “the planting has also been used within the residential streets to create a distinctive street scene and promote orientation and a sense of place”.
- “Soft landscape mainly in the form of low hedges to be provided within the streetscape and on-plot”
- “All streets to include street tree planting”

In general terms and with reference the Detailed Soft On-plot Landscape Proposals Sheets 1-7 – the proposed landscaping to the residential areas is ‘limited’ with a meagre provision of street trees or meaningful front gardens. Regarding the proposed low hedging within the streets – the consistent use of species either side of the street will, however, assist in building visual coherence.

The engineered treatment of the Sites slope, as illustrated on the Cut and Fill Drawing, will result in extensive areas of ground modelling – manifesting in dwellings with either ‘exposed’ or ‘buried’ brickwork, rear gardens with 600mm high ‘embankments and the frequent use of substantial ‘retaining structures’.

Garden ‘embankments’ are first introduced at around the 42m contour (northern end of the Site) and run down as far as the 20m contour (towards the south). These embankment elements negatively impact on the accessibility of the private garden spaces – introducing the necessity for ‘steps’ as a means of access (*not indicated on the Drawings*).

I have serious concerns over the scale, and subsequent visual impact, of the ‘retaining structures’ – some of which are noted to be more than 2m in height (a retaining structure of 2.6m is observed on Plot 55). The most visually impactful structures occur south of the 42m contour – where substantial lengths of retaining structures are required to delineate private garden spaces and carparking courtyards. This will result in poor quality place making – especially when combined with a lack of soft landscaping (*see example below*):



**Extract from Proposed Levels & Contours Plan Sheet 2 of 4 P932/86**

Courtyard parking – with no soft landscaping and 1.7m high retaining brick walls to the northern edge, 0.75 retaining wall to the south.

On the Boundary Treatment & Hard Surfaces Plan – a 1.8m high brick wall is indicated for the northern aspect to the Carpark – is this in addition to the 1.7m high retaining wall?

Access from the Carpark to the Dwellings appears ‘challenging’. Further clarification is required for these areas.

Also of concern are the number of Dwellings that require either a ‘ramped’ or ‘stepped’ access (as indicated on the Proposed Levels and Contours Plans Sheets 1-4). Dwellings with a ‘level’ access appear to be in the minority.

**Character Area 7 – Biodiversity Corridors:**

These are largely located along the Site’s western boundary. They are to provide “ecology focused recreational routes” and “green buffers”. As mentioned within my previous correspondence – the proposed planting appears ‘muddled’ in areas – in particular where pockets of native species shrubs are specified alongside ornamental ‘wildlife attracting shrubs’ (i.e., to the north of the pedestrian/cycleway in the vicinity of Plots 129/135).



I have concerns over the potential impacts of the 'cut and fill' operations on the existing boundary features and the construction of underground tanks where they occur in close proximity. Clear no-dig zones will need to be maintained to protect the rootzones of hedges/trees and they should not end up as 'perched' features. I would advise that you seek the advice of the NET on this issue.

I note improvements in the removal of the nodal 'feature hard surfaced' areas.

### **General Observations on the Scheme as a whole:**

#### **The Design and Access Statement:**

- The latest iteration is dated August 2023. This Document provides a very useful 'overview' of the aspirations for the Site – but I would advise that there is clear disparity between the idealistic 'artists impressions' of the Character Areas and what is actually proposed on the detailed drawings. Given the challenges of the Site's levels and the extent of land re-modelling proposed – combined with the limited landscaping within the residential areas – further design work is required.

#### **Landscaping:**

- As stated within my previous response - I welcome the approach to the creation of naturalistic ecologically diverse areas and the provision of formal structured areas. The planting does, however, frequently lose its 'identity' through the merging of both native and ornamental species – diluting the distinctiveness of the Character Areas. Improvements could be made to the proposed native Hedgerow mix – where only 4 species are specified (within sections along the western boundary).
- Tree Planting within Streets – I am disappointed with the overall provision of 'street trees' within the layout. There are many instances when large 'shrubs' are specified – and these will fail to provide the equivalent 'presence' within the street scene. The layout fails to provide adequate 'space' for trees.
- Central Avenue/Spine Road - I would advise that the random use of 'small' trees of mixed species along sections of the Central Avenue would not comply with the requirements of NPPF para. 131 which states that "all new streets are tree-lined" (unless there are clear, justifiable reasons why this would be inappropriate). The sections of Central Avenue that run through built development should be consistent in terms of species and scale – and of a height that compliments the architectural scale. There are many examples on the Detailed Public Open Space Landscape Proposals Sheets – where trees are not 'labelled'.
- I note that Tree Pit details have been submitted (Drawing no. P18-2525\_41). I have particular concern over the proposed tree pit details for 'pits for trees with hard landscape to both side of the pit i.e., the verges running along the Spine Road (which are 2m wide). I am unconvinced that there will be sufficient un-compacted and appropriate soil volumes where trees are to be planted within these narrow linear verges. Insufficient soil volumes in these locations may result in the death or restricted growth of the trees or the deformation of adjacent hard surfaces. I would, therefore, suggest that proprietary engineered tree pit systems such as GreenBlue Urban ArborSystem (or similar and approved) are considered for these locations. Again – as a guide I would suggest the following minimum soil volumes are provided:

Small tree- 5.5m<sup>3</sup>

Small to Medium tree – 10m<sup>3</sup>

Medium tree – 14m<sup>3</sup>

Medium to Large tree – 24m<sup>3</sup>

Large tree – 31m<sup>3</sup>

- Landscape Soft and Hard Works Specification – I would expect to see a comprehensive Specification (to describe the materials, standard and quality of workmanship etc) to accompany the detailed drawings.

#### **Advanced planting**

- Within the Local Plan CHIC2 policy there is a requirement for 'advanced planting'. I have seen no reference to this within the Application Documents.

#### **Protection of Existing Vegetation:**

- With reference the associated Arboricultural Impact Assessment – the root protection areas of hedges and trees have been detailed within the Report. Given the details submitted on the proposed cut and fill operations, construction of underground Tanks, and the location for the Golf Net – further details are required that accurately illustrate protective 'no-dig' areas and the location, and specification, of protective fencing. I am not convinced, at this stage, that a coordinated approach is being taken.

#### **Plot Boundary Treatments**

- The proposals illustrate a wide range of boundary treatments – ranging from 1.8m high brick and stone walls, 1.8m high close board timber fencing, 1.2m post and 3-rail fencing, 1.2m high post and 2-rail

fencing, 1.2m high close board surrounds to bin storage and 1.2m high metal railings. The previously specified knee rails have been removed. I am happy with the choice of boundary materials. The use of walling in some areas may emphasise the degree of 'slope' in some areas i.e., along the western boundary (see below) but soft landscaping can assist in mitigating the visual effects.



**Street Elevation C (Proposed Street Elevations PA-SE01 Rev.A)**

- Where 1.8m high boundary walls are to be combined with substantial 'retaining structures' there is the potential for significant adverse visual effects which may be to the detriment of the overall design quality and place making.

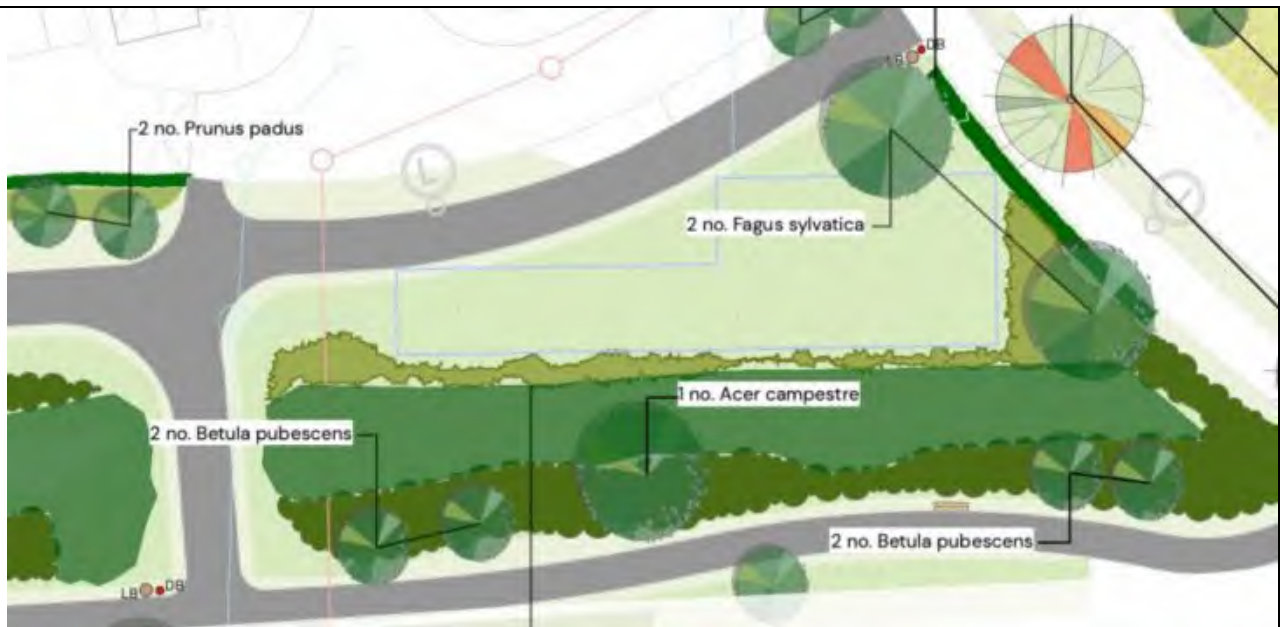
#### Lighting:

- I note the submission of a 'Lighting Design Booklet' which illustrates 3no. types of streetlights. These comprise 5m and 6m high lights and bollard lights. The bollard lighting would be located along the pedestrian/cycle way along the western boundary. 5m high lights are indicated to run along the Green Corridor to the north of the Site and within the courtyard carparks within the Garden Streets Character Area.
- The Strategic Landscape Masterplan Drawing No. P18\_2525-29 rev.H indicates the location of Streetlights across the Site (including the Spine Road and the secondary residential streets). The location of proposed trees *appears* to take into account the siting of individual Lighting Columns. There does not, however, appear to be a comprehensive Plan that shows predicted tree canopy spreads/Lighting Columns and associated light distribution contours? I am aware that the proposals, to date, are considered unacceptable by The Council Lighting specialist – and that several of the proposed Trees *may* need to be removed from the Scheme. I would suggest that further 'coordinated' design work is required to achieve a satisfactory outcome so that an 'acceptable' tree planting proposal may be assessed against the requirements of National and Local planning policies.

#### SuDS:

- Within the DAS 4.20 the 'blue infrastructure' is described as a mix of features that include attenuation basins, drainage ditches and swales. The attenuation features are mainly located along the Eastern Boundary of the Site – and either side of the Southern Entrance. The Basins to be seeded with an appropriate meadow mix.
- Further description on the SuDS is provided within 5.130 of the DAS and there is reference to the 'Drainage Strategy Plan'.
- The supporting 'Flood Risk Assessment' dated August 2023 in para.4.12 refers to the following SuDS techniques:  
Rainwater harvesting  
Pervious pavements  
Infiltration devices such as soakaways and infiltration trenches  
Swales, ponds, detention basins and underground storage facilities.
- 4.24 of the Assessment refers to the 'Proposed Surface Water Drainage Strategy' and Drawing No. P932/20 Rev. G indicates the position of the attenuation features. No cross-sections of these features are provided – and I would like to see more detail on the engineered profiles.

Drawing No. P932/04 Rev. J indicates the location of Attenuation Basins and 'Geocellular Tanks'. I have concerns relating to the proximity of Geocellular Tanks 1 and 5 to the retained Hedge/Scrub areas (see below). The location of the underground Tanks is shown in 'blue'. The construction of the Tanks is likely to have a severe detrimental effect on the integrity/health of the belts of vegetation to be retained. Tank 3 is located to the south of the Site and on top of a proposed linear belt of native shrub planting. Clarification is required as to whether the ground above these Tanks can be planted with trees/shrubs.



Extract from Detailed Public Open Space Landscape Proposals Sheet 1 of 4 P18-2525\_37 Rev. G



Extract from Detailed Public Open Space Landscape Proposals Sheet 2 of 4 P18-2525\_37 Rev. G

- integration of a comprehensive SuDS is referenced within paras. 5.10 to 5.16. Further detailed description is provided within a separate PFA Consulting 'Technical Note'. The drainage strategy uses storage pipes/underground geocellular tanks/ detention basins alongside grass swales. The detention basins have been designed in accordance with the SuDS Manual. Safety fencing does not appear to be necessary around the basins – which is welcomed. I do have some concern over the location of the underground tanks where they coincide with the Green Corridor C Character Area – as the proposed Tanks may prevent the proposed tree planting over this Area. Further clarification is required as to how the drainage and landscaping could work together.
- Permeable paving – Further clarification is required on the provision of permeable paving within the Layout. I am unable to locate any details on the drawings to show whether road/carpark/footway/cycleway surfacing is permeable.

#### Golf Netting

- The exact details of the Golf Net are yet to be submitted – and, as such, I am unconvinced that the visual and landscape aspects of this substantial 'element' have been adequately assessed. The construction of this Net is likely to necessitate the removal of existing vegetation/ecological habitat – and will preclude

future landscaping along its length. I am, therefore, unable to make a comprehensive judgement on its effects and mitigation at this stage.

## Policy consideration

### **NPPF 2023**

Section 12 Achieving well-designed places paras.126, 130, and 134.

### **West Dorset, Weymouth and Portland Local Plan 2015**

Policies ENV1, ENV2, ENV3, ENV10, ENV11, ENV12, ENV15, ENV16, COM9,

### **CHIC2 Chickerell Urban Extension**

*i) Land to the north and land to the east of Chickerell, as shown on the proposals map, will be developed for housing and related community facilities. Small-scale employment uses may be provided within the site, appropriate to a mixed-use neighbourhood.*

*ii) The development will deliver highway improvements necessary for the development to go ahead.*

*iii) The growth will be phased to deliver a steady rate of growth over at least a 10 year period through the development of:*

*- land to the north (to be developed for housing and public open space);*

*- land to the east (to be developed for housing, public open space and to include a local food store of a scale appropriate to a local centre if there is still a need for such a facility, and securing land for a new primary school)*

*iv) Development should be in accordance with a masterplan for each area prepared by the developer / landowner in conjunction with the local community, Chickerell Town Council and Dorset County Council, and agreed by West Dorset District Council. In order to address sustainable development issues, the masterplan will need to be subject to a sustainability assessment, such as a BREEAM Communities Assessment, carried out by a suitably qualified assessor. The masterplan should ensure that:*

*- The development will be focused around a traditional street with frontage development connecting from the Chickerell Link Road to School Hill, and from School Hill to Chickerell Hill. The street should be able to accommodate a bus route. The development should also provide improved pedestrian /cycle links to Weymouth Town Centre and surrounding area;*

*- Strategic planting is carried out in advance of the site being developed, in accordance with an agreed strategic landscape phasing plan, to reduce the impact of the development on longer views particularly along the northern and eastern boundaries. This should include a connecting corridor of semi- natural green space along the eastern margin of the allocation and biodiversity enhancement. A network of open green spaces, for amenity /recreation and drainage purposes, should run through the development and link to the open countryside;*

*- there is adequate on-site provision of community infrastructure;*

*- areas prone to surface water flooding are kept free of built development and due consideration given to flood risk elsewhere.*

### **Other material Considerations**

National Design Guide 2021

National Model Design Guide 2021

Chickerell Town Neighbourhood Plan 2019-2036

Policy CNP 4 Chickerell Wildlife Corridor

Policy CNP 10 Locally Valued Landscape

**Officer: Sarah Barber CMLI**

**Job Title: Senior Landscape Architect**

**Date: 15<sup>th</sup> December 2023.**

## Appendix 24: Land at Crossways Application Screenshot

# Planning application: WD/D/16/000378\_DP

Viewing a Planning application.

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Main Details	Location	View Documents	Consultees	Appeals	History
To view individual documents click on the required row, and the document will be downloaded.					
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To download all of the documents, place a tick in the box alongside the header row to select all of the files, then click on <b>Download selected files</b> .					
<b>Please note:</b> If you are using Internet Explorer 11 you may incur problems trying to open documents or use the Online comments facility. If you do have such problems then please go to Tools in the Browser menu, select Compatibility View Settings and then Add which should resolve these issues.					
<input type="checkbox"/>	<b>Documents</b>				
<input type="checkbox"/>	<a href="#">26/04/2016 - West Dorset Consultation Request</a> (41kb)				
<input type="checkbox"/>	<a href="#">12/07/2016 - Officer Report - Planning Committee - 29/07/2016</a> (483kb)				
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Comments have closed on this application (since )

# Public Document Pack



## DORSET COUNCIL - WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

### MINUTES OF MEETING HELD ON THURSDAY 5 SEPTEMBER 2019

**Present:** Cllrs Simon Christopher (Chairman), David Gray (Vice-Chairman), Pete Barrow, Kelvin Clayton, Susan Cocking, Nick Ireland, Louie O'Leary, David Shortell and Sarah Williams

**Apologies:** Cllrs Jean Dunseith and Kate Wheller

**Officers present (for all or part of the meeting):**

Ann Collins (Area Lead – Major Applications Western Team), Philip Crowther (Senior Solicitor - Planning), Colin Graham (Engineer (Development Liaison) Highways), Hamish Laird (Senior Planning Officer), Ian Madgwick (Transport Development Liaison Engineer), Debbie Redding (Development Manager) and Denise Hunt (Senior Democratic Services Officer)

**29. Apologies**

Apologies for absence were received from Cllr Jean Dunseith and Cllr Kate Wheller.

**30. Declarations of Interest**

Cllr Peter Barrow declared that he had predetermined Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth. He wished to speak for 3 minutes as a public speaker, however, he would not take part in the debate or vote on this application.

Cllr David Gray declared that he had predetermined Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth. He would not take part in the debate or vote on this application.

Cllr Kelvin Clayton stated that he had not predetermined Application No WD/D/18/002368 - Former Mountjoy School, Flood Lane, Bridport and had not participated in the debate or vote during its consideration by the Bridport Town Council Planning Committee. He would therefore take part in the debate and vote on the application. He further stated that he had been unable to attend the site visit in respect of Application WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth and confirmed that he was not familiar with the site.

Cllr Susan Cocking stated that she would take part in the debate and vote on Application No WP/19/00162/PIP - Land adjacent to Former Gatehouse, West Way, Southwell Business Park, Portland as she was not previously a member of the Portland Town Council Planning Committee and had not predetermined

the application. She further stated that she had not attended the site visit in respect of Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth, but as she was familiar with the site, would take part in the debate and vote on this item.

Cllr Louie O'Leary stated that he had not attended the site visit in respect of Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth, but as he knew the location of the site very well, he would take part in the debate and vote on this item.

Cllr Nick Ireland stated that he had not predetermined Application No WD/D/16/000378 - Land South of Warmwell Road, Crossways and had not been involved in consideration of the previous application. He would therefore take part in the debate and vote on this application.

Cllr Sarah Williams stated that she had not predetermined Application No WD/D/18/002368 - Former Mountjoy School, Flood Lane, Bridport. Although a member of the Bridport Town Council Planning Committee when previous applications for this site had been considered, she had left the room when this particular application was considered. She would therefore take part in the debate and vote on this application.

31. **Minutes**

The minutes of the meeting held on 8 August 2019 were confirmed and signed.

32. **Public Participation**

Representations by the public to the Committee on individual planning applications are detailed below. There were no questions, petitions or deputations received on other items on this occasion.

33. **Planning Applications**

Members considered written reports submitted on planning applications as set out below.

34. **WP/18/00914/FUL - Marchesi House, Poplar Close, Weymouth, DT4 9UN**

*Cllr Peter Barrow and Cllr David Gray moved to the public seating area of the room and did not take part in the debate or vote for this application.*

*Cllr Kelvin Clayton did not take part in the debate and abstained during voting on this application.*

The Senior Planning Officer presented the application for the demolition of the existing flats and erection of 18 houses and 13 flats, comprised of 100% affordable housing within the Defined Development Boundary for Weymouth. The scheme would offer a mix of affordable rent and shared ownership that



would assist in meeting the high level of local housing demand. There were presently 1777 people on the Weymouth & Portland housing register and the housing team would have an input into the allocations with regard to a local letting policy. The scheme was considered suitable in terms of highways standards.

Members were shown the proposed site plan, aerial view and a number of artists impressions and photographs detailing the change in level of the site from north to south and the relationship of the site to the surrounding area, in particular, to Southill Primary School. The potential for construction traffic to interfere with the footpath had been recognised as a potential safety issue and could be dealt with via a construction management plan to cover matters such as vehicle movements/timing and wheel washing.

The Development Manager referred to the update sheet containing minor amendments to the wording of the recommendation and condition 5 that had been circulated to the Committee at the meeting.

Beth Chalker addressed the Committee in objection to the application, raising issues in relation to overbearing, density of dwellings per hectare in comparison with other areas of Southill, increase in number of occupants, traffic and noise, impact on road safety and width of the existing footpath. She considered that the application contradicted Adopted Local Plan policy ENV12 in relation to the design and positioning of buildings and asked whether a full impact analysis had been carried out for Southill Primary School.

Jonathan Dixon addressed the Committee in objection to the application, drawing attention to the density of the development and Adopted Local Plan Policy ENV16 in relation to the impact on amenity given the threefold increase in numbers of people living on the site. The deficiency in the allocated parking would see an increase in numbers of vehicles parking in Sycamore Road.

Stephen Hairsine addressed the Committee in support of the application, highlighting inconsistencies and inaccuracies in the local press with regard to the development. He stated that although stress had been caused by the length of time, the residents of Marchesi House were in support of the scheme and many objections had been addressed at the last open day. Ongoing uncertainty was unnecessary and he urged the Committee to approve the application.

Cllr Peter Barrow addressed the Committee as the Dorset Council Ward Member for Radipole. He confirmed that the 200 objections were truthful representations of the community, who did not want to stop the development altogether. The proposal did not comply with Adopted Local Plan Policy ENV16 in relation to neighbourhood amenity or ENV12 with regard to the design and positioning of buildings and was not in keeping with the Southill area which had a distinct character. There would be significant increase in traffic through a restricted access and additional vehicle movements along

Sycamore Road. He requested a permanent access from Radipole Lane and reduction in density of the development.

Cllr Christine James, Weymouth Town Councillor, stated that Weymouth Town Council had voted against this proposal due to the density of the development and impact on amenity. She had previously been informed that a separate access onto the site beyond the temporary access for construction would not be possible and questioned whether this would result in less properties.

Tom Whild, the agent, spoke in support of the application. He said that the current building was dated and had no future. The proposal was for 100% affordable housing and so would be of significant benefit. The scheme had been designed to minimise its impact and make best use of the site.

The Highways Officer, who had been involved in work around safe routes to school, confirmed that the existing access worked well and had a good safety record whereas an access from Radipole Lane could cause further problems. It was likely that residents from the proposed development could avoid peak school run times. The footpath surrounding the development provided good visibility from Sycamore Road into Radipole Lane and, whilst appreciating concerns for children's safety, the application could not be refused on highways grounds.

Members were advised that the density of the site of 77.5 dwellings per hectare was not unique and was reflective of sites that included flats. The National Planning Policy Framework (NPPF) encouraged making the most efficient use of land and this was a self-contained development that established an identity of its own, taking advantage of the opportunity offered by the levels of the site in an area that already had a mix of properties. It was considered that the scheme would not impact on amenity in terms of lack of privacy.

Members considered that this was a large development for the area that would result in a significant increase in the number of people. Some felt that a smaller development would be more appropriate. Comment was also made in relation to layout and location of the flats on the site, the shortfall in parking provision, the availability of free parking at the nearby shopping centre, the provision of cycle storage and access to the local cycle network, and the lack of a bus service. The need for affordable housing and that the existing building was not fit for purpose was also acknowledged.

Proposed by Cllr David Shortell, seconded by Cllr Nick Ireland.

**Decision: That the application be delegated to the Head of Planning to grant planning permission subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Act to secure provision and tenure of Affordable Housing in accordance with Planning Policy and subject to the planning conditions (as amended in the update sheet) outlined in the appendix to these minutes.**

35. **WP/19/00162/PIP - Land Adjacent to Former Gatehouse, West Way, Southwell Business Park, Portland**

The Senior Planning Officer introduced the "permission in principle" (PIP) application for up to 8 dwellings on a site forming part of the car parking area serving the Atlantic Academy at Southwell Business Park. The detail would form part of the technical detail consent at a later stage. Although outside the defined development boundary, the site was located next to existing housing which carried significant weight given the shortfall in the council's 5 year housing supply.

Members were shown a site plan, street views and photos of the car park.

The Section 106 Agreement attached to the school/academy planning permission included a car park management plan and travel plan to be put in place. The site of the application had originally been allocated for staff parking, however, alternative arrangements for parking nearer the school buildings meant that this area of the car park was no longer used. An update of the car park management plan could be pursued with the academy and dealt with as a separate matter.

Andy Matthews, Chairman of the Portland Community Partnership, addressed the Committee in relation to aspects that had been overlooked during discussions with Portland Town Council, including the safeguarding of minerals extraction and the Neighbourhood Plan ECON2 to protect and extend the Southwell Business Park that included the car park area that was the subject of the application. He concluded that it would be premature to accept the application on this basis and in light of other brownfield sites that had been identified that could have been taken account of in the 5 year land supply.

Mr Drayton, the agent, spoke in support of the application. He said the proposal was well located next to existing residential development and that the site had not been used by the Academy for parking for some time.

In response to the issues raised during public participation, it was explained that all detailed considerations, including minerals matters would be considered and addressed at the technical details stage and did not preclude a decision being made on the PIP application.

Members were mindful of the need for housing and that this application avoided the use of greenfield sites.

Proposed by Cllr Kelvin Clayton, seconded by Cllr Nick Ireland.

**Decision: That the application be approved subject to the conditions outlined in the annex to these minutes.**

**36. WD/D/18/002368 - Former Mountjoy School, Flood Lane, Bridport, DT6 3QG**

The Senior Planning Officer presented the application for the erection of 38 retirement living apartments with communal facilities, car parking and landscaping on the site of the former Mountjoy School.

A slide of the location plan showed the proposed site plan with access off Flood lane, 28 car parking spaces to the rear of site, proposed 1 and 2 bed apartments and nearby listed buildings. An aerial photo showed the wider area that included Morrisons, Sydney Gale House and Palmer's Brewery. Amendments made during the application process included widening of the landscape buffer.

Updates to the wording of the recommendation and conditions 8 and 10 had been included in an update sheet that was circulated to the committee at the meeting.

Four further representations in support of the application had been received that raised no new reasons other than those that were already included in the report.

The Highways Officer stated that the footway fronting Flood Lane would be widened to 2m, with little traffic on the east of the site where it became narrower. The parking arrangements were compliant with the Adopted Local Plan and evidence provided by the applicants suggested that people living in the 2 bedroom properties would not necessarily have 2 cars. There were good bus routes in the area with links to cycle routes.

Carla Fumgovi, the agent, spoke in support of the application. She said that the scheme had been significantly amended since it was first proposed and would be in keeping with the area. It would provide better accommodation for older people in the context of an aging local population. In addition, a contribution to affordable housing would be made.

Cllr Sarah Carney, Bridport Town Councillor, stated that the Town Council had strongly objected to this application on two previous occasions. She asked the Committee to view the proposal in the context of child poverty, unaffordable rents and a shortfall in key worker housing in the area and that an affordable housing scheme would be more appropriate. The report did not have regard to the climate emergency or the local or neighbourhood plans.

Although some members were disappointed that this was not an affordable housing scheme, the contribution towards affordable housing was seen as beneficial in providing appropriate housing elsewhere in the locality rather than on a site for sheltered accommodation.

Members were also concerned about flooding, particularly in light of the condition in relation to a flood warning and evacuation plan. It was explained that the amended recommendation was subject to the holding objection being withdrawn by the Flood Risk Management Team and that such a condition

was common to ensure there were mitigation measures in place in the event of a flood.

Members questioned the need for retirement homes in the context of the Bridport Area Neighbourhood Plan which had a policy for retirement living based on proven need when there was an abundance of retirement flats in the area, some of which were vacant. However, there was a demonstrable need for affordable and social housing which should be a priority on a council owned site.

The Development Manager advised that ownership of the site could not influence the decision. The affordable housing policy requirement of 35% was to be made as a financial contribution that had been supported by the housing team and there was no reason to refuse the application on this basis from a planning point of view.

Members felt that Adopted Local Plan Policy ENV4 should also be a consideration in respect of listed buildings around the application site which was also in the AONB.

Slides were revisited that showed the relative heights of surrounding buildings including the Palmer's Brewery and Sydney Gale House. The design and layout of the scheme had been amended as a result of comments and Conservation, Landscape and Urban Design Officers considered the proposal to be acceptable.

The AONB was a wider landscape issue, however, as this was a site where there are buildings around it, the proposal was unlikely to be considered harmful in landscape terms.

Proposed by Cllr Louie O'Leary, seconded by Cllr Susan Cocking.

**Decision: That authority be delegated to the Head of Planning to grant planning permission subject to the holding objection being withdrawn by the Flood Risk Management Team and any amendments to surface water drainage conditions requested by the Flood Risk Management Team and the completion of a Legal Agreement under Section 106 of the Town and County Planning Act 1990 (as amended) in a form to be agreed by the Legal Services Manager to secure the following:**

**An affordable housing Contribution of £295,111 index-linked using RPI from the date of this committee report together with conditions and their reasons (as amended in the update sheet) outlined in the appendix to these minutes.**

**37. WD/D/16/000378 - Land South of Warmwell Road, Warmwell Road, Crossways**

The Area Lead – Major Applications Western Team introduced the hybrid application for a full planning application for the erection of 99 open market and affordable dwellings, a new doctor's surgery, replacement village hall, car

park, a new village green, new vehicular and pedestrian accesses and works to Warmwell Road; an outline application for 401 open market and affordable dwellings, the provision of 2.5ha of employment land, new vehicular and pedestrian accesses, roads, footpaths and cycleways, a car park for the proposed Site of Alternative Natural Green Space (SANG) and 2 pumping stations; and a full application for the change of use of 22.4ha of land to the SANG which was situated within 5km of heathland.

Updates to conditions had been circulated to the Committee at the meeting.

The minerals extraction area would be dealt with by a separate application and a separate condition to ensure that extraction took place prior to development.

Members were shown a map of the proposed layout of the full permission that included 99 dwellings, of which 34 affordable housing units had been secured. A total of 1844 people were on the housing register and 42 people on the Crossways register.

Other elements of the full permission including a replacement village hall and new GP surgery were also highlighted. Discussions were ongoing with the Clinical Commissioning Group (CCG) regarding the provision of a new surgery in order to meet future demand in Crossways.

The application had been brought back to the Committee as the applicants wished to change the phasing in relation to the village hall. The GP surgery had also been included in the phasing condition, as well as a condition in relation to the provision of electric charging points for vehicles.

Jan Wardell addressed the Committee on behalf of the Rambler's Association, referring to the DEFRA guidance on rights of way which encouraged applicants and local authorities to address public rights of way at an early stage in the planning process. Unless proposals for new paths were set out in planning documents it was difficult to get a decent path at a later stage which often resulted in footpaths on estate pavements.

Chris Fry, the agent, spoke in support of the application. He stated that there were serious viability issues and therefore the scheme could not carry any further obligations or limiting conditions. He was aware of the process in respect of public footpaths and gave an assurance that the proper negotiations would be entered into going forward to ensure good public links through and into the site that were currently not available.

The Highways Officer stated that although the proposal was to significantly increase the number of dwellings at Crossways, the development was on one side of Warmwell Road which was a 40mph highway and much of the quarry traffic had gone. Highways England had recognised an impact at Max Gate in Dorchester which had a particularly bad accident record and therefore wished to secure funding from this development to deliver highways improvements at that location. Negotiations would take place with Rights of Way officers about how people were able to access the countryside either by rough path or

decent footpath for wider use by the public in accordance with the Equalities Act.

Cllr Nick Ireland spoke as the Dorset Councillor for Crossways, stating that the developer had engaged with residents and the Parish Council and the application in 2016 to expand the village on the opposite side of Warmwell Road had been welcomed. However, the application did not address the aspiration to reduce the speed limit to 30mph due to a fatality in the area or address issues with Silver Lake Road. He also expressed concern regarding the change in phasing of the village hall. The lease for the existing hall was shortly due to expire and may not be renewed. He suggested that the village hall should be built between phases 2 and 3 rather than phase 5 of the development. There was also no guarantee that the GP surgery would be built with no update by the CCG.

The Area Lead – Major Applications Western Team confirmed that the phasing of the village hall had been pushed back due to viability and the financial demands put on the development during the early phases.

Members discussed the obligations, in particular the financial contribution in respect of Poole Harbour and were advised that this contribution recognised the impact of the development on the Poole Harbour catchment area. Appropriate assessment as required under habitat regulations had been supported by Natural England. If no contribution was made then the scheme would fail this assessment and not meet the requirements of the Local Plan to provide effective mitigation.

The Solicitor advised that it was envisaged that the final 100 houses in phase 5 would provide sufficient incentive to enable the developer to build the village hall with the requirement to do so being through the Section 106 Agreement and conditions. The provision of community facilities and need for a village hall and GP surgery were planning policy considerations and the triggers could impact on viability.

The Development Manager stated that officers had recognised that the existing village hall was not of a good standard and a condition specifying that a new village hall was provided before the existing hall was demolished had been included in the conditions which was considered to be a reasonable safeguard. The lease arrangement was not a planning matter.

Cllr Nick Ireland stated that the size of a GP surgery was calculated using a multiplier formula and with the proposed additional homes there was no doubt that the existing surgery would be too small and there were limited opportunities to extend it. He stated that the original application specified that the village hall would be built at the end of phase 1, and that phase 5 was too lenient.

Members asked about public transport in the context of a limited bus service and the Highways Officer explained that this scheme would bring forward improved links to the railway station as outlined in the Local Plan.

Cllr Nick Ireland proposed an amendment to the condition in relation to a change in phasing of the village hall to between phase 2 and 3 (250 houses). This was seconded by Cllr David Gray and supported by the Committee.

**Decision:-**

**That authority be delegated to the Head of Planning to grant planning permission subject to the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) in a form to be agreed by the Head of Planning to secure the following:**

- 35% of the units as affordable housing with 50/50 tenure split between rented and shared ownership/low-cost affordable housing
- A clause to revisit the viability of the scheme and the affordable housing provision at 100, 200, 300 & 400 units
- Education contribution of £5,444 per dwelling with 2 or more bedrooms, index linked using RPI from the date of this committee report
- Provision of a minimum of 22.4ha of suitable alternative natural greenspace (SANG) with a maintenance contribution of £960,000 and supporting funding provisions of £241 per dwelling (SAMM), index linked using RPI from the date of this committee report
- Financial contribution of £149,089 towards mitigation for the impacts of the development on nitrogen levels in Poole Harbour, index linked using RPI from the date of this committee report
- Highway contributions of £560,000 towards off-site highway works to include works to Warmwell Road and a Cycle Route Scheme, index linked using RPI from the date of this committee report,
- Provision of a minimum of three no. Locally Equipped Areas for Play, approval of maintenance and management arrangements and financial contributions towards maintenance of the proposed LEAPs of £58,540 index linked using RPI from the date of this committee report if they are transferred to the Parish Council to manage and maintain

**and subject to the conditions outlined in the appendix to these minutes, including the amended conditions in the update sheet and amendment to Condition 6 in relation to phasing of construction of the village hall.**

**B: Refuse permission for the reasons outlined in the appendix to these minutes if the S106 agreement is not completed within 6 months of the date of the committee resolution or such extended time as agreed by the Head of Planning.**

**38. Duration of Meeting - Time Limit**

A vote to continue the meeting was taken in accordance with Part 2, Paragraph 8.1 of the Council's Constitution as the meeting had been ongoing for a period of 3 hours.



**Decision: That the meeting be extended for a further period to allow the business of the meeting to be concluded.**

**39. WP/19/00445/FUL - Council Offices, North Quay, Weymouth, DT4 8TA**

The Senior Planning Officer introduced the application for the demolition of the former Council Offices at North Quay, Weymouth providing slides of the location plan, car park layout, front elevation of building and photographs of the view of the former Council Offices from the Town Bridge, the existing car park and building, historic buildings to the west and the view to Holy Trinity Church. He stated that removal of the building would open up development opportunities, providing an interim step as well as opening up views of the area.

Key planning matters were outlined including the principle of demolition, heritage, archaeology and highways considerations. No cycle store had been included in the proposal due to the conflict with vehicle movements which was in accordance with policy in relation to car parks. Provision of cycle facilities were available at both ends of the Westham Town Bridge which was near the locality.

Since publication of the agenda, the Environmental Health Officer had confirmed that he was content with the scheme and endorsed the conditions in the report.

Nigel Ewens, Founder and Director of Jurassic Coast Holdings, addressed the Committee, saying that it would be irresponsible and a waste of the council's own resources to demolish the building before a planning application for future development was realised and all other options had been evaluated. He questioned why 6 alternative bids in March 2019 had not been given serious consideration.

Rex Johnson referred to National Planning Policy Framework (NPPF) Section 14 which encouraged the conversion of existing buildings. He highlighted the need for the Council to act responsibly in light of climate change and stated that the proposal had no environmental benefit, would harm the conservation area and demolish an important part of the town's heritage.

Graham Perry, a resident of Weymouth and shop owner, questioned the demolition of a re-usable building at huge economic and environmental cost. He asked the Committee to consider the application in the context of the climate emergency, the area's economic and housing issues and that getting the building back into use should be a priority.

The Senior Planning Officer outlined the relevant planning history and stated that this application should be viewed as the first step to realise redevelopment of the site. The policy background was clear that this was appropriate in the Conservation Area and in the context of Adopted Local Plan Policy Wey7.

Cllr Louie O'Leary stated that the building was old fashioned and would require money to refurbish. It was now dilapidated and not maintained whereas demolition would allow the site to be redeveloped at a later stage.

However, not all members held this view. They questioned the lack of provision of cycle storage when there was provision at Westham Bridge which was also a car park; encouraging further car use; that the declaration of a climate emergency was a material consideration; re-use of the building; provision of affordable housing in light of the social housing crisis and that if approved now the car park could remain in place for a long time. They drew attention to the concerns of Historic England that a car park would not enhance the Conservation Area and that the building should not be demolished until a new scheme for the site was in place.

Members were advised that they needed to consider the proposal before them and not on any alternatives., that consideration should focus on the planning issues and that ownership and finance were not relevant matters for the consideration of this planning application.

Cllr Nick Ireland proposed the introduction of cycle storage and that 50% of the car parking spaces had electric charging points. It was confirmed that a condition could be added for electric charging points, however, the number of charging points may need further detailed consideration. Cllr Nick Ireland later withdrew this proposal following subsequent debate.

Cllr Kelvin Clayton proposed that the application be refused as it was contrary to NPPF paragraph 148 as it did not encourage the reuse of existing resources and conversion of existing buildings. This was seconded by Cllr Nick Ireland.

The Development Manager read aloud the exact wording of NPPF paragraph 148. Legal advice was given that the NPPF was a material consideration but that members would need to reach a conclusion on whether the NPPF outweighed the Adopted West Dorset, Weymouth & Portland Local Plan 2015, recognising the potential tension of policy of redevelopment versus reuse of the building. Members noted this legal advice and considered the NPPF paragraph 148 was applicable and relevant.

**Decision: That the application be refused for the reasons outlined in the appendix to these minutes.**

**Duration of meeting: 2.00 - 5.50 pm**

**Chairman**

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**APPLICATION NUMBER: WP/18/00914/FUL**

**APPLICATION SITE: Marchesi House, Poplar Close, Weymouth, DT4 9UN**

**PROPOSAL: Demolition of existing flats & erection of 18no. Houses & 13no. Flats in two blocks**

**Decision: Delegate Authority to the Head of Planning to grant planning permission subject to:-**

- completion of a legal agreement under Section 106 of the Town and Country Planning Act to secure provision and tenure of Affordable Housing in accordance with Planning Policy;
- and the following planning conditions.

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan & Block Plan - Drawing Number 1730-01A (Amended) received on 21/5/2019

Site Plan - Drawing Number 1730 02D (Amended) received on 21/5/2019

Houses 1 - 3 - Proposed Floor Plans - Drawing Number 1730 03 received on 9/11/2018

Houses 1 - 3 - Proposed Roof Plan - Drawing Number 1730 04 received on 9/11/2018

Houses 1 - 3 - Proposed Front & Side Elevations - Drawing Number 1730 05B (Amended) received on 21/5/2019

Houses 1 - 3 - Proposed Side & Rear Elevations - Drawing Number 1730 06B (Amended) received on 21/5/2019

Houses 4 - 7 - Proposed Floor Plans - Drawing Number 1730 07 received on 9/11/2018

Houses 4 - 7 - Proposed Roof Plan - Drawing Number 1730 08 received on 9/11/2018

Houses 4 - 7 - Proposed Front & Side Elevations - Drawing Number 1730 09B (Amended) received on 21/5/2019

Houses 4 - 7 - Proposed Rear & Side Elevations - Drawing Number 1730 10B (Amended) received on 21/5/2019

Houses 8 - 10 - Proposed Floor Plans - Drawing Number 1730 11 received on 9/11/2018

Houses 8 - 10 - Proposed Roof Plan - Drawing Number 1730 12 received on 9/11/2018

Houses 8 - 10 - Proposed Front & Side Elevations - Drawing Number 1730 13A (Amended) received on 21/5/2019  
Houses 8 - 10 - Proposed Rear & Side Elevations - Drawing Number 1730 14B (Amended) received on 21/5/2019  
Houses 11 - 14 - Proposed Floor Plans - Drawing Number 1730 15 received on 9/11/2018  
Houses 11 - 14 - Proposed Roof Plan - Drawing Number 1730 16 received on 9/11/2018  
Houses 11 - 14 - Proposed Front & Side Elevations - Drawing Number 1730 17B (Amended) received on 21/5/2019  
Houses 11 - 15 - Proposed Rear & Side Elevations - Drawing Number 1730 18B (Amended) received on 21/5/2019  
Houses 15 - 18 - Proposed Floor Plans - Drawing Number 1730 19 received on 9/11/2018  
Houses 15 - 18 - Proposed Roof Plan - Drawing Number 1730 20 received on 9/11/2018  
Houses 15 - 18 - Proposed Front & Side Elevations - Drawing Number 1730 21A (Amended) received on 21/5/2019  
Houses 15 - 18 - Proposed Rear & Side Elevations - Drawing Number 1730 22A (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Ground & First Floor Plan - Drawing Number 1730 23A (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Second Floor Plan & Roof Plan - Drawing Number 1730 24B (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Front & Side Elevations - Drawing Number 1730 25C (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Rear & Side Elevations - Drawing Number 1730 26C (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed Lower Ground & Ground Floor Plans - Drawing Number 1730 27B (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed First Floor Plan & Roof Plan - Drawing Number 1730 28D (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed Front & Side Elevations - Drawing Number 1730 29D (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed Rear & Side Elevations - Drawing Number 1730 30C (Amended) received on 21/5/2019  
Bin Store - Proposed Floor plans and Elevations - Drawing Number 1730 32A (Amended) received on 21/5/2019  
Proposed Street Scene - Drawing Number 1730 33E (Amended) received on 21/5/2019  
Proposed Street Scene - Drawing Number 1730 34C (Amended) received on 21/5/2019  
Site Plan (Section Lines) - Drawing Number 1730 50 received on 21/5/2019  
Site Sections A-A & B-B - Drawing Number 1730 51 received on 21/5/2019  
View 1 received on 21/5/2019 View 2 received on 21/5/2019 View 3 received on 21/5/2019 View 4 received on 21/5/2019

REASON: For the avoidance of doubt and in the interests of proper planning.

3. The development hereby permitted shall be undertaken using the building materials listed on the application forms, and approved Drawings referred to in condition 2 of this planning permission.

REASON: To safeguard the character and appearance of the development having regard to its surroundings.

4. The development shall be carried out in accordance with the approved Biodiversity Mitigation Plan prepared by Adam Jessop of Ecosupport Ltd for Ken Parke Planning Ltd dated 24 October 2018, and this shall not be altered without the prior written approval of the Local Planning Authority.

REASON: In order to safeguard and enhance the ecological value of the site.

5. The development hereby approved shall not proceed above finished floor level until hard and soft landscaping and tree planting schemes shall have been submitted to, and approved in writing, by the Local Planning Authority. The approved soft landscaping and tree planting schemes shall be implemented during the planting season November - March inclusive, immediately following commencement of the development, or as may be agreed otherwise in writing by the Local Planning Authority. The approved schemes shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years from their first being planted. The approved hard landscaping shall be completed prior to occupation of the dwellings.

REASON: In the interest of visual amenity.

6. No development above finished floor level of the new build dwellings shall take place until details of the boundary treatments to that property have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be installed in their entirety prior to the first occupation of the dwelling concerned and shall thereafter be retained.

REASON: In the interests of the character and appearance of the area.

7. Prior to the commencement of development, including works related to the demolition of the existing Marchesi House building, a Construction Traffic Management Plan, shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include provision for construction traffic to access the site from Radipole Lane, only. The development shall be carried out in accordance with the approved Construction Management Plan and shall not be altered without the prior written approval of the Local Planning Authority.

REASON: In the interests of the living conditions of nearby occupiers and highway safety.

8. Before the development is occupied or utilised the access, geometric highway layout, turning and parking areas shall be completed as shown on Drawing Number 1730 02D. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified

REASON: To ensure the proper and appropriate development of the site.

9. No development shall take place until a detailed and finalised surface water management scheme for the site, based on hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be implemented in accordance with the submitted details before the development is completed.

REASON: To prevent the increased risk of flooding, to improve and to protect water quality.

10. No development shall take place until details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

REASON: To ensure future maintenance of the surface water drainage system, and to prevent the increased risk of flooding.

## **Informatives**

### **National Planning Policy Framework Statement**

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development. The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.
- The application was acceptable as submitted and no further assistance was required.

### **S.106 Agreement**

This permission is subject to an agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated xxxxxxx

#### **INFORMATIVE NOTE: Privately managed estate roads**

As the new road layout does not meet with the County Highway Authority's road adoption standards or is not offered for public adoption under Section 38 of the Highways Act 1980, it will remain private and its maintenance will remain the responsibility of the developer, residents or housing company.

#### **INFORMATIVE NOTE: Fire safety**

To fight fires effectively the Fire and Rescue Service needs to be able to manoeuvre its equipment and appliances to suitable positions adjacent to any premises. Therefore, the applicant is advised that they should consult with Building Control and Dorset Fire and Rescue Service to ensure that **Fire Safety - Approved Document B Volume 1 Dwelling houses B5 of The Building Regulations 2006** can be fully complied with

**Notes to LPA/Applicant;** as previously highlighted, detailed proposals including finalised calculations will need to be supplied and approved in respect of subsequent submissions and discharge of the requested surface water planning conditions listed above, prior to commencement. Whilst we acknowledge the discussion contained within the above supporting documents with regard to an acceptable discharge rate, relevant design criteria and perceived betterment over the existing drainage arrangements (i.e. 4.2l/s, 100yr plus 40% CC & a 30% betterment) we emphasise that these figures are regarded as preliminary only at this stage and will require further substantiation within the necessary detailed design. Any subsequent alteration or amendment of the preliminary layout should not compromise the agreed conceptual drainage strategy.

Please note that DC/FRM accept no responsibility or liability for any (preliminary) calculations submitted in support of these proposals. We provided an overview of the scheme and compliance with best practise and current guidance only.

**APPLICATION NUMBER: WP/19/00162/PIP**

**APPLICATION SITE: Lane adjacent to former Gatehouse, West Way, Southwell Business Park, Portland**

**PROPOSAL: Erection of up to 8 no. dwellings**

**Decision: Grant Planning Permission subject to the following conditions:-.**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: This condition is required to be imposed by the Town and Country Planning (Permission in Principle) (Amendment) Order 2017.

2. The development hereby permitted shall be carried out in accordance with the following approved plans.

Location Plan LPC2252 PR01

REASON: For the avoidance of doubt and in the interests of proper planning.

3. The maximum number of residential dwellings permitted by this permission in principle is eight.

REASON: The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 and having regard to the allocation within the SHLAA.

4. Technical detail consent shall be applied for and approved within the three year time limit of this permission in principle consent.

REASON: As directed by the Town and Country Planning (Permission in Principle) (Amendment) Order 2017.



**APPLICATION NUMBER: WD/D/18/002368**

**APPLICATION SITE: Former Mountjoy School, Flood Lane, Bridport DT6 3QG**

**PROPOSAL: Erection of 38 retirement living apartments with communal facilities, car parking & landscaping**

**Decision:**

**A) Delegate to the Head of Planning to Grant Planning Permission subject to:-**

- The holding objection being withdrawn by the Flood Risk Management Team and any amendments to surface water drainage conditions requested by the Flood Risk Management Team;
- The completion of a legal agreement under section 106 of the Town and County Planning Act 1990 (as amended) in a form to be agreed by the legal services manager to secure an affordable housing contribution of £295,111 index-linked using RPI from the date of this committee report;
- And the following conditions:

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing Number 01 Rev A received on 10/10/2018

Proposed Mobility Scooter Store - Drawing Number 046 received on 10/10/2018

Proposed Site Plan - Roof Level - Drawing Number SO-2499-03-AC-025 Rev K received on 03/06/2019

Proposed Site Plan - Ground Level - Drawing Number SO-2499-03-AC-026 Rev S received on 03/06/2019

Proposed Ground Floor Plan - Drawing Number SO-2499-03-AC-028 Rev U received on 03/06/2019

Proposed First Floor Plan - Drawing Number SO-2499-03-AC-029 Rev S received on 03/06/2019

Proposed Second Floor Plan - Drawing Number SO-2499-03-AC-030 Rev S received on 03/06/2019

Proposed Elevations 01 (B&W) - Drawing Number SO-2499-02-AC-35 Rev R received on 03/06/2019

Proposed Elevations 02 (B&W) - Drawing Number SO-2499-03-AC-036 Rev P received on 03/06/2019

Proposed Elevations 01 - Drawing Number SO-2499-02-AC-37 Rev D received on 03/06/2019

Proposed Elevations 02 - Drawing Number SO-2499-03-AC-038 Rev D received on 03/06/2019

Proposed Elevations 01 (Colour) - Drawing Number SO-2499-03-AC-41 Rev B received on 03/06/2019

Proposed Elevations 02 (Colour) - Drawing Number SO-2499-03-AC-042 Rev B received on 03/06/2019

Proposed Street Elevations - Drawing Number SO-2499-03-AC-045 Rev B received on 03/06/2019

REASON: For the avoidance of doubt and in the interests of proper planning.

3) The development hereby permitted shall be occupied only by persons 60 years of age and over.

Reason: To ensure there is sufficient parking provision

4) The development hereby approved shall be carried out in accordance with the external facing materials on the Materials Schedule titled Proposed External Materials, drawing number SO-2499-03-AC-051-B. Thereafter, the development shall proceed in strict accordance with such materials as have been agreed.

Reason: To ensure a satisfactory visual appearance of the development.

5) Notwithstanding the approved plans no development above Damp Proof Course (DPC) level shall be commenced until a landscaping and tree planting scheme have been submitted to, and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented during the planting season November-March inclusive, immediately following commencement of the development. The scheme shall include tree and plant names, numbers, sizes and provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years.

REASON: In the interest of visual amenity.

6) Before the development is occupied the Footway improvement to Flood Lane the new access road, geometric highway layout, parking and turning areas shown on Drawing Number 061 Rev A must be constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified

REASON: To ensure the proper and appropriate development of the site.

7) Prior to the commencement of the development hereby approved the following information shall be submitted to and agreed in writing by the Local Planning Authority:

1. a 'desk study' report documenting the site history.
2. a site investigation report documenting the ground conditions of the site, a 'conceptual model' of all potential pollutant linkages, detailing the identified sources, pathways and receptors and basis of risk assessment.
3. a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed.

Before the development hereby permitted first comes into use or is occupied, a Verification/Validation report to demonstrate that remediation works have been incorporated in the development in compliance with the agreed requirements shall be submitted and agreed in writing by the Local Planning Authority.

REASON: To ensure potential land contamination is addressed.

8) In the event that previously unidentified contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved by the Local Planning Authority. . The approved works shall be carried out in accordance with the approved timescales and on completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

REASON: To ensure risks from contamination are minimised.

9) The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (Calcinotto, Rev. 3, dated 27 September 2018) and the following mitigation measures detailed therein:-

- 1 Provision of compensatory flood storage (Appendix E of Flood Risk Assessment).
- 2 finished floor levels set no lower than 5.6 metres above Ordnance Datum (AOD).

REASON: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants

10) Before the development hereby approved is occupied or utilised a Flood Warning and Evacuation Plan shall be submitted and agreed in writing by the Local Planning Authority. The approved Flood Warning and Evacuation Plan must be displayed in locations on the site agreed in writing by the Local Planning Authority before any part of the development hereby permitted is occupied or is brought into use. Thereafter, the Flood Warning and Evacuation Plan must be permanently displayed in the agreed locations.

REASON: To minimise the impact of future occupiers to the risk of flooding.

11) Prior to first occupation of the development a Noise Report of BS4142 or equivalent on the cumulative impact of any fixed plant at the proposed development against the background levels when in operation shall be submitted to and agreed in writing by the Local Planning Authority. The report shall also address any need for mitigation should the background levels be exceeded and if mitigation is required the mitigation measures will be carried out in accordance with the report prior to first occupation of the development. Thereafter the development should be carried out and maintained in accordance with the agreed report.

REASON: In the interests of residential amenity.

12) No development shall take place until a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and including clarification of how surface water is to be managed during construction, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be fully implemented in accordance with the submitted details before the development is completed.

REASON: To prevent the increased risk of flooding.

13) No development shall take place until details of maintenance & management of the surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

REASON: To ensure future maintenance of the surface water drainage system and to prevent the increased risk of flooding.

14) The development shall not be commenced until a foul water drainage strategy is submitted and agreed in writing by the Local Planning Authority. The scheme shall include appropriate arrangements for the agreed points of connection. The drainage scheme shall be completed in accordance with the approved details prior to first occupation of the development.

REASON: To ensure that proper provision is made for sewage of the site.

15) The development hereby approved shall be carried out and maintained in accordance with the approved Biodiversity Mitigation Plan signed by John Broomfield and dated 14/08/2018 and agreed by Natural Environment Team on 17/08/2018, unless a subsequent variation is agreed in writing with the Council.

REASON: In the interests of biodiversity mitigation and enhancement.

16) Prior to the commencement of the development, a Construction Traffic Management Plan and programme of works shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include construction vehicle details (number, size, type and frequency of movement), vehicular routes, delivery hours and contractors' arrangements (compound, storage, parking, turning, surfacing, drainage and wheel wash facilities), and details of working hours. The development shall be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: In the interests of road safety and neighbouring amenity.

## Informatives

### Highways:

The applicant is advised that the works required to construct the footway improvement in Flood Lane must be completed under a suitable agreement and form part of the Public Highway in order to pursue this the applicant should contact Dorset County Council's Development Team. They can be reached by telephone at 01305 225401, by email at [DLI@dorsetcouncil.gov.uk](mailto:DLI@dorsetcouncil.gov.uk) or in writing at Highway Development Team, Environment and the Economy, County Hall, Colliton Park, Dorchester DT1 1XJ.

### Land Contamination:

Based on information reviewed to date AND providing that the Consultant provides further information regarding an above ground tank indicated at the site in the initial CSM, the Phase 1 Desk Study Report could be considered to comply with Part (a) of the recommended contaminated land planning condition.

For the site investigation works, WPA recommends that a detailed investigation strategy is submitted to the LPA prior to undertaking the intrusive site works, in

order to avoid disagreements over methodology at a later stage. WPA stresses that all site investigation works should comply with current guidance including BS 5930:2015BS, 10175:2011+A2:2017 and BS 8576:2013, BS 8485:2015 and CIRIA C665 for ground gas. Flood

### Flood Risk:

In view of the potential flood risks in this locality, we would advise that any developer of this site gives consideration to the use of flood resilient construction practices and materials in the design and build phase. Choice of materials and simple design modifications can make the development more resistant to flooding in the first place, or limit the damage and reduce rehabilitation time in the event of future inundation.

Guidance is available within the Department for Communities and Local Government publication 'Improving the Flood Performance of New Buildings – Flood Resilient Construction, May 2007' available at:-

<https://www.gov.uk/government/publications/flood-resilient-construction-of-newbuildings>

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>

Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced. Water efficiency measures should be incorporated into this scheme. This conserves water for the natural environment and allows cost savings for future occupants. The development should include water efficient systems and fittings such as: dual-flush toilets; water-saving taps; water butts; showers and baths. Greywater recycling and rainwater harvesting should also be considered.

In accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction. If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on our website <https://www.gov.uk/how-to-classify-different-types-of-waste>

Foul Drainage:

The developer must agree a scheme of protection works with the Wessex Water Regional Development engineer for construction in close proximity of the rising main. The rising main and easement width must be clearly marked on site and on construction plans.

**B) Refuse permission for the reasons set out below if the agreement is not completed by six months from the date of committee or such extended time as agreed by the head of planning**

1) The development by reason of the lack of a suitably worded S106 agreement to secure the 35% affordable housing provision as a financial contribution is considered to be contrary to policy HOUS1 of the West Dorset, Weymouth & Portland Local Plan (2015) and Section 5 of the National Planning Policy Framework (2019).

**APPLICATION NUMBER: WD/D/16/00378**

**APPLICATION SITE: Land south of Warmwell Road, Warmwell Road, Crossways**

**PROPOSAL:** Full planning permission for the erection of 99 open market dwellings & affordable dwellings, a new doctors surgery, a replacement village hall, a car park, a new village green, new vehicular and pedestrian accesses and works to Warmwell Road. An outline application for the erection of 401 open market and affordable dwellings, the provision of 2.5ha of employment land, new vehicular and pedestrian accesses, roads, footpaths and cycleways, a car park for the proposed Site of Alternative Natural Greenspace (SANG) and 2 pumping stations; and a full application for the change of use of 22.4ha of land to Site of Alternative Natural Greenspace (SANG).

**Decision: A: Delegate authority to the Head of Planning to grant planning permission subject to planning conditions as detailed below and the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) in a form to be agreed by the Head of Planning to secure the following:**

- 35% of the units as affordable housing with 50/50 tenure split between rented and shared ownership/low-cost affordable housing
- A clause to revisit the viability of the scheme and the affordable housing provision at 100, 200, 300 & 400 units
- Education contribution of £5,444 per dwelling with 2 or more bedrooms, index linked using RPI from the date of this committee report
- Provision of a minimum of 22.4ha of suitable alternative natural greenspace (SANG) with a maintenance contribution of £960,000 and supporting funding provisions of £241 per dwelling (SANG), index linked using RPI from the date of this committee report
- Financial contribution of £149,089 towards mitigation for the impacts of the development on nitrogen levels in Poole Harbour, index linked using RPI from the date of this committee report
- Highway contributions of £560,000 towards off-site highway works to include works to Warmwell Road and a Cycle Route Scheme, index linked using RPI from the date of this committee report,
- Provision of a minimum of three no. Locally Equipped Areas for Play, approval of maintenance and management arrangements and financial contributions towards maintenance of the proposed LEAPs of £58,540 index linked using RPI from the date of this committee report if they are transferred to the Parish Council to manage and maintain

**Planning Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing Number 1677 P 01 received on 12/02/2016 Terrace - Type D - Proposed Floor Plans & Roof Plan - Drawing Number P-D-01 received on 12/02/2016  
Terrace - Type D - Proposed Elevations - Drawing Number P-D-02 received on 12/02/2016  
Mews - Type F - Proposed Floor Plans & Roof Plan - Drawing Number P- F-01 received on 12/02/2016  
Mews - Type F - Proposed Elevations - Drawing Number P-F-02 received on 12/02/2016  
Townhouse G - Type G - Proposed Floor Plans & Roof Plan - Drawing Number P-G-01 received on 12/02/2016  
Townhouse G - Type G - Proposed Elevations - Drawing Number P-G-02 received on 12/02/2016  
Manor - Type I - Proposed Floor Plans - Drawing Number P-I-01 received on 12/02/2016  
Manor - Type I - Proposed Roof Plan - Drawing Number P-I-02 received on 12/02/2016  
Manor - Type I - Proposed Elevations - Drawing Number P-I-03 received on 12/02/2016  
Townhouse K - Type K Proposed Floor Plans & Roof Plan - Drawing Number P-K-01 received on 12/02/2016  
Townhouse K - Type K - Proposed Elevations - Drawing Number P-K-02 received on 12/02/2016  
Single Garage - Floor plans and Elevations - Drawing Number P-GAR-01 received on 12/02/2016  
Double Garage - Floor plans and Elevations - Drawing Number P-GAR-02 received on 12/02/2016  
Refuse & Cycle Store - Floor Plans & Elevations - Drawing Number 1677 P-REF-01 received on 12/02/2016  
Garden Store - Floor plans and Elevations - Drawing Number 1677 P-SHE-01 received on 12/02/2016  
Surgery - Proposed Elevations - Drawing Number 1677 P SU 03 received on 12/02/2016  
Surgery - Perspective - Drawing Number 1677 P SU 05 received on 12/02/2016  
Village Hall - Floor Plan - Drawing Number 1677 P VH 01 received on 12/02/2016  
Village Hall - West Elevation - Drawing Number 1677 P VH 02 received on 12/02/2016  
Village Hall - East Elevation - Drawing Number 1677 P VH 03 received on 12/02/2016  
Village Hall - North & South Elevations - Drawing Number 1677 P VH 04 received on 12/02/2016  
Proposed Roof Plan - Drawing Number 1677 P VH 05 received on 12/02/2016  
Surgery - Proposed Elevations - Drawing Number 1677 P SU 04 Rev. A received on 18/09/2016  
Site plan: Drwg. No. 1677 P 02 REV E (Amended) received on 18/09/2016 Block plan: Sheet 2 of 5 Drwg. No. 1677 P 03-2 REV A (AMENDED) received on 18/09/2016



Block plan: Sheet 1 of 5 Drwg. No. 1677 P 03-1 REV A (AMENDED) received on 18/09/2016

Block plan: Sheet 3 of 5 Drwg. No. 1677 P 03-3 REV B (AMENDED) received on 18/09/2016

Block plan: Sheet 4 of 5 Drwg. No. 1677 P 03-4 REV A (AMENDED) received on 18/09/2016

Block plan: Sheet 5 of 5 Drwg. No. 1677 P 03-5 REV A (AMENDED) received on 18/09/2016

Materials Sheet 2 - Drawing Number 1677 P10-2 Rev. A (AMENDED) received on 18/09/2016

Materials Sheet 1 - Drawing Number 1677 P10-1 Rev. A (AMENDED) received on 18/09/2016

Proposed Streetscene A-A - Drawing Number 1677/P07 REV A (AMENDED) received on 18/09/2016

Proposed Streetscene B-B - Drawing Number 1677/P08 REV A (AMENDED) received on 18/09/2016

Cottage - Drwg. No. P-P-02 TYPE P ELEVATIONS received on 18/09/2016

Cottage - Floor Plans Drawing Number P-P-01 TYPE P PLANS received on 18/09/2016

Dovecote Elevations - Drawing Number P-N-02 TYPE N received on 18/09/2016

Dovecote Floor Plan - Drawing Number P-N-01 TYPE N received on 18/09/2016

Lodge Elevations - Drawing Number P-M-02 TYPE M received on 18/09/2016

Lodge Floor Plan - Drawing Number P-M-01 TYPE M received on 18/09/2016

Grange - Elevations: Drawing Number P-J-02 REV A TYPE J (AMENDED) received on 18/09/2016

Grange - Floor Plan: Drawing Number P-J-01 REV A TYPE J (AMENDED) received on 18/09/2016

Townhouse H - Elevations: Drawing Number P-H-02 REV A TYPE H (AMENDED) received on 18/09/2016

Townhouse H - Floor Plan: Drawing Number P-H-01 REV A TYPE H (AMENDED) received on 18/09/2016

Townhouse G (Gable Front) - Elevations: Drawing Number P-G-04 REV A TYPE G (AMENDED) received on 18/09/2016

Townhouse G (Gable Front) - Floor Plan: Drawing Number P-G-03 REV A TYPE G (AMENDED) received on 18/09/2016

Farmhouse - Elevations: Drawing Number P-E-02 REV B TYPE E (AMENDED) received on 18/09/2016

Farmhouse - Floor Plan: Drawing Number P-E-01 REV B TYPE E (AMENDED) received on 18/09/2016

Wide Front - Elevations: Drawing Number P-C-02 REV A TYPE C (AMENDED) received on 18/09/2016

Wide Front - Floor Plan: Drawing Number P-C-01 REV A TYPE C (AMENDED) received on 18/09/2016

Townhouse B - Elevations: Drawing Number P-B-02 REV B TYPE B (AMENDED) received on 18/09/2016

Townhouse B - Floor Plan: Drawing Number P-B-01 REV C TYPE B (AMENDED) received on 18/09/2016  
Apartment - Elevations (front & side): Drawing Number P-A-05 REV A TYPE A (AMENDED) received on 18/09/2016  
Apartment - Elevations (rear & side): Drawing Number P-A-06 REV A TYPE A (AMENDED) received on 18/09/2016  
Apartment - Roof Plan: Drawing Number P-A-04 REV A TYPE A (AMENDED) received on 18/09/2016  
Apartment - Ground Floor Plan: Drawing Number P-A-01 REV A APARTMENTS PLOTS 2-7 (AMENDED) received on 18/09/2016  
Apartment - 1st Floor Plan: Drawing Number P-A-02 REV A APARTMENTS PLOTS 2-7 (AMENDED) received on 18/09/2016  
Apartment - 2nd Floor Plan: Drawing Number P-A-03 REV A APARTMENTS PLOTS 2-7 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_05 PLANTING PLANNING SHEET 1 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_06 PLANTING PLAN SHEET 2 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_07 PLANTING PLAN SHEET 3 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_08 PLANTING PLAN SHEET 4 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_04B WARMWELL RD PLANTING PLAN SHEET 2 (AMENDED) received on 18/09/2016  
Surgery - Ground Floor plans: Drawing Number 1677 P SU 01 REV A (AMENDED) received on 18/09/2016  
Surgery - 1st Floor & Roof Plan: Drawing Number 1677 P SU 02 REV A (AMENDED) received on 18/09/2016  
Affordable Housing Plan - Drawing Number 1677 P 09 Rev. D received on 07/08/2017  
Village Hall and Doctors Surgery Materials - Drawing Number 1677 P11 received on 19/10/2017  
Proposed Streetscene B-B Drwg no. 1677/P08 Rev A received on 16/09/2016  
Refuse & Cycle Store - Floor Plan and Elevations Drwg no. 1677 P-REF- 01 received on 20/08/2019

REASON: For the avoidance of doubt and in the interests of proper planning.

### **Outline Consent**

2. Approval of the details of the access, layout, scale and appearance of the development and the landscaping of the site (hereinafter called the Reserved Matters) for the remainder of the site outside of the full permission granted for Phase1 of this hybrid permission shall be obtained from the Local Planning Authority in writing before any development is commenced on these other phases of the development.

REASON: To ensure the satisfactory development of the site.

3. Application for approval of any “reserved matter” under Condition 2 must be made not later than the expiration of ten years beginning with the date of this permission.

REASON: This condition is required to be imposed by Section 92 of the Town and Country Planning Act 1990.

4. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved

REASON: This condition is required to be imposed by Section 92 of the Town and Country Planning Act 1990 (as amended).

5. Not more than 401 dwellings in total shall be constructed under this outline permission.

REASON: The assessment of the impacts of the scheme are based on a maximum of 500 dwellings across the whole site and additional dwellings would require further assessments of impacts to heathland SSSIs.

## **Phasing**

6. Prior to the commencement of the development a Phasing Plan for the entirety of the development shall be submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall make provision for:

- a) Extraction of the mineral interest in accordance with a scheme to be first approved in writing by the Local Planning Authority from the area outlined in red on the Site Location Plan Drwg no. 1701 P01 Rev A prior to the commencement of any development the subject of this outline planning permission within that same area.
- b) Delivery of the Village Green as part of Phase 1. No further dwellings in later phases to be constructed until it is complete.
- c) Delivery of serviced employment land as part of the development of the adjacent residential phase.
- d) Provision of allotments as part of the development of the adjacent residential phase.
- e) Provision of Locally Equipped Areas for Play as part of the development of the adjacent residential phase.
- f) The proposed village hall and adjacent parking spaces being constructed and ready for first use prior to the demolition of the existing village hall or the occupation of the 250<sup>th</sup> dwelling, whichever is soonest, and the submission of a scheme for the interim landscaping of the proposed village hall site until such time as the village hall is constructed. The interim landscaping scheme for the village hall site is to include details of the planting and its maintenance and shall be implemented and completed in full as part of Phase 1 and shall be maintained and retained thereafter until such time as the village hall is constructed on the site.

- g) Provision of the doctor's surgery.

Thereafter the development shall be carried out in accordance with the phasing plan and any subsequent changes to the agreed phasing plan must also be agreed in writing by the Local Planning Authority.

REASON: In the interests of achieving the objectives of the Local Plan and the site specific policy.

## Highways

7. The highway improvements to the Warmwell Road on the site frontage shall be constructed substantially in accordance with the submitted details shown on the application drawings before the development is first occupied.

REASON: In the interests of road safety.

8. The Phase 1 full application hereby permitted shall not be occupied or utilised until the access, geometric highway layout, parking and turning areas shown on the application drawings have been constructed, unless otherwise agreed in writing by the Local Planning Authority. Thereafter, these shall be maintained, kept free from obstruction and available for the purposes specified.

REASON: In the interests of road safety.

9. No more than 100 residential units (to include 35% affordable housing) shall be occupied until the A35 Max Gate junction arrangement, as shown in the WYG Transport drawing "SK09" dated 21 October 2015 is completed and open to traffic, unless any variation in the design of the proposals is otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the safe and efficient operation of the Strategic Road Network (A35).

10. No development shall be commenced until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority.

The plan shall include construction vehicle movements, operation hours, vehicular routes to and from the site, delivery hours, expected number of vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Practice and a scheme to encourage the use of public transport amongst contractors. The plan shall include contractors' arrangements (compound, storage, parking, turning, surfacing, drainage and wheel wash facilities). The plan shall also include a scheme of signing of the heavy vehicle route to the site agreed with advice/warning signs at appropriate points.

The CTMP shall thereafter be implemented in accordance with the approved details upon the commencement of the construction phase of the development and be adhered to for the complete duration of the construction programme, unless a variation to the CTMP is otherwise first agreed in writing by the Local Planning Authority.

REASON: To ensure the safety of traffic on the Strategic Road Network.

### **Travel Plans**

11. Before the development hereby approved is first occupied or utilised the Travel Plan and Strategy included in the submissions shall be implemented and operational.

REASON: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

12. Prior to the submission of any reserved matters under Condition 2 above for the approved employment allocation, a Travel Plan suitable to deal with the travel impacts of the whole 2.5ha employment allocation shall be submitted to and approved in writing by the Local Planning Authority. The employment Travel Plan shall be implemented in accordance with its agreed details prior to the first occupation of any approved employment building on the site.

REASON: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

### **Drainage**

13. No development shall take place until a detailed and finalised surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by the Local Planning Authority. The surface water scheme shall be implemented in accordance with the submitted details before the development is completed.

REASON: To prevent increased risk of flooding and to improve and protect water quality.

14. No development shall take place until details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

REASON: To ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

### **Foul Water**

15. The development shall not be commenced until a foul water drainage strategy has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing. The drainage scheme shall thereafter be completed in accordance with the approved details and to a timetable to be agreed in writing with the local planning authority.

REASON: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property.

### **Contaminated Land**

16. Prior to the commencement of development an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation, risk assessment and scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

The report of the findings must include:

- (a) A survey of the extent, scale and nature of contamination;
- (b) An assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
- (c) An appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11".

REASON: In the interests of ensuring there is no unacceptable risk to occupiers of the development.

17. Before commencement of development, should a remediation scheme be required based on the outcomes of the investigation and risk assessment required by condition no. 17 and the written response of the local planning authority as to whether a remediation scheme is required, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, shall be submitted and be subject to the approval in writing of the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

REASON: In the interests of ensuring there is no unacceptable risk to occupiers of the development.

18. Any approved remediation scheme agreed by the Local Planning Authority as a result of condition no. 18 must be carried out in accordance with its terms, or such other terms which have first been agreed in writing by the Local Planning Authority, prior to the commencement of development other than that required to carry out remediation, unless a remediation phasing scheme is first agreed in writing by the Local Planning Authority, in which case the remediation shall be carried out in accordance with such scheme as has been agreed. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

REASON: In the interest of ensuring there is no unacceptable risk to occupiers of the development.

19. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be submitted to and approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of ensuring there is no unacceptable risk to occupiers of the development.

## **Employment Allocation**

20. The development shall provide a minimum of 2.5 hectares of employment land. No dwelling adjoining the eastern boundary of the residential development, adjacent to the proposed employment access road within the Character Areas 4, 5 & 6 as set out on page 48 of the submitted Design & Access Statement, shall be occupied before the employment allocation has been provided as serviced employment land in accordance with the phasing scheme submitted under condition 6 above.

REASON: In the interests of securing the economic benefits of this Key Employment Site allocation in the Local Plan.

21. Buildings constructed within the employment allocation hereby approved shall not exceed a total floorspace of 13,000 square metres (measured externally).

REASON: In the interests of the impacts of the traffic generated by that level of employment development on the strategic highway network.

## **Biodiversity**

22. Prior to the commencement of the development of each phase agreed by condition no. 6, a Biodiversity Mitigation Plan (BMP) for that phase based on up-to-date ecological survey work which is not more than 2 years old at the time of the submission of the BMP shall be submitted to and approved in writing by the Local Planning Authority. Each Biodiversity Mitigation Plan will include details of the review process to be implemented at the time of commencement of development if the survey work on which the BMP is based is more than 2 years old. The development shall thereafter be carried out in accordance with the approved details unless any subsequent variation is agreed in writing by the Local Planning Authority.

REASON: In order to protect the landscape qualities of the area and to safeguard and enhance the ecological value of the site.

## **Scheduled Ancient Monument**

23. The submission of details of reserved matters under Condition 2 shall make provision for a minimum 5m buffer around the identified remains of the Bowley's Plantation enclosure as set out on page 10 of the submitted Settings Assessment by Context One received on 16<sup>th</sup> October 2017.

REASON: In the interests of the setting of the Scheduled Ancient Monument.



## **Broadband**

24. No development above damp proof course of any building hereby approved shall take place until a scheme for facilitating infrastructure to support superfast broadband technology to serve the development has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a timetable for implementation, including triggers for a phased implementation if appropriate. Thereafter, the development shall proceed in accordance with the agreed scheme.

REASON: To ensure that the utilities service infrastructure is sufficient to meet the extra demands imposed by this development.

## **Phase 1 Detailed Consent**

25. The village hall hereby approved shall be laid out with a full-size badminton court in the main hall as shown on Drwg No. 1677 P VH 01 prior to the Village Hall first being brought into use.

REASON: In the interests of sports provision.

26. The Phase 1 full permission shall be carried out in accordance with the materials details in the approved Drwg No's 1677 P10-1 Rev A, 1677 P10- 2 Rev A & 1677 P11. No development above damp proof course level of any dwelling approved under the Phase 1 full permission shall take place before samples of the materials to be used on that building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these details unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the character and appearance of the area.

27. The development shall be carried out in accordance with the boundary treatments set out in the approved plans Drwg. No's 1677 P 03-1 to 5 Rev A. The boundary treatments to each individual building shall be completed in their entirety prior to the first occupation of the building concerned. The boundary treatments shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the character and appearance of the area.

28. The development of the Phase 1 full permission shall be carried out in accordance with the landscaping details set out in the approved plans Drwg. No's TD742\_04B & TD742\_05 – 08. The landscaping shall be carried out in accordance with the soft landscape works specification set out on the approved plan Drwg. No. TD472\_08. No development above damp proof course level shall be carried out until a timetable for the implementation of the landscaping has been submitted to and approved in writing by the Local Planning Authority. Thereafter the landscaping shall be carried out in accordance with the approved timetable. Any trees or plants which, within a period of 5 years from the completion of the development, die are removed or become seriously damaged or diseased shall be replaced in the next planting

season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping shall thereafter be retained.

REASON: In the interests of the character and appearance of the location.

29. The development shall be carried out wholly in accordance with the Arboricultural Assessment & Method Statement by Barrell Tree Consultancy dated January 2016. The agreed tree protection measures shall be retained during the course of the development and there shall be no variation to the agreed protection measures without the prior written agreement of the Local Planning Authority.

REASON: To protect preserved trees within and adjoining the site during construction in the interests of preserving the character of the area.

### **Sustainable Transport Options**

30. No development above damp proof course of any dwelling in the phase 1 full application area shall be carried out until a scheme showing how the charging of plug-in and other ultra-low emission vehicles is to be provided in safe, accessible and convenient locations has been submitted to and approved in writing by the Local Planning Authority. Furthermore as part of any reserved matters application relating to design, details shall be provided to enable the charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations within the development. Thereafter the development shall be carried out in accordance with such details as have been approved by the Local Planning Authority.

REASON: To ensure that adequate provision is made to enable occupiers of and visitors to the development to be able to charge their plug-in and ultra-low emission vehicles.

### **Informative Notes**

Informative Note: The development of the later phases of the outline permission shall substantially accord with the layout and details of the Illustrative Masterplan Drwg no. 1677/P04 Rev C.

Informative Note: The applicant is advised that, notwithstanding this consent, if it is intended that the highway layout be offered for public adoption under Section 38 and those works under Section 278 of the Highways Act 1980, the applicant should contact Dorset Council's Development team. They can be reached by telephone at 01305 225401, by email at [dli@dorset.gov.uk](mailto:dli@dorset.gov.uk), or in writing at Development Team, Dorset Highways, County Hall, Dorchester, DT1 1XJ.

Informative Note: If the applicant wishes to offer for adoption any highways drainage to Dorset Council, they should contact the Highway's Development team at [dli@dorset.gov.uk](mailto:dli@dorset.gov.uk) as soon as possible to ensure that any highways drainage proposal meets the Council's design requirements.

Informative Note: Prior Land Drainage Consent (LDC) may be required from Dorset Council's FRM team, as relevant LLFA, for all works that offer an obstruction to flow to a channel or stream with the status of Ordinary Watercourse (OWC) – in accordance with S23 of the Land Drainage Act 1991. The modification, amendment or realignment of any OWC associated with the proposal under consideration, is likely to require such permission. We would encourage the applicant to submit, at an early stage, preliminary details concerning in-channel works to the FRM team.

Informative Note: The applicant intends to rely heavily on infiltration. They will therefore need to demonstrate, through further post extraction ground investigation, that soakaways remain feasible. Given the proposed use of soakaways across the site, it is important that soakaway tests and ground water readings are representative of all the areas expected to support infiltration. The Council's FRM team as relevant LLFA will be unable to discharge the relevant condition above without detailed information concerning ground conditions that substantiate the use of drainage through infiltration. Should the site, after mineral extraction, be found not to support infiltration, then the applicant will need to propose alternate and detailed designs for capturing and attenuating surface water.

Informative Note: The highway proposals for the A35(T) associated with this consent involve works within the public highway, which is land over which you have no control. Highways England therefore requires you to enter into a suitable legal agreement to cover the detailed design and construction of the works. Please contact the Asset Manager, Steve Hellier (Tel: 0300 470 4383) at an early stage to discuss the details of the highways agreement. The applicant should be aware that an early approach to Highways England is advisable to agree the detailed arrangements for financing the design and construction of the scheme. Commencement of works will also need to be timed to fit in with other road works on the strategic road network or local road network to ensure there are no unacceptable impacts on congestion and road safety. Please be advised that Highways England will charge Commuted Sums for maintenance of schemes delivered by third parties. These will be calculated in line with HM Treasury Green Book rules and will be based on a 60 year infrastructure design life period.

Informative Note: At all times, a contact telephone number shall be displayed on site for members of the public to use to raise issues. A named person will also be provided for Environmental Health in order for contact to be made should complaints be received. The use of any radio / amplified music system on site must be kept at a level not to cause annoyance to noise sensitive premises beyond the boundary of the site. Any future sub-contractors to the site shall be made aware of, and comply with any guidelines/conditions relating to site management of emissions of noise, dust, smoke, fumes etc. made in as part of the determination of this application. Letter drops to adjacent residents in close proximity should be considered as part of the construction phase to give a minimum of 48 hours notice of any exceptional activities proposed. Any waste arising at the site shall be appropriately segregated and controlled prior to its removal by an appropriately licensed contractor. Any waste

arising from the activity which could potentially be contaminated in any way shall also be segregated again, and removed appropriately. Environmental Health must be informed if this occurs.

Informative Note: The applicant's attention is drawn to the response of the Council's Rights of Way officer and the need to secure diversions for the existing rights of way.

**Recommendation B: Refuse permission for the reasons set out below if the S106 agreement is not completed within 6 months of the date of the committee resolution or such extended time as agreed by the Head of Planning.**

1. Policy HOUS1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 requires a minimum on-site provision of 35% of the units as affordable housing. In the absence of a planning obligation to secure these affordable units the scheme would fail to meet the substantial unmet need for affordable housing in the district and the proposal would therefore be contrary to Policy HOUS1 of the adopted Local Plan.

2. Policy COM1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 sets out that where new development will generate the need for new or improved community infrastructure and this need is not being met through the Community Infrastructure Levy, suitable provision should be made on site. Policy CRS1 of the Local Plan sets out the expected infrastructure for this site and its development. In the absence of a planning obligation to secure the required community infrastructure the scheme would fail to mitigate the increase in demand for the necessary infrastructure to support the development and to avoid and mitigate for the adverse effects upon internationally designated heathlands and additional nutrient loading upon the Poole Harbour internationally designated sites. It would namely fail to provide for:

Education;

Recreation spaces in the form of Sites of Alternative Natural Greenspace and the supporting maintenance and funding mechanisms required for the future;

Mitigation of the impacts upon the Poole Harbour internationally designated sites;

Highway improvements; Children's play provision.

In the absence of a planning obligation the proposals therefore fail to meet the provisions of Policies COM1, CRS1, INT1, ENV2 and COM7 of the West Dorset, Weymouth and Portland Local Plan (2015) and the National Planning Policy Framework (2019).

**APPLICATION NUMBER: WP/19/00445/FUL**

**APPLICATION SITE: Council Offices, North quay, Weymouth DT4 8TA**

**PROPOSAL: Demolition of existing building and provision of car park.**

**Decision: Refuse permission for the following reason:-**

The demolition as proposed is unacceptable as it does not encourage the reuse of existing resources, including the conversion of existing buildings; and as such is contrary to para. 148 of the National Planning Policy Framework 2019.

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**Appendix 25: Four Paddocks Conservation, Landscape & Urban Design  
objection**

**LOCATION:** FOUR PADDOCKS, LAND SOUTH OF ST GEORGES ROAD, DORCHESTER

**APP REF:** P/FUL/2021/02623

**PROPOSAL:** ERECTION OF 108NO. DWELLINGS & ASSOCIATED WORKS, INCLUDING THE FORMATION OF ACCESS, LANDSCAPE & ECOLOGICAL ENHANCEMENTS

**CASE OFFICER:** ROSS CAHALANE

**SITE VISIT:** 27/09/2021

### **CONSERVATION & DESIGN OFFICER FURTHER COMMENTS**

<b>SUPPORT</b>	
<b>SUPPORT SUBJECT TO CONDITIONS</b>	
<b>UNABLE TO SUPPORT</b>	<b>X</b>
<b>NO OBJECTION</b>	
<b>REQUEST FOR FURTHER INFORMATION</b>	
<b>OTHER / PRE-APP</b>	

### **SUMMARY**

The proposal will result in the following impacts on the significance of affected heritage assets, including any contribution made by their setting:

	<b>Grade</b>	<b>No harm</b>	<b>Less than Substantial harm</b>	<b>Substantial harm</b>
<b>Henge Enclosure, Conquer Barrow &amp; Barrow Cemetery (1002463)</b>	<b>SM</b>	<b>X</b>		
<b>Max Gate (1110618)</b>	<b>I</b>		<b>X</b>	
<b>79 St George's Road (1119009)</b>	<b>II</b>		<b>X</b>	
<b>Louds Mill (1119010)</b>	<b>II</b>	<b>X</b>		
<b>Flagstones causewayed enclosure (MDO18013)</b>	<b>ND</b>		<b>X</b>	
<b>Late Iron Age Field System (MDO18016)</b>	<b>ND</b>			<b>X</b>
<b>Medieval Settlement and Agriculture Remains</b>	<b>ND</b>			<b>X</b>

<b>In the view of the Conservation Officer, is the harm caused outweighed by public benefits and/or are other NPPF/Local Plan policy tests met?</b>	<b>No</b>
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## **RELEVANT POLICY / GUIDANCE**

In assessing the proposals, due consideration has been given to the following:

- Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), ss. 66, 72
- National Planning Policy Framework (NPPF): section 16, in particular paras. 194-208
- Planning Practice Guidance (PPG), s.v. 'Historic Environment'
- West Dorset Weymouth & Portland adopted Local Plan, in particular Policies DOR8, DOR9 and ENV4
- Dorset Local Plan (emerging), in particular Policy DOR8
- Design and Sustainable Development SPD (2009)
- West Dorset Weymouth & Portland Strategic Landscape and Heritage Study. Stage 2 Assessment: Dorchester [LUC] (LUC, 2018)
- Historic England, Local Heritage Listing, 2<sup>nd</sup> edn (2021)
- Historic England, The Setting of Heritage Assets, 2<sup>nd</sup> edn (2017)
- Max Gate Conservation Management Plan [CMP] (FB Heritage, 2021)

## **SIGNIFICANCE OF AFFECTED HERITAGE ASSETS (NPPF, PARAS. 194-195)**

An outline of the significance of designated and non-designated heritage assets potentially affected by the development can be found in our previous comments of 28 October 2021.

## **IMPACTS ON AFFECTED HERITAGE ASSETS (NPPF, PARAS. 199-200)**

### **Designated Heritage Assets**

NPPF para. 199 requires that 'great weight' be given to the conservation of designated heritage assets and the more important the asset, the greater the weight should be. In addition, para. 200 requires any level of harm to their significance should require 'clear and convincing justification'.

Our previous comments (28 October 2021) identified less than substantial harm to the significance of designated heritage assets, including Max Gate (Grade I, and therefore an asset of the highest significance) and 79 St George's Road (Grade II). Since these comments, amended drawings have been received, along with a response letter from Landgate heritage (dated 10 November 2021). The latter correctly states the main area of objection in the scheme is the impact on the significance of Max Gate through development within its setting. With that in mind, it is only on this aspect of the proposals that we are focussed here.

Our assessment of this harm, arising from the loss of the open setting to the N of Max Gate, related mainly to non-visual aspects of setting change, specifically relating to a negative change in a surrounding character which, even though diminished partly by modern development in the vicinity, remains clearly and legibly contributory to understanding why Hardy built his house here. This can be conveniently summarised through brief citation from our previous comments, namely through the diminishment of our ability to understand and appreciate

*Hardy's own 'personal relationship' to the Wessex landscape (LUC, p. 19) and his intended exploitation of that by the choice of site and, second, [the reflection of] the previously isolated character of its original surroundings which make it attractive as a location for a Victorian suburban villa.*

The amended site layout drawing for Sector C (C G Fry drawing no. SP-004C), i.e. that sector immediately to the N of Max Gate, appears to show a slight amendment to the SW corner of the site with the removal of a dwelling in favour of a patch of public open space; the change of one dwelling to single-storey; and replacing a garage block with a two-storey dwelling. Whilst we acknowledge that these amendments present an attempt, however minimal, to lessen the impact on Max Gate, they still seem to have been conceived purely with visual considerations in mind. It does not address the issue of creating a new residential area, fairly densely developed at c. 21

dwellings, on a site whose *lack* of development is a contributory element to the significance of a designated heritage asset of the highest significance.

In responding to the assessment of increasing suburbanisation, the Landgage letter states that the reinforcement of planting on the S boundary of the application site effectively strengthens and reiterates Hardy's own desire for privacy which led to planting on the N boundary of Max Gate, i.e. by retaining 'the legibility of Hardy's desire for privacy'. However, in our view this suggestion is not only tenuous in itself, but does not deal with the central issue of increasing suburbanisation, for which the latter only reiterates a point made in the first submissions, namely that 'the surroundings of the house are already somewhat "sub-urban" in nature'. This position was dealt with in our previous comments. The letter also reiterates points previously made with regard to the experience of the house from within its own grounds, for which see Landgage Heritage Assessment (June 2021), 4.2.5 (p. 18) and 5.2.4 (p. 29).

As we have previously stated, and as is stated in the National Trust's most recent comments (dated 29 April 2022) views in and out of Max Gate are not the only relevant aspect of setting to be considered. Whilst the letter makes much of Hardy's increased planting, with an implication that this effectively replaced any outward intent with one of 'seclusion', it does not address the evidence provided for understanding the non-visual, contextual factors which clearly influenced this choice of site. It is surely beyond dispute that the application site is undeveloped. It is this *undeveloped character* of the application site, a remaining and contributory element to understanding and appreciating Hardy's intentional northward views towards Stinsford and Max Gate's original setting, which will be permanently and irretrievably lost. No additional evidence, e.g. through further research, has been provided to suggest that the interpretation advanced for the contribution of this part of the application site to Max Gate's significance should be revised.

Finally, we note that the letter advocates the 'spectrum' of harm. This needs only brief comment to state that placing harm on a spectrum, whilst not unlawful, has been found *not* to be explicitly or implicitly required in the NPPF. The reasons for the invention of this 'spectrum' are manifold, but, in our view, largely result from a misinterpretation of the (admittedly ambiguous) wording from the PPG, cited in Landgage's letter. This paragraph was clearly intended to communicate that the effect of the harm on the various elements of significance identified for a particular asset should be articulated, something which a spectrum certainly does not achieve.

In summary, we retain the concerns previously expressed and clearly still held by Historic England and the National Trust. We remain of the view that the proposals will result in **less than substantial harm** to the significance of Max Gate through detrimental development within its setting.

### **Non-Designated Heritage Assets**

We have no further comments to add to our previous assessment and conclusions relating to harm to the identified heritage assets.

## **PUBLIC BENEFITS / BALANCED JUDGEMENT (NPPF, PARAS. 201-203)**

### **Designated Heritage Assets**

The proposals will result in **less than substantial harm** to the significance of designated heritage assets, meaning that para. 202 of the NPPF engaged, requiring the harm to be weighed against the public benefits of the proposals, though taking into account the 'great weight' to be given to the conservation of heritage assets, including here one of the 'highest significance'. The more important the asset, the greater the weight should be.

### **Non-Designated Heritage Assets**

Our conclusions here remain as stated in our previous comments, dated 28 October 2021.

## **SUGGESTED REASON FOR REFUSAL**

1. The proposals will result in less than substantial harm to the significance of a designated heritage asset of the highest national significance (Max Gate), which is not clearly and convincingly justified through overriding public benefits. For these reasons, the requirements of NPPF paras. 202 and Policy ENV4 of the adopted West Dorset Weymouth and Portland Local Plan are not met.

### **Informative**

We would refer the reader to this section in our previous comments. Whilst the removal of development from this part of the site would likely be the only way in which harm could be avoided. We note HE's comments relating to the applicant's willingness to consider improving signage to the footpaths between Max Gate and Stinsford and the potential thus to enhance understanding and appreciation of Hardy's connection with the area. This would be a relevant heritage-related benefit in the planning balance, one relating to a Grade I-listed heritage asset.

There is a possibility that this could be taken favourably with a much-reduced scheme, one which retained a broader sense of openness and/or some form of spatial/visual corridor along the site. Possible amendments could include removing perhaps half the proposed development from this Sector, concentrating on the N end, or by focussing the development on the roadside, this retaining an undeveloped corridor along the site to their rear.

**OFFICER: Dr James Weir**

**TITLE: Senior Conservation Officer (Spatial Planning and Majors)**

**DATE: 06/05/2022**

## Application details

Ref: P/FUL/2021/02623	Applicant: Duchy of Cornwall	Case Officer: Ross Cahalane
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Address: Erection of 108 No. dwellings & associated works, including the formation of access, landscape & ecological enhancements

**Description:**

**Case Officer comments to Consultee:**

**Consultee:** Katherine Van Etten Senior Landscape Architect

**Date:** 3/11/21

**Has a Pre-application discussion taken place with you?** ~~Yes~~ / No

<b>Support</b>	
<b>Support subject to condition(s)</b>	
<b>Unable to support</b>	X
<b>No objection</b>	
<b>Request for further information</b>	X – Planting plan and softworks details required
<b>Other</b>	

## Summary

The layout fails to demonstrate that the quantum of development proposed can be appropriately accommodated through a sustainable and well-designed scheme. As such I consider that the application fails to meet national and local policy and design standards, set out within the National Design Guide.

## Site description/context/significance

The are no landscape designations on site. The Dorset AONB lies to the South yet no views were identified within the LVIA. The area is allocated within the current West Dorset Local Plan and the emerging Dorset Local Plan. Landscape Character Area Dorchester Downs Landscape and adjacent to the Frome and Piddle Valley Pasture. Whilst the site does exhibit some of the characteristics of the wider landscape context it is strongly influenced by the surrounding urban development of Dorchester.

Site A& B is partially visually contained by dense boundary tree planting and elevated bypass yet the sloping topography affords some partial views from the north.

The LVIA 3.3.14 States Parcel D and C is *more enclosed as the land slopes north at a gentle gradient and they are less influenced by the elevated section of the A35 road corridor*. In addition, parcel D *has an almost continuous vegetated edge which limits views to surrounding areas of existing development*.

Both the bypass and the railway are lined by trees providing the mature screen and rural character to the A35 corridor. However, notably from the bypass, this planting is weak in some localised areas particularly parcel D and C. Generally, this planting lies outside of the site boundary therefore their longevity and integrity as a strong buffer cannot be guaranteed.

PROW S2/26 follows the railway line East/West in the upper boundary of parcel C/D connecting Sywards Rd and Close in a low grade surface footpath towards Dorchester. It also provides a footpath crossing over the rail line linking Max Gate to Stinsford which has strong association with Thomas Hardy. S2/27 Smokey Hole lane West of parcel A/D connects the residential area north towards the rural PROW S40/12 towards Stinsford and The Hardy Way Long distance walking trail and south towards the AONB.

Max Gate Grade 1 listed house and garden borders Parcel C which forms the remaining limited landscape setting which reflects the rural character historically associated with the house. The Conservation Officer clearly explains the significance of the historic context and the issues surrounding the proposal regarding this.

## Main issues

The main concerns are the:

- Height of the three story block proposed in parcel A in relation to its elevated position
- High density and massing of development proposed which contrasts with the surrounding urban form and character
- Lack of enhancement of strategic tree planting within the site along the boundary.
- Inadequate street tree planting particularly in Parcel A & B
- Lack of public open space and play provision
- The impact on the landscape setting of Max gate house and garden.
- Failure to provide multifunctional SUDS

## The proposal

Full planning application for 108 dwellings and associated highways, drainage, landscape works and an offsite wetland area. The development area is 3.0 hectares and the offsite wetland covers 1.95 hectares of ecological enhancement. The proposed dwellings are a mixture of predominantly two storeys; detached, semi-detached, and terraced houses, and apartments. A three storey terrace plots 24-26 is proposed on the upper slope of Parcel A.

## Comments on proposal

### IEWS

In the medium/long distance, views are afforded from the Frome Valley to the north into the site, notably parcel A. Within these views the site is seen within the context of surrounding urban development and the bypass and therefore the visual sensitivity of the site is lowered. However, as seen in views B1, 1-4 of the LVIA, the elevation change across the site increases the visibility and sensitivity further up the slopes to the higher levels of parcel A. The dense tree cover of parcel D limit views into this site.



### A-ELEVATION 3

Given the above, I consider that the three story proposal shown above situated on the most visually prominent aspect of parcel A is inappropriate and out of character with the surrounding two storey dwellings on Eddison Ave. Taller buildings in the area are localised at the bottom of the slope along the valley floor where they are least visually intrusive.

A visual representation from B1 VIEW 4 would assist to explain the prominence of the three-story proposal in its context. Any photography should be inline with Landscape Institute Technical Guidance TGN/06/19 Visual representations of development proposals- Type 4. However, I consider it unlikely that this would demonstrate a positive assimilation of the building into the area. The dominating prominence of plots 24-26 and overall mass of plots 21-28 is considered inappropriate in character and conflicts with Local Plan DOR 8 & 9.

### BUILT FORM

The existing urban grain of development varies around the site. I agree with the DAS P28 that parcel A would be most suitable for denser development. However, I disagree with the later statement on the same page asserting that the masterplan- *allows for an arrangement of properties across the four sites which relates to the density of housing found on surrounding sites, ensuring the character of the area is enhanced by the additional properties.* I consider that the approach to density of development does not adequately achieve this. The proposed layout is higher density on smaller plots than the existing development bordering the site.

The result is over developed layout that fails to reflect the local character. Additionally, the general arrangement is dominated by a hard, dense appearance with little landscape frontage to housing (parcel A & D) which conflicts with surrounding development arrangements. The layout is dominated by access roads and parking that lacks an adequate balance of POS or play provision.

Elevation below shows the dense terraced form of development proposed in Parcel A. Dwg No SE 001



### A-ELEVATION 5

Similarly, within Parcel C, the rear parking area is particularly 'hard' in character dominated by parking spaces at the cost to the quality of the amenity. Lack of street tree planting is contrary

to NPPF 130. I am also concerned that the rear gardens of the proposed development closest to the tree line plots 75-84 will be heavily overshadowed for the majority of the day.

I support the Conservation Officers comments regarding the importance of Parcel C in forming the landscape setting to Max Gate grade 1 house and garden. I consider that the proximity of the new development in addition to the lack of careful landscape mitigation along the southern boundary would unacceptably harm the setting of the listed house and garden.

### **TREES**

The masterplan relies heavily on existing offsite highway and railway tree planting for screening of the new development and as a buffer to the air and noise pollution and disturbance of the bypass. As stated, this existing planting partially/fully screens the four parcels from the bypass and limits longer views to and from the site.



The majority of the existing offsite trees are identified as Category B trees with a limited 20 years plus life expectancy or Category C particularly in parcel D. Their longevity cannot be relied upon to mitigate the development. Despite comments within the DAS p28, the proposed strategic tree planting fails to adequately enhance the existing tree boundary which is particularly thin in parts of parcel C & D (see image below). Furthermore, contrary to the DAS p28 Site C, reinforcement planting is not proposed backing onto Max Gate within the Landscape General Arrangement C.



The DAS states that the planting along the existing footpath adjacent to Site B/ St Georges Cl. which is outside of the site, *is to be managed and maintained as part of the proposal, with good quality planting retained and re-enforced. Planting on the public footpath will be cut back at four points to create pedestrian access through to the properties.* I consider that it would be beneficial to the local amenity and safety of users if this existing planting corridor were to be enhanced and managed to create an attractive and ecologically rich route, in addition to onsite planting proposals to link the existing and proposed developments. However, this would have to be discussed and agreed with the Councils Highways tree team that manage the planting.

The Arboricultural Impact Assessment dated 7.12.21, recommends 'thinning and re=structuring' of offsite planting within Dorset Council ownership which the Highways Tree team will comment on. Again, overall, there is a reliance on the existing tree lines at the boundary rather than the inclusion of new onsite planting. 6.25 of the report states that after shaping of the edge of existing tree groups: *The edge can then be planted with woodland edge type tree species to improve wildlife value, diversity and age structure.* Yet additional boundary planting is very limited in area and specified generally as 'understory' native mix' or 'native shrub planting' proposed within the scheme. I do not consider this a robust enhancement of the offsite tree belts.

The existing gap within the highway tree line along the bypass in parcel D (see image above) would expose the proposed fence line to users of the bypass. Thus, reducing the character of this section of the otherwise rural green route and creating a low-quality environment within the site. Cramping development and associated parking into this corner prevents an adequate planted buffer to the bypass and is strongly considered to be an inappropriate design.

The Landscape masterplan submitted gives inadequate planting detail and a planting plan explaining detailed softworks proposals is required. NPPF 131 requires all new streets to be tree lined however particularly parcel A, B & C fail to comply with this. Hard frontages with development closely pushed against the pavement or long rows of parking restrict opportunity for street tree planting. Again, this is in contrast to neighbouring streets where dwellings are set back and have generous green frontages.

I have reviewed the landscape management proposals within the LEMP and seek clarification on what existing planting is proposed to be maintained. The LEMP 1.4.1 Landscape Design Approach states: *The existing trees, scrub and hedgerows that lie along the site boundaries and adjacent to the road embankments/ railway, provide established corridors of vegetation ...*



*The proposed scheme has been designed to protect and retain existing trees and hedgerows wherever possible and new management practices are proposed to enhance these existing features. This indicates managements outside of the site boundary.*

In contrast, LEMP 2.3 Management of Existing Trees objectives states - *Larger sections of tree planting run north-south and west-east centrally through the four fields, this planting is associated with the embankments running either side of the A35 and the railway cutting and as such, lie outside the objectives and operations set out in this LEMP.*

### **CONNECTIVITY**

The current proposals are dominated by roads and parking and inadequate provision has been made for cycle parking. ENV11 i). The layout does not propose to enhance the existing PROWs surrounding the site which are noted as key routes of wider connectivity within the DAS. The improvement of these routes including the enhancement of appropriate planting, lighting and surfacing should be sought to integrate and connect the new development within the wider area.

Close board fencing is proposed to delineate PROWS2/26 at the northern end of Sywards Road running west through parcel C, further enclosing a narrow secluded route I consider that the seclusion and lack of passive surveillance of are likely to increase rather than decrease opportunities for crime conflicting with NPPF 130 f) and LP ENV11 ii), National Design Guide M1

### **OPENSOURCE & GREEN INFRASTRUCTURE**

Currently the site is used in part for informal dog walking by local residents. Existing play facilities are not easily locally accessible. Parcels A-D offer no play provision or meaningful accessible public open space which does not represent sustainable balanced design. National Design Guide 100 *Well-designed places: include well-located public spaces that support a wide variety of activities and encourage social interaction, to promote health, well-being, social and civic inclusion.* Also conflicts with NPPF 130 f).

### **DRAINAGE/SUDS**

The use of porous paving in car parking spaces is welcome. Water management should be integrated within the development as far a possible eg. through the use of interconnected swales, the addition of domestic water butts and further tree planting to help to control surface water at source. The integration of well-designed multifunctional and integrated SUDS scheme has not been included thus conflicting with NPPF 169.

### **MATERIALS**

To limit the visual impact on longer distance views particularly in site A, slate grey roof tiles and visually recessive materials should be used. I do not consider that the use of varied coloured renders across the whole application is an appropriate response to the local area. Development surrounding the site is primarily brick eg. Eddison Ave with brick and render eg Sywards Rd/ Friars Cl. Whilst I appreciate the intention within the DAS p30 to create cohesion within the street scene, the proposal for all render would be in stark contrast within the local context. In addition, I am concerned the render would be particularly apparent in wider views on the more exposed higher areas of the sites.

### **BOUNDARY TREATMENT**

I note from the Noise and Vibration Assessment that a 2m high acoustic fencing is recommended yet this is not included within the Layout. Close board fencing should be replaced with the higher standard acoustic fencing where necessary and recommended in the assessment (parcel C & D) to limit the impact of traffic noise.

### **Lighting**

A lighting strategy that does not conflict with and which is coordinated with street tree planting is required for approval to demonstrate the viability of the scheme. Similarly, it should be clarified that underground service corridors does not conflict with any tree planting. (National Design Guide M3 89).

### **Climate change**

DAS 5.7 gives information explaining sustainable construction methods proposed. However, this does not go far enough for example to include electric charging points or PV panels. NPPF 155 c).

## **Policy consideration**

### **NPPF 2021**

130. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting,
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space)
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

131 Planning policies and decisions should ensure that new streets are tree-lined

154 New development should be planned for in ways that: a) avoid increased vulnerability to the range of impacts arising from climate change

155 c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co locating potential heat customers and suppliers.

169 Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

### **West Dorset, Wey & Portland Local Plan 2015**

11.6.2 Land south of St George's Way, adjoining the bypass, could provide an additional site for housing (subject to suitable noise and odour mitigation from the bypass and nearby sewage treatment works),

Policy ENV10 The Landscape and Townscape Setting (iii) states that "development should only be permitted where it provides sufficient hard and soft landscaping to successfully integrate with the character of the site and its surrounding area" which I consider the current scheme fails to do.

Policy ENV11 The Pattern of Streets and Spaces (i) states that development should ensure that places are not dominated by roads and parking and that provision is made for bin stores and cycle parking.

Policy ENV11(ii) states that places should be designed to reduce opportunities for, and fear of crime.

DOR8 i). Any development should not have a significant impact on the amenity of nearby residential properties. Public rights of way linking to the wider network are retained  
DOR 8 & 9 A landscape strategy will be required to ensure that there is no significant adverse impact on wider landscape views

National Design Guide 2021

The council uses the Ten principles for sustainable development within the National Design Guide as a best practice standard for design. I do not consider that the application reflects the following of these standards

N1 High quality green open space including play

N2 Improve and enhance water management

P1 high quality and attractive public spaces

P2 Well designed spaces that are safe

P3 Make sure public spaces support social interaction

M1 connected network of routes for all -

M3 Well considered parking

**Officer: Katherine Van Etten CMLI**

**Job Title: Senior Landscape Architect**

**Date: 13/12/21**

**APP REF:** P/FUL/2021/02623

**ADDRESS:** Four Paddocks, Land South of St Georges Road, Dorchester

**APPLICANT:** Secretary of the Duchy of Cornwall

**DESCRIPTION:** Erection of 108 No. dwellings & associated works, including the formation of access, landscape & ecological enhancements

**CASE OFFICER:** Ross Cahalane

### **URBAN DESIGN OFFICER COMMENTS**

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	X
NO OBJECTION	
REQUEST FOR FURTHER INFORMATION	X
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	Yes

#### **Main issues:**

- Approximately 2/3 of proposed dwellings would not meet nationally described space standards.
- The materials palette and placement of materials would not be appropriate, as proposed.
- Proposed play facilities are lacking
- Building heights in relation to topography

#### **Comments on proposal:**

This is a full application for 108 dwellings at land south of St Georges Road. The application area is bisected east/west by the A35 and north/south by the railway line. The four paddocks are labelled site A, B, C and D. The application area covers two sites that are allocated for development under two policies in the adopted West Dorset, Weymouth & Portland Local Plan (2015): DOR8 and DOR9. Therefore, residential development of the site is considered acceptable in principle.

#### **Materials palette**

The intention for materials at each of the sites is set out broadly within the Design & Access Statement (DAS). However, the omission of a dedicated materials plan for each site make the proposals ambiguous, particularly in the absence of colour representations of the dwellings within elevation drawings. Different shades of rough cast render appear to be proposed without specifically proposing which dwellings that they would relate to.

In terms of the materials palette, I am unopposed to the aspiration to have a “*relatively restricted palette of locally available materials*”. However, there is clear disconnect between the proposals and what is distinctive to Fordington. Rough cast render does feature within the Fordington materials palette; however, this is not the prevailing external finish. I have concerns at the extent to which rough cast render is being proposed, particularly given that it is not a visually recessive material and much of sites C and D are elevated. I am unconvinced by the proposal of such wide usage of pairing of rough cast render with plain tile. While this is seen in existing dwellings such as on Fordington Green and at Row Cow Farm, the combination is used sparingly and not widely. Stone is proposed for architectural detailing but should be used more widely than is being proposed. This would align with the Fordington palette and with the Red Cow Farm development adjacent to site A. The selection of multi brick (Wieneberger Olde Alton Yellow) appears unjustified, having not been identified as an example within the site context analysis of the DAS and generally not being considered to be a feature of Fordington.

Roof tiling is proposed to be exclusively slate tile for sites A & B and plain tile for sites C & D. The rationale for this decision is not put forward. I would question this approach given that the plain tile is the least visually recessive for the sites (C & D) which are most elevated.

Streetscene drawings allow applicants to demonstrate the dwellings that are proposed within a sequence. They are crucial to the process of assessing the suitability of a scheme, particularly in relation to topography and groupings of materials. They are of particular importance to sites such as this one where the gradient of the site fluctuates.

#### Page 39 of the DAS (Site A)



The current “section drawings” within the DAS limit the ability to assess the suitability of the proposals in terms of massing in relation to topography. Officers would need to see how, for example, unit 33 would relate to unit 34 or how units 37-38 would relate to unit 39.

I understand and support the desire for the scheme not to be comprised of “*architectural mismatch*” and to refrain from peppercotting of materials as I believe that this is counterproductive to the creation of character areas. However, there is a balance to be struck between exclusively proposing one type of roof tile for a site vs peppercotting. The Red Cow Farm development does this to good

effect with large groupings of the same roof tiling to create distinct areas and contribute to character.

This application is significantly lacking in terms of its approach to materials. The plans shown for materials are akin to that of an outline application and not a full. I request the following plans;

- a dedicated materials plan for each site A-D including external finishes and roof tiling proposed.
- comprehensive streetscenes that include uninterrupted sequences of dwellings.
- An amended materials palette that is more appropriate to the site.
- Limited pairing of roughcast render with plain tile.

### **Plot boundaries**

The use of walled boundaries for all plot boundaries that are visible to the street is a welcome feature of the proposals. In line with comments made regarding materials, I would advocate for the boundary material finish to match that of the respective dwelling.

### **Space standards**

Of the 108 dwellings proposed, 70 would not meet nationally described space standards. The proposed plots that would fall short of the national standard are detailed below.

<b>Plots</b>	<b>No. of bedrooms (B) &amp; No. of bed spaces (persons) (P)</b>	<b>No. of Storeys</b>	<b>Proposed gross internal floor area</b>	<b>Minimum gross internal floor area</b>
76, 79, 81	1B2P	1	45.4m <sup>2</sup>	50m <sup>2</sup>
5, 39, 46-48, 85-86, 108	2B3P	2	65m <sup>2</sup>	70m <sup>2</sup>
7, 8, 12-16, 21-23, 27, 31-33, 35-36, 49-54, 58-59, 71	2B4P	2	72m <sup>2</sup>	79m <sup>2</sup>
72-74	2B4P	2	74m <sup>2</sup>	79m <sup>2</sup>
28, 29, 30, 37, 38, 55-57, 88-95, 104-106	3B5P	2	86m <sup>2</sup>	93m <sup>2</sup>
64-68	3B5P	2	91m <sup>2</sup>	93m <sup>2</sup>
96-102	3B5P	2	92m <sup>2</sup>	93m <sup>2</sup>

Site A (23/42), Site B (14/17), Site C (12/25), Site D (21/24)

West Dorset, Weymouth and Portland Local Plan (2015) policy ENV12 states that *“New housing should meet and where possible exceed appropriate minimum space standards”*.

### **Play facilities**

The play facility provision within this application is lacking. The quantum of development proposed requires a LEAP according to Fields in Trust guidance. Existing play facilities at King’s Road could not be relied upon to serve the proposed development due to the distance between the King’s Road play area and the site (500m minimum to site A).

### **Movement and circulation**

The A35 and railway line provide significant barriers to movement and circulation of the site as a whole, the connectivity between the four parcels and the connectivity between each parcel and the wider area. Nevertheless, connectivity could be improved upon with better connections to the Public Rights of Way, namely PROW S2/26 and PROW S2/27. Site D is well connected with the new vehicular access point proposed off Friars Close which would link effectively with PROW S2/27. Site C would be accessed off Syward Road which would provide strong links to the south and allow connection to PROW S2/26 both to the north and to the west. Site B would be connected to the wider area via a vehicular entrance and footway off the re-aligned Lubbecke Way. Dense planting on the eastern boundary of site B would make connecting the site to the PROW S2/26 challenging. Site A should provide better links than those shown on the site layout. Page 49 of the DAS states that *“Site A (north west site) access would be from a new give-way priority junction on St George’s Road. A separate dedicated pedestrian access is also proposed to the Public Right of Way along the western boundary of the site (Smokey Hole Lane)”*. This statement is inconsistent with other submitted plans as the proposed pedestrian access to the PROW isn’t facilitated by the layout. This should be addressed in revised plans providing a pedestrian link at the west of site A onto the PROW.

### **Site A**

Plots 1-42

42 dwellings

Site A is the largest of the four parcels of land included within the application. The housing density within the proposals has decreased since plans shown at pre-application stage which benefits the scheme by having an increase in street planting and having fewer FOGs (flats over garages) without private amenity space.

Three storey development is proposed for units 24-26 at the most elevated part of site A. This is said, within the DAS, to sit *“at the top of the gradient of the land on site A, putting it in a prominent and dominant position, acting as the focal point for the development”*. The suitability of three storey development at one of the most elevated parts of the site is not sufficiently evidenced within this application. I suspect three storey development at this part of the site would exacerbate the

level change and believe that it would make 24-26 appear incongruous to units 16 and 29. The proposed form of the terrace (21-28) at the head of the junction at the most elevated part of site A would alone allow this terrace to be prominent and dominant and act as a focal point without needing to be three storey. I recommend that development here is limited to two storey.

The positioning of the 12m sewer easement impacts site A greater than it does the three other parcels of land. This presents a significant challenge to the layout of site A. However, the fact that site A has the largest area of undevelopable land (of the four sites) and that it is the largest overall area does mean that it represents the best opportunity to implement play facilities. As currently configured, a bathroom window should be added to units 33 (requires handing), 35, 36. Small sections of units 7 and 39 appear to fall within the sewer easement.

In terms of parking, most dwellings are proposed to be allocated two parking spaces, the spaces are predominantly proposed to be off-plot parking courtyards. The largest courtyard has a succession of unrelieved parking spaces that should incorporate a greater number of street trees (outside of the sewer easement). The parking calculator shows that this level of development and breakdown of dwelling types would require 19 unallocated / visitor parking spaces. There are 4 unallocated or visitor parking spaces proposed for site A.

District/Borough?	West Dorset	
Area Type?	Town & Fringe	
Dwelling types	Number of units of this type?	What is the sum total of garages associated with units of this type?
<b>Flats</b>		
One Bed Flat no allocated spaces	0	0
One Bed Flat with one allocated space	1	2
Two Bed Flat no allocated spaces	0	0
Two Bed Flat with one allocated space	1	0
Three or more Bed Flat no allocated spaces	0	0
Three or more Bed Flat with one allocated spaces	1	0
<b>Houses</b>		
One Bed House no allocated spaces	0	0
One Bed House with one allocated space	1	0
Two Bed House no allocated spaces	0	0
Two Bed House with one allocated space	1	0
Two Bed House with two allocated spaces	2	20
Three Bed House no allocated spaces	0	0
Three Bed House with one allocated space	1	0
Three Bed House with two allocated spaces	2	17
Four or more Bed House no allocated spaces	0	0
Four or more Bed House with one allocated space	1	0
Four or more Bed House with two allocated spaces	2	3
<b>Total Unallocated parking requirement</b>		<b>19</b>
<b>Total Visitor parking requirement</b>		<b>9</b>
Total allocated spaces provided		82

To overcome the issue of unallocated / visitor spaces, it would be prudent to allocate a single parking space per 2B unit instead of two allocated spaces. This would allow some of the parking currently shown as allocated to be amended to unallocated or visitor spaces. Given the proposed quantum of courtyard parking off-plot at the rear of dwellings, it is likely that informal parking will occur where possible at the front of dwellings such as 9-16 and 21-28. In this event, allocated courtyard spaces would not be utilised and therefore would be obsolete while allowing hard surfacing to dominate large parts of the development.



# Site B

Plots 43-59

17 dwellings

Site B is the smallest of the four sites and is well screened from the A35. As the most visually contained site, I would recommend a high proportion of plain tiled dwellings here, instead of exclusively slate tiled units as mentioned in the DAS. Units 43-45 would achieve an attractive frontage onto the site entrance to the north and unit 45 would turn the corner nicely here. The proposed configuration of units 45-48 would create a positive sense of arrival into the scheme with good natural surveillance and framing of the entrance point.

Most of the dwellings proposed at site B would not meet the national described space standard. This could be resolved with relative ease for units 55-56 by increasing the depth of the dwellings by encroaching onto the generous rear garden space. Given the acoustics plan (page 52 of the DAS) it would be prudent to reconsider plots 57-59 to have these fronting westwards to further minimise adverse impacts on health and quality of life. As currently configured, a bathroom window should be added to units 48, 49 and 59.

The parking calculator shows that this level of development and breakdown of dwelling types would require 6 unallocated / visitor parking spaces. There are no unallocated or visitor parking spaces proposed for site B. Given the quantum of proposed off-plot parking it is likely, as with site A, that site B will experience informal parking where possible such as at the front of units 49-54. I recommend reducing the allocation of parking for these 2B units to one space per unit and then having the six unallocated spaces to help meet the parking calculator requirement.

District/Borough?	West Dorset	
Area Type?	Town & Fringe	
Dwelling types	Number of units of this type?	What is the sum total of garages associated with units of this type?
<b>Flats</b>		
One Bed Flat no allocated spaces	0	0
One Bed Flat with one allocated space	1	0
Two Bed Flat no allocated spaces	0	0
Two Bed Flat with one allocated space	1	0
Three or more Bed Flat no allocated spaces	0	0
Three or more Bed Flat with one allocated spaces	1	0
<b>Houses</b>		
One Bed House no allocated spaces	0	0
One Bed House with one allocated space	1	0
Two Bed House no allocated spaces	0	0
Two Bed House with one allocated space	1	0
Two Bed House with two allocated spaces	2	11
Three Bed House no allocated spaces	0	0
Three Bed House with one allocated space	1	0
Three Bed House with two allocated spaces	2	6
Four or more Bed House no allocated spaces	0	0
Four or more Bed House with one allocated space	1	0
Four or more Bed House with two allocated spaces	2	0
<b>Total unallocated parking requirement</b>		<b>2</b>
<b>Total visitor parking requirement</b>		<b>4</b>
<b>Total allocated spaces provided</b>		<b>34</b>

**1) Click on the orange boxes to the left and enter the District or Borough and one area type.**

**2) Fill in the blue boxes in the table to the left.**

**The total parking requirement for your development will be shown at the bottom of the table.**

\* Refer to the Dorset Residential Parking Study Interim Guidance, Vol 1 for reference maps. Not all area types exist in each of the Districts or Boroughs. "N/A/VALUE" will appear in the unallocated parking requirement box if this is the case.

\* Garages are only to be counted as spaces if their internal dimensions are 6m x 3m or greater

\* Where parking provision differs significantly from the numbers shown here supporting evidence should be provided and agreed with the relevant District, Borough or County Officers.

Site C is proposed to house 25 dwellings, with development proposed to front out towards Syward Road. The railway line is beyond the site immediately to the north and the western boundary of the site backs onto the A35. Of the four sites, site C shows the biggest uplift in dwellings from what was put forward during pre-application stage. The pre-application layout for site C showed plot sizes and a density that was more in keeping with existing dwellings on Syward Road with plots with deep gardens.

Units 69 and 70 are now shown to be oriented to front south and north respectively which would assist in turning the corner by addressing the access street and Syward Road. However, both plots are shown sit hard to the pavement and would lack defensible space. The private amenity space for units 69 and 70 would be poor, considering the size of the dwelling. There would also be a significant disparity in amenity space for these 4B7P units in comparison to plots 60-63. As currently configured, unit 71 should be handed to allow a bathroom window to be added for light and ventilation.

The parking calculator shows that this level of development and breakdown of dwelling types would require 12 unallocated / visitor parking spaces. There are no unallocated or visitor parking spaces proposed for site C.

District/Borough?	West Dorset		
Area Type?	Town & Fringe		
Dwelling types	Number of units of this type?		What is the sum total of garages associated with units of this type?
<b>Flats</b>			
One Bed Flat no allocated spaces	0	0	
One Bed Flat with one allocated space	1	6	0
Two Bed Flat no allocated spaces	0	0	
Two Bed Flat with one allocated space	1	0	0
Three or more Bed Flat no allocated spaces	0	0	
Three or more Bed Flat with one allocated spaces	1	0	0
<b>Houses</b>			
One Bed House no allocated spaces	0	0	
One Bed House with one allocated space	1	0	0
Two Bed House no allocated spaces	0	0	
Two Bed House with one allocated space	1	0	0
Two Bed House with two allocated spaces	2	7	6
Three Bed House no allocated spaces	0	0	
Three Bed House with one allocated space	1	0	0
Three Bed House with two allocated spaces	2	3	0
Four or more Bed House no allocated spaces	0	0	
Four or more Bed House with one allocated space	1	0	0
Four or more Bed House with two allocated spaces	2	7	2
<b>Total Unallocated parking requirement</b>			<b>7</b>
<b>Total Visitor parking requirement</b>			<b>5</b>
<b>Total allocated spaces provided</b>			<b>44</b>

The design of the layout at site C would significantly benefit from a reduction in the number of dwellings proposed here. The removal of units 83 and 84 would facilitate several positive changes such as larger plot sizes for 64-69, unallocated parking spaces and space to increase the number of street trees to break up hard surfacing associated with parking.

Site D sees the largest proportion of dwellings proposed that do not meet the nationally described space standards. In order to meet these standards, it seems questionable that the housing mix currently proposed for site D can be achieved. The proposed layout of the site does include large plots such as 87, 103 and 107 which offer scope to be amalgamated into smaller plots. This would free up space for the necessary amendments to dwellings that are short of the space standards. It is also worth noting that while plots 96-102 would not currently meet the space standards each unit is 1m<sup>2</sup> short of the minimum standard, so a slight addition to the depth of each unit would satisfy this minimum.

The proposals seek to rely on existing planting to visually screen the development from the railway track and from the A35. The NE corner of site D is currently exposed to the A35 (see image below). The proposed approach would introduce close boarded fencing here, which is deemed unacceptable in design terms. Instead, higher standard acoustic fencing should be implemented here as identified as a requirement within the Noise and Vibration Assessment.

#### Google Maps image looking west from A35



As currently designed, the parking area proposed for the NE of site D would not be overlooked and would not receive casual surveillance. When referring to parking the NDG states; *“Its arrangement and positioning relative to buildings limit its impacts, whilst ensuring it is secure and overlooked”*. To ensure that it is overlooked, I recommend that dwellings that sit side onto this area (currently EOT units 95 and 96) incorporate additional fenestration on the side elevations (living rooms). Similarly, unit 104 should include a living room window on the side elevation to provide casual surveillance to the parking area in the SE corner of the site. As currently configured, a bathroom window should be added to units 85 and 86 for light and ventilation.

The parking calculator shows that this level of development and breakdown of dwelling types would require 8 unallocated / visitor parking spaces. There are no unallocated or visitor parking spaces proposed for site D.

District/Borough?	West Dorset		
Area Type?	Town & Fringe		
Dwelling types	Number of units of this type?		What is the sum total of garages associated with units of this type?
<b>Flats</b>			
One Bed Flat no allocated spaces	0	0	
One Bed Flat with one allocated space	1	0	0
Two Bed Flat no allocated spaces	0	0	
Two Bed Flat with one allocated space	1	0	0
Three or more Bed Flat no allocated spaces	0	0	
Three or more Bed Flat with one allocated spaces	1	0	0
<b>Houses</b>			
One Bed House no allocated spaces	0	0	
One Bed House with one allocated space	1	0	0
Two Bed House no allocated spaces	0	0	
Two Bed House with one allocated space	1	0	0
Two Bed House with two allocated spaces	2	3	0
Three Bed House no allocated spaces	0	0	
Three Bed House with one allocated space	1	0	0
Three Bed House with two allocated spaces	2	19	0
Four or more Bed House no allocated spaces	0	0	
Four or more Bed House with one allocated space	1	0	0
Four or more Bed House with two allocated spaces	2	2	0
<b>Total Unallocated parking requirement</b>			<b>3</b>
<b>Total Visitor parking requirement</b>			<b>5</b>
<b>Total allocated spaces provided</b>			<b>48</b>

In conclusion I am unable to support the application in its current form. The number of proposed dwellings that fall short of the nationally described space standards is a concern. The materials palette needs re-considering as does the proposed placement of materials and the rationale for doing so.

**Policy consideration:**

West Dorset, Weymouth and Portland Local Plan (2015)

DOR8 - Land South of St Georges Road

DOR9 - Land off Alington Avenue

ENV12 – The Design and Positioning of Buildings

National Design Guide (2019)

**OFFICER:** Sophie Smith

**TITLE:** Urban Design Officer

**DATE:** 13/12/21

## Appendix 26: Austral Farm Objections

## Application details

<b>Ref:</b> WD/D/20/003302	<b>Applicant:</b> Alton Pancras UK Limited	<b>Case Officer:</b> Ross Cahalane
<b>Address:</b> Austral Farm, Alton Pancras, Dorchester, DT2 7RW		
<b>Description:</b> Removal of modern buildings (including agricultural building, grain store, silage pit & Dutch barn etc). Conversion of traditional buildings into offices (Class B1 (a)) and a cafe (Class A3). Creation of 9No. residential units (Class C3) & 2No. workshop buildings (Class B2).		
<b>Case Officer comments to Consultee:</b>		
<b>Consultee:</b> Colm O'Kelly - Senior Landscape Architect - Infrastructure and Delivery Team		
<b>Date:</b> 02 December 2021		
<b>Has a Pre-application discussion taken place with you?:</b> Yes / No		
<b>Support</b>		
<b>Support subject to condition</b>		
<b>Unable to support</b>	I am unable to support this application in its current form.	
<b>No objection</b>		
<b>Request for further information</b>	I consider that insufficient information has been submitted	
<b>Other</b>		

### Summary (revised 02 December 2021)

The Austral Farm site consists of a large group of modern and traditional farm buildings toward the southern end of the village of Alton Pancras. The site lies within the Dorset Area of Outstanding Natural Beauty.

The proposed development seeks to adaptively reuse the traditional farm buildings in the southern portion of the site to provide workshops, offices and a cafe; and to demolish the modern farm buildings in the northern portion of the site and replace them with workshops and residential units.

I still consider that the development proposals are not acceptable in their current form because the following information still needs to be prepared and submitted before their acceptability in landscape and visual terms can be properly assessed:

- Photomontages of the proposed development and mitigation from agreed viewpoints
- An Arboricultural Survey, Impact Assessment and if necessary Method Statement
- Detailed hard and soft landscape proposals
- A Landscape Management Plan

However if, on balance, the Case Officer is minded to permit the application without the above documents being submitted then I would still wish to see conditions with regard to the submission, approval, implementation and maintenance of an hard and soft landscape scheme included in the notification of decision.

## Site description/context/significance (revised 02 December 2021)

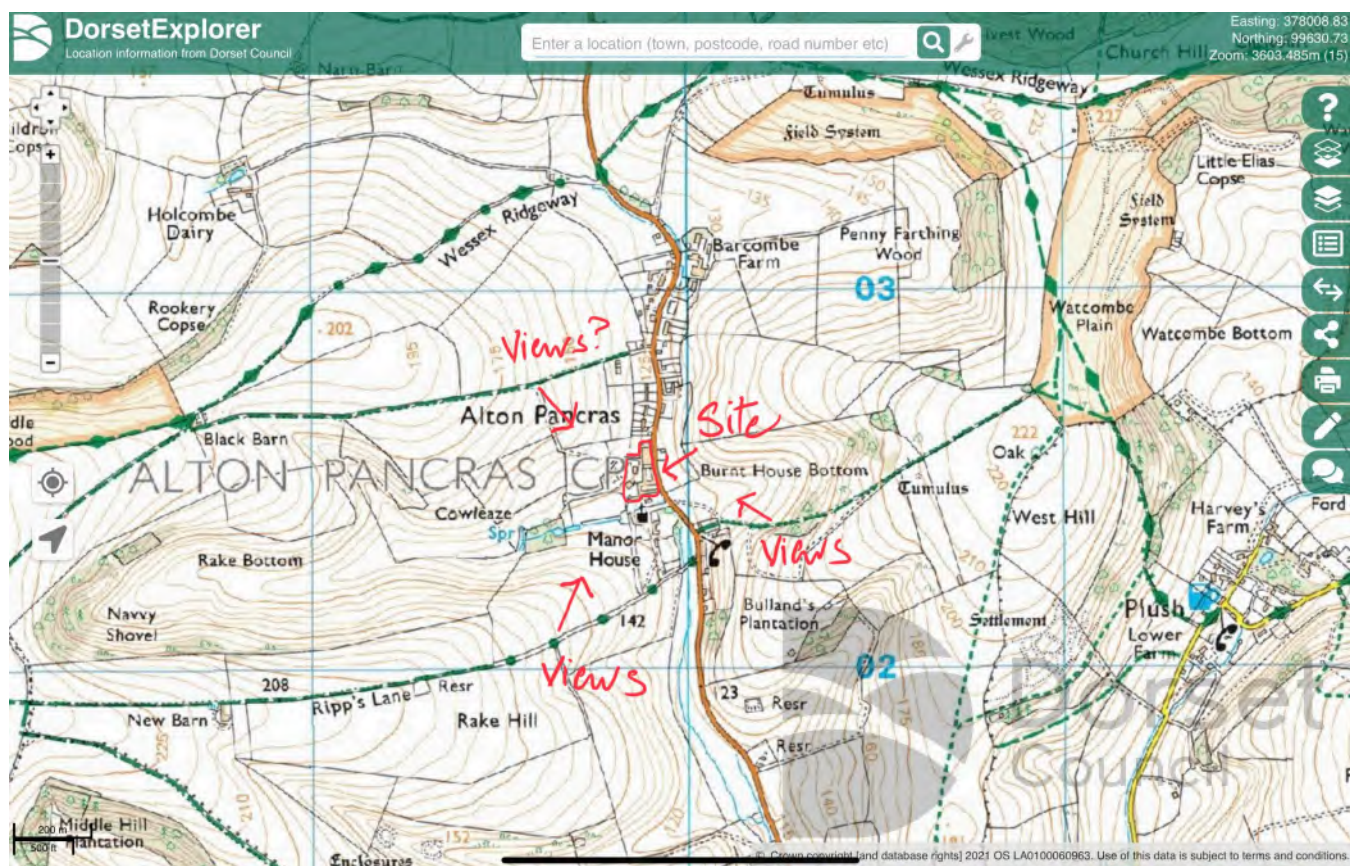
The Austral Farm site consists of a large group of modern and traditional farm buildings toward the southern end of the village of Alton Pancras. It is bounded to the west by farmland; to the north by residential development along the B3143; to the east by the B3143 and the River Piddle with open farmland beyond; and to the south by the Alton Pancras Conservation Area containing the Grade II\* listed Parish Church of St Pancras, the Manor House and other listed ancillary buildings. The site lies within the Dorset Area of Outstanding Natural Beauty.

The farm is situated at the bottom of the River Piddle Valley at approximately 130m AOD with ground levels rising to the west (240m AOD Foxhills); north (211m AOD Knoll); and east (223m AOD West Hill). A number of Public Rights Of Way run from the valley bottom to the surrounding higher ground to the west, north and east (**Figure 1**).

The submitted Landscape and Visual Appraisal (LVA - JPS Landscape Design May 2021) demonstrates that views of the site and the proposed development would be possible from Ripp's Lane and Bridleway S5/9 on the higher ground to the southwest and the southeast respectively (see **Figures 2 and 3**).

However the document also demonstrates that views from the public rights of way further to the sites north (PROW S5/12, S10/29) and south (PROWS5/8) are generally obscured or the distance is too great for the site to be a significant element within the wider view.

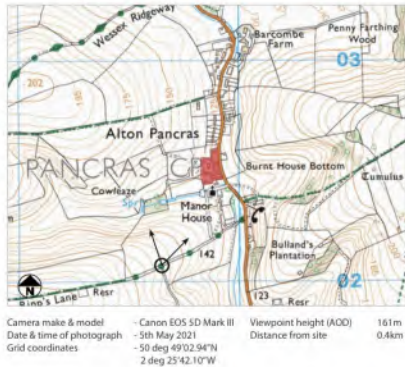
No views are presented from the footpath immediately to the sites north east (PROW S5/11) but similar views to those illustrated in **Figures 2 and 3** may be possible from this public right of way.



**Figure 1:** PROW network surrounding site from which views are possible (DorsetExplorer)



**VIEWPOINT 6**  
View from Ripp's Lane public right of way



**Description of Baseline View**

8.43 This view is taken from a break in the hedgerow that follows the northern side of Ripp's Lane, a public right of way that connects between the B3143 and Foxhills. The view is a panoramic one and looks northwards across the River Piddle valley. The upper western part of the site, and the modern farm buildings present there, is partially visible in the middle distance. The tower of St Pancras church is just perceptible through the trees within the valley bottom.

**Sensitivity of Visual Receptor**

8.44 The view is representative of users of the public right of way network, which are assessed as having a high susceptibility to change in the view. The value of the view is assessed as high; reflective of a classic AONB landscape. Overall, the visual receptor is assessed as having a high sensitivity.

**Predicted View at Year 1 & Magnitude of Change**

8.45 With the proposed development in place the foreground elements of pastoral fields and trees would be unaltered. Similarly, the far distant hills and skyline would be unchanged. There would be some noticeable change to the site in the view. The modern farm buildings would be removed and new single storey office blocks would be seen on the site. The proposed new residential properties which would replace the would be largely screened from view. The

magnitude of change to the view at year 1 is assessed as low.

**Scale of Visual Effect**

8.46 At year 1 of the operational phase of the proposed development, with a high sensitivity and a low magnitude of change, the visual effect is assessed as moderate neutral. The integrity of the key features of the landscape and the existing pattern of settlement would remain substantially unaltered and would still be readily discerned. The proposed development though visible would not be prominent or dominant.

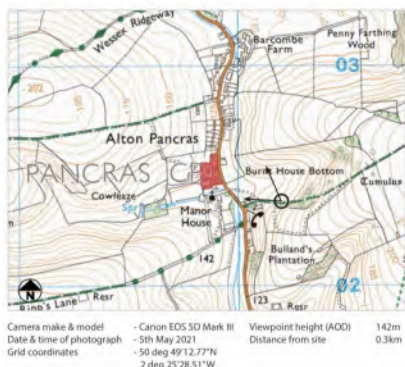
8.47 It is assessed that at year 10 of the operational phase of the proposed development, the visual effect would remain moderate neutral.

Austral Firm, Alton Pancras | LANDSCAPE & VISUAL APPRAISAL

**Figure 2: view of site from Ripp's Lane (JPS Landscape Design)**



**VIEWPOINT 4**  
View from Millennium Bench on bridledway S5/9



**Description of Baseline View**

8.33 This view is taken from the public right of way that rises up eastward from Alton Pancras. Specifically, the view is taken from a bench erected to mark the Millennium in the year 2000. The view looks west. The foreground is a pastoral field, track and trees. The site is clearly visible in the middle to far distance in the centre of the view with the western slope of the River Piddle valley rising up behind it. The most conspicuous buildings on the site are the more modern ones.

**Sensitivity of Visual Receptor**

8.34 The view is representative of users of the public right of way network, which are assessed as having a high susceptibility to change in the view. The value of the view is assessed as high; reflective of a classic AONB landscape. Overall, the visual receptor is assessed as having a high sensitivity.

**Predicted View at Year 1 & Magnitude of Change**

8.35 With the proposed development in place the foreground elements of pastoral field, track and trees would be unaltered. Similarly, the far distant hills and skyline would be unchanged. There would be some noticeable change to the site in the centre of the view. The modern farm buildings would be removed and new single storey office blocks would be seen on the higher ground on the site. Also evident would be the proposed new residential properties

which would replace the long grey coloured cattleshed to the right (north) of the site. The site would not be perceived as being agricultural anymore. The magnitude of change to the view at year 1 is assessed as low.

**Scale of Visual Effect**

8.36 At year 1 of the operational phase of the proposed development, with a high sensitivity and a low magnitude of change, the visual effect is assessed as moderate neutral. The integrity of the key features of the landscape would remain substantially unaltered and would still be readily discerned with the proposals in place.

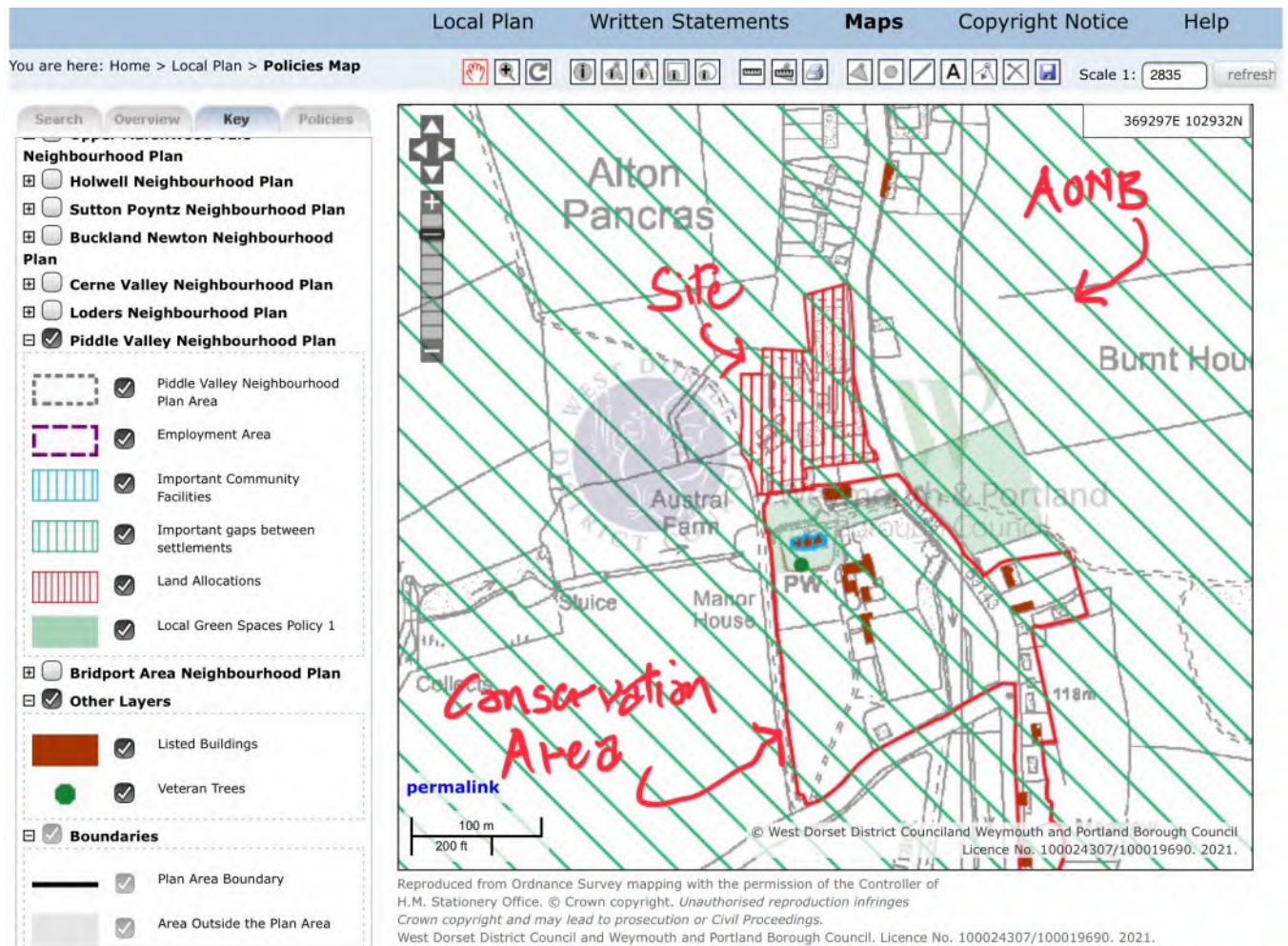
8.37 It is assessed that at year 10 of the operational phase of the proposed development, the visual effect would remain moderate neutral.

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**Figure 3: view of site from Public Right Of Way S5/9 (JPS Landscape Design)**



## Main issues (revised 02 December 2021)



**Figure 4:** West Dorset, Weymouth and Portland Local Plan 2015 Interactive Map

As **Figure 4** above shows Austral Farm is allocated as a mixed use site within the made Piddle Valley Neighbourhood Plan 2018 - 2033 with the stated aim of providing affordable and open market housing, small business units, offices and workshops so the principle of development is not disputed.

The main issues from a landscape and visual perspective are therefore:

- Whether the location and design of the proposed development would have an adverse impact on local landscape and visual character and the special qualities and natural beauty of the Dorset Area of Outstanding Natural Beauty and if so have appropriate measures to moderate any such adverse impacts been included in the proposals?
- Whether the development proposals would contribute positively to the maintenance and enhancement of local identity and distinctiveness through the retention and protection of trees, other features and the provision of sufficient hard and soft landscaping?
- Whether spaces within the development are well designed; would be safe and pleasant to use; are legible; are not dominated by roads and parking; prioritise pedestrian and cycle access; provide for public and private amenity; and reduce opportunities for, and the fear of crime?
- Whether the siting, alignment, design, scale, mass and materials used in the development complement the character of the surrounding area improve legibility and reinforce a sense of place ?

## The proposal (revised 02 December 2021)

The proposed development seeks to adaptively reuse the traditional farm buildings in the southern portion of the site to provide workshops, offices and a cafe; and to demolish the modern farm buildings in the northern portion of the site and replace them with workshops and residential units.



**Figure 5:** Location Plan E-100 - building retention/demolition (NDM Collins Architects)

The existing traditional courtyard buildings would be adaptively reused to create offices and a cafe; the large agricultural building in the north of the site would be demolished and replaced with a continuous terrace of 9No. two storey dwellings formed around a courtyard which would be open and accessible from its southern end; and the grain store, silage pit and Dutch barn etc. in the west of the site would be demolished and replaced with 2No. Workshop buildings.

Access, parking and hard surfacing would be created between and around the existing and proposed buildings. Access roads would be formed of porous tarmac or concrete; with parking areas of grid and gravel or permeable paving setts.

Since my previous landscape comments (File Ref: LAN WD-D-20-003302rev06092021 dated 06 September 2021) and as a comparison of **Figures 6** and **7** below will demonstrate Some additional tree and hedge planting has been indicated on the revised Proposed Site Plan.

However information with regard to existing vegetation has still been submitted though paragraph 9.8 of the submitted LVA states that "*The existing tree and hedgerow resource on the site would be removed*". Detailed hard and soft landscape proposals have still not been submitted despite paragraph 9.8 of the LVA stating that "*the proposals allow for new tree, shrub and hedgerow planting*".

Despite the additional planting indicated the impression conveyed by the revised proposed site plan is still of a predominantly hard surfaced public realm with extensive grassed areas and minimal amounts of tree and shrub planting.



**Figure 6: Proposed Site Plan P-100 Rev E as per previous landscape comments 06/09/2021**



**Figure 7: Proposed Site Plan P-100 Rev J**

## Comments on proposal (Revised 02 December 2021)

As noted in my previous comments (File Ref: LAN WD-D-20-003302rev06092021 dated 06 September 2021) a Landscape and Visual Appraisal has been submitted (JPS Landscape Design). It assesses the effects of the proposed development of landscape elements and features such as vegetation and topography, landscape character and visual amenity.

Paragraph 9.5 and 9.8 state that the loss of existing trees and hedgerows as a result of the development would have an important and major adverse effect.

Paragraph 9.7 notes that the topography would undergo a noticeable change as a result of the proposed development.

While I would still agree with the assertion made in paragraph 9.11 that the existing modern farm buildings and structures that would be removed as a consequence of the development *"make no appreciable positive contribution to the character of the landscape"* I am still not convinced that *"the proposed development would positively contribute to the character of the local landscape by retaining and re-using the older traditional buildings on the site and by introducing a style of new development, in the form of residential dwellings and office buildings which would represent high quality design"*.

The principle of redevelopment is not in question and I would support the retention and adaptive reuse of the traditional farm buildings. However the proposals still include a significant number of parking spaces (83No.) in and around the existing and proposed buildings and their use would still be likely to have a significant impact on the character and visual amenity of the site which does not appear to have been taken into account in the assessment.

Similarly while I would not dispute the the proposed residential dwellings and office buildings *"represent high quality design"* (para 9.11) I am not convinced that they *"positively contribute to the character of the local landscape"*.

I would continue to note that while the 'courtyard' form of the proposed residential development (see **Figure 8**) may echo the 'courtyard' form of earlier farm buildings on the site (see **Figure 9**) they have little if anything in common with the form this 'courtyard' of farm buildings took if what remains is representative of what has been removed (see **Figure 10**).

The elevation of the proposed residential buildings fronting the road would not be out of keeping with other residential development within the settlement which is varied in character (see **Figure 11**). However I continue to consider that their 'courtyard' form is not and nor is their east west depth of built form that would be visible from the B3143 due to the removal of boundary hedgerow and its replacement with low hedgerow that appears to contain no hedgerow trees and that does not extend along the whole of the sites eastern boundary adjacent to the residential dwellings. It would also be visible from the footpaths immediately to its north and south and it seems unlikely that the limited additional planting proposed would screen or filter these views to any significant extent.

given that the development would still appear to result in the significant remodelling of the field in which the residential development would be constructed and the introduction of a significant lengths of retaining wall I would continue to question the assertion in paragraph 9.13 that *"the proposals would be detailed so as to respond to the existing landform of the site"*.



Figure 8: proposed residential street elevations rev D (NDM Collins Architects)

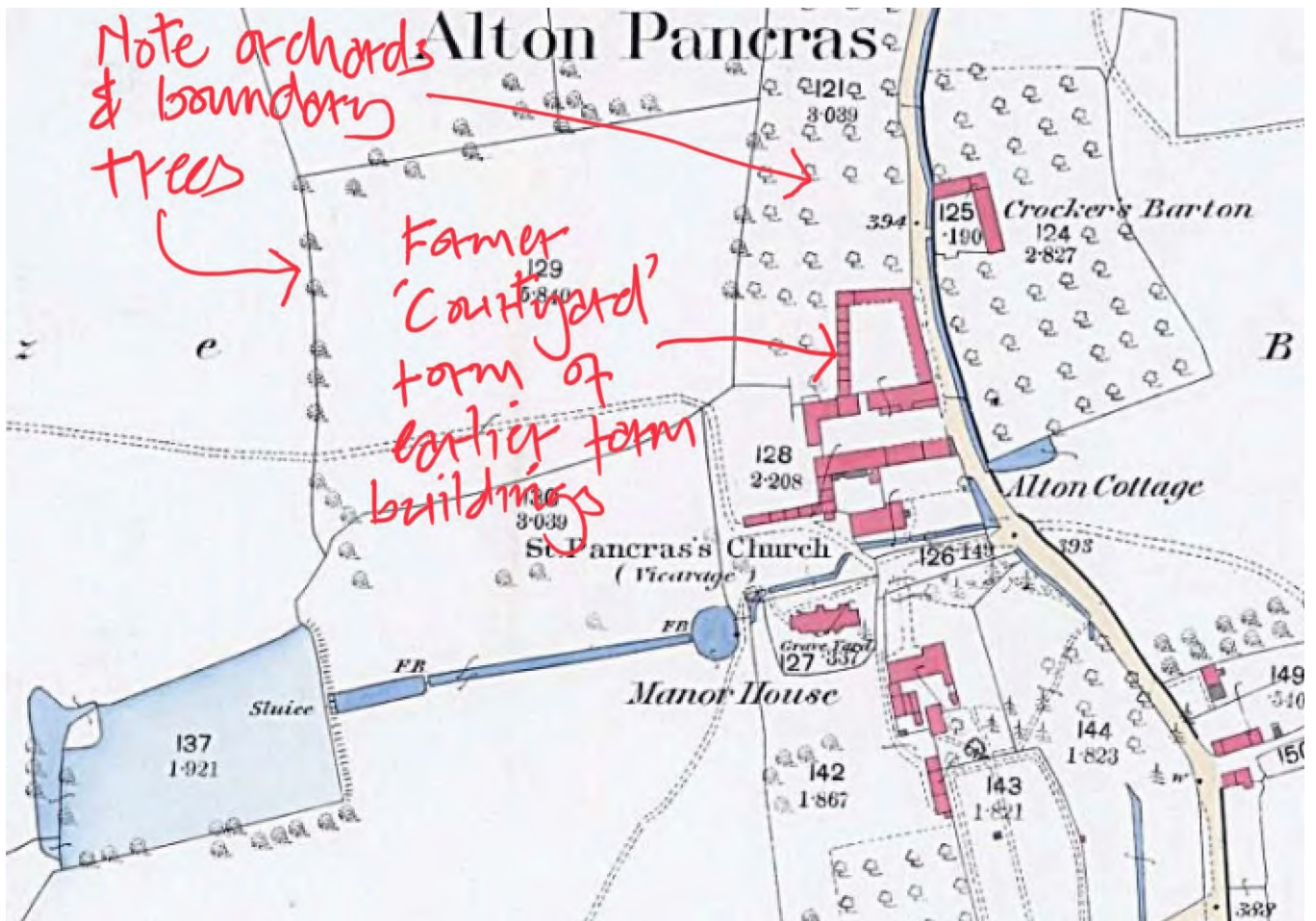


Figure 9: extract from 1888 OS first edition showing former 'courtyard' form of farm buildings



**Figure 10:** likely form of former 'courtyard' farm buildings (JPS Landscape Design)



**Figure 11:** existing varied linear development to the north of the site (Googlemaps)

I would also continue to note that despite paragraph 9.13 asserting that *“the generally poorer quality existing tree and hedgerow resource on the site would be replaced and enhanced through new tree, shrub and hedgerow planting”* no details of this planting have been submitted nor does there appear to be any evidence that *“once established, this new planting would begin to make a positive contribution to the site and the wider landscape”*.

Contrary to the assertion in paragraph 9.14 of the submitted LVA that *“overall, the physical characteristics of the surrounding wider landscape of the Dorset AONB beyond the site and its predominantly rural, farmed, nature would be materially unchanged with the proposed residential and office development in place”* I continue to think it likely that it would have a significant adverse landscape and visual effect which would require mitigation.

Furthermore evidence has still not been submitted to substantiate the assertion made in paragraph 9.18 of the LVA that “*where seen in its entirety, from more elevated vantage points, the proposed development would not be overtly prominent and would not be the dominant element or feature in the view*”. **Figure 3** above clearly demonstrates that from some vantage points the existing farm is clearly the “*dominant element in the view*” and it seems likely that the change in use from farm buildings to offices, workshops and dwellings with the associated substantial increase in the amount of vehicular parking and movement would have a significant impact on tranquility and landscape and visual character and quality.

I therefore do not accept that as asserted in paragraph 9.19 of the submitted LVA “*overall, it is considered that the proposed development would have a level of effect that would not bring about unacceptable harm to the visual amenity of the wider landscape beyond the site boundary*”.

Recent aerial imagery suggests the presence of mature trees and hedgerows both within and on the boundaries of the site so I would have expected the submission to include an arboricultural survey and impact assessment and if necessary a method statement.

I would also have expect the submission to include detailed hard and soft landscape proposals which show how the wider landscape and visual impacts of the scheme would be adequately mitigated and how the spaces between the proposed buildings would be set out to create a well designed public and private realm which would be legible; safe and pleasant to use; would not be dominated by roads and parking; would prioritise pedestrian and cycle access; would provide for public and private amenity; and would reduce opportunities for, and the fear of crime.

While the arrangement of the existing buildings is obviously fixed I am not presently convinced that the siting, alignment, design, scale, massing and materials proposed for the workshop and residential buildings would complement the character of the surrounding area, improve legibility or reinforce a sense of place indeed I think they would be likely to be visually intrusive as evidenced by **Figures 12 and 13**.

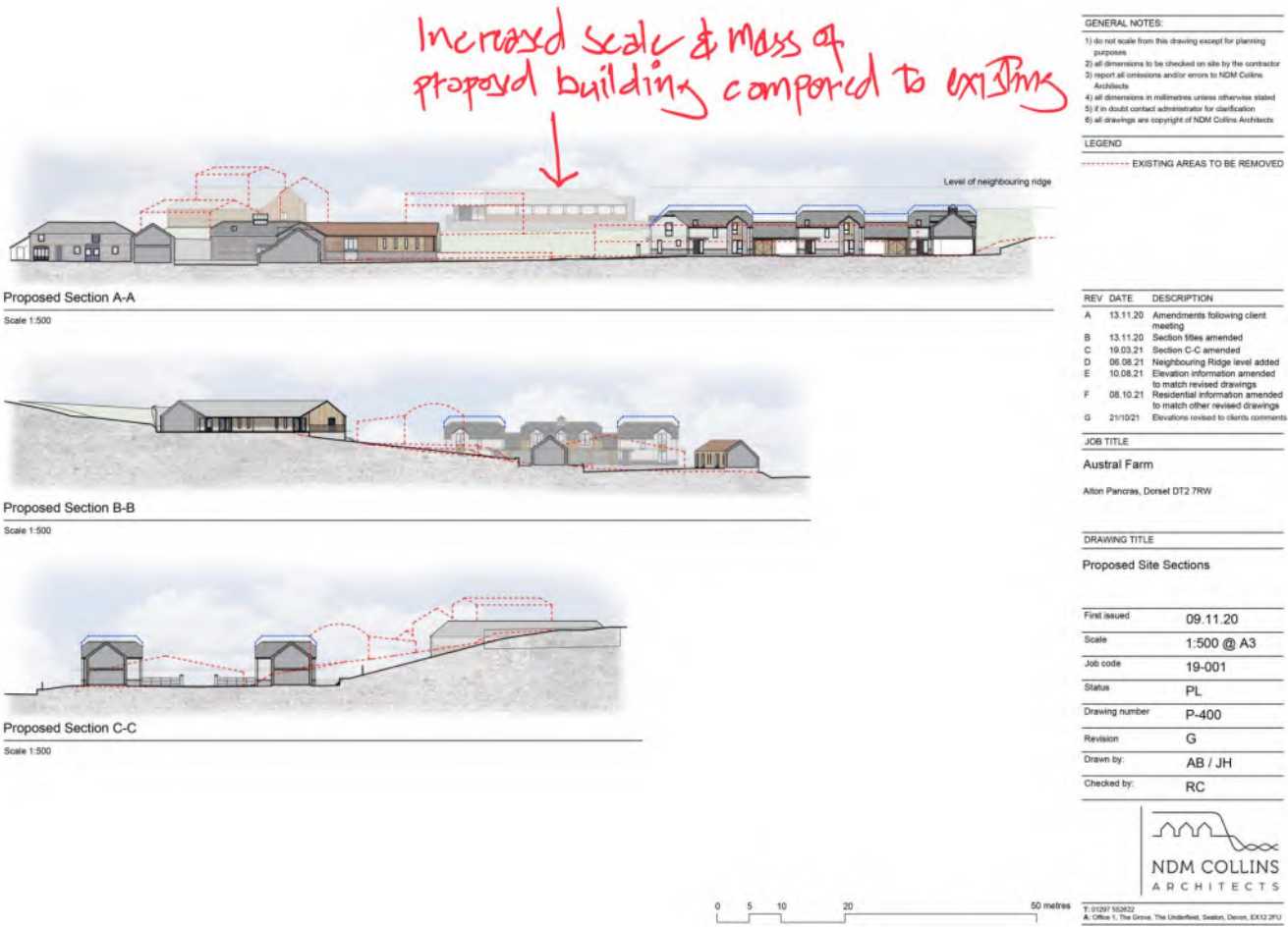
The scheme still appears to be dominated by hard surfacing and parking with very little in the way of soft landscape even in traffic free areas such as the ‘courtyard’.

Parking arrangements still appear to be ill-considered. Stacked parking has been frequent used as a solution while wide expanses of tarmac in excess of what would appear to be required for vehicle access and manoeuvring have been left unused. No tree or shrub planting has been shown within parking areas suggesting that the scheme will be car dominated and no attempt appears to have been made to mitigate the adverse landscape and visual impacts of this aspect of the sites significant change in character and use.

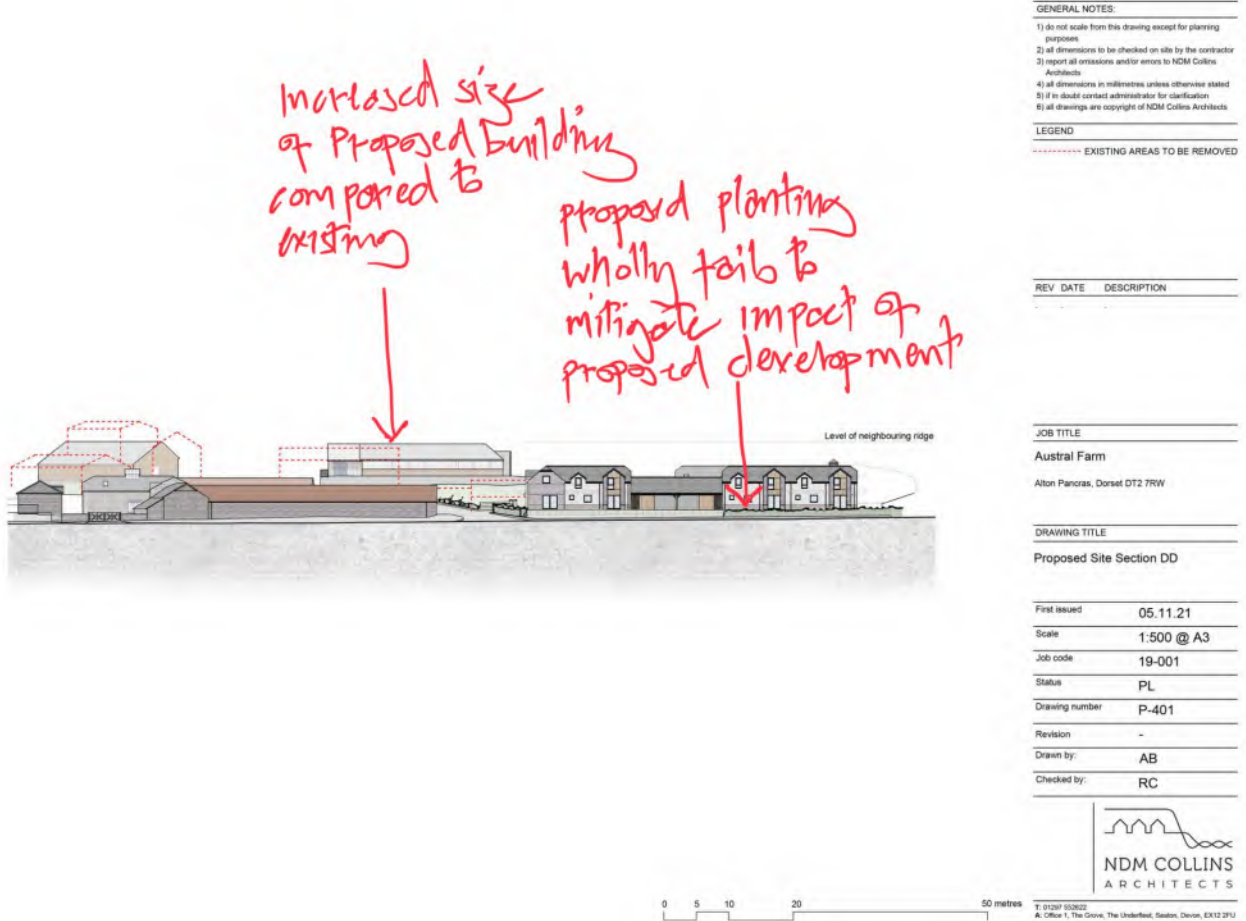
Similarly in the car free area of the ‘Courtyard’ large expanses of hard surfacing predominate and soft landscaping, seating, waste bins cycle parking etc. are limited or absent.

In the same way the square enclosed by the residential units is dominated by hard surfacing, access and parking with minimal areas of soft landscape public residential amenity space.

I continue to note that the scheme appears to include a significant amount of retaining structures notably surrounding the 9No. residential units and between the offices and the workshops. I have concerns with regard to the physical and visual impact of these structures and would wish to see them replaced where possible with graded natural landforms or softened with planting where this is not possible.



**Figure 12:** proposed site sections rev G (NDM Collins Architects)



**Figure 13:** proposed site section DD(NDM Collins Architects)

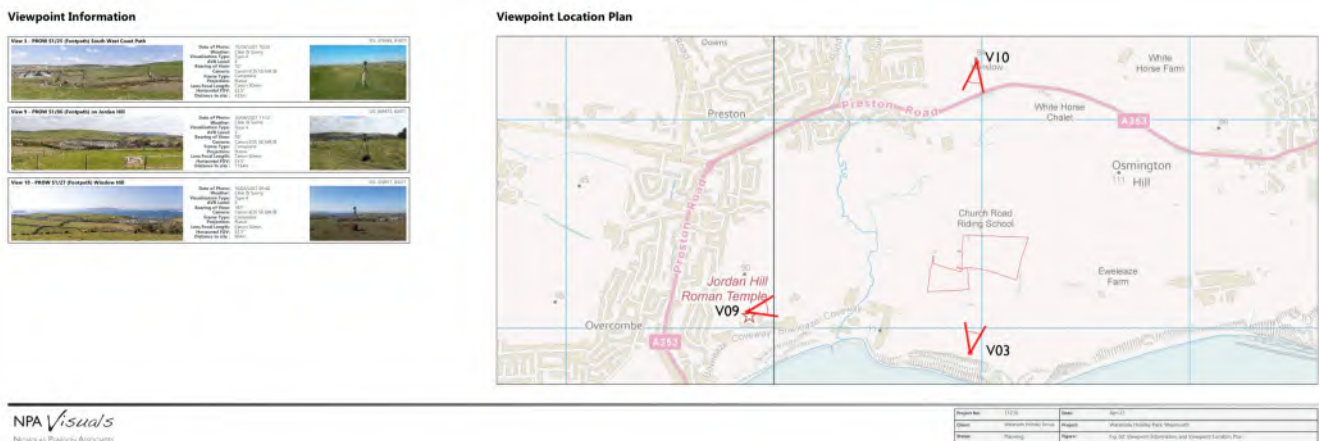


I also continue to consider the single stepped access from the car park between the proposed offices and the workshops to be an unacceptable solution in terms of accessibility.

In conclusion I continue to consider that the development proposals are not acceptable in their current form and that the following still need to be prepared and submitted before their suitability in landscape and visual terms can be properly assessed:

- Accurate Visual Representations (AVRs)/Visually Verified Montages (VVMs) from agreed viewpoints prepared in accordance with the Landscape Institutes Technical Guidance Note 06/19 “*Visual Representation of Development Proposals*” Type 4 Photomontage/photowire (survey/scale verifiable) imagery and complying with the London View Management Framework AVR Level 3 showing the location, size, degree of visibility, architectural form and the materials proposed.
- An Arboricultural Survey, Impact Assessment and if necessary Method Statement in accordance with the guidance contained in BS5837:2012 “*Trees in relation to demolition, design and construction - Recommendations*”.
- Hard and soft landscape proposals which include details of all trees and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed levels, walls, fences and other boundary treatment and surface treatment of the open parts of the site together with any lighting, street furniture, Sustainable Urban Drainage features and underground services.
- A Landscape Management Plan which demonstrates that appropriate measures are in place to secure the long term maintenance of any newly-planted trees and other hard and soft landscaping.

For the avoidance of doubt with regard to quality and presentation of AVRs/VVMs **Figures 12 to 17** below present an example of the desired standard and the document from which these images came is publicly available on the Dorset Council Planning Website (Planning Application WP/20/00756/FUL).



**Figure 12:** Example of a LI 06/19 Type 4 compliant data sheet (NTS)



NPA Visuals  
NICHOLAS PEARSON ASSOCIATES

<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>
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View No. 11210	Date: April 17
View: WIDEVIEW 100% MONOCULAR	Project: MARIKERSH HILLSIDE PARK, WINDSOR
Scale: 1:1000	Page: Top 01: View 1 - 100% MONOCULAR (100% MONOCULAR) - 100% MONOCULAR

Figure 13: Example of a LI 06/19 Type 4 compliant 100% monocular view (NTS)

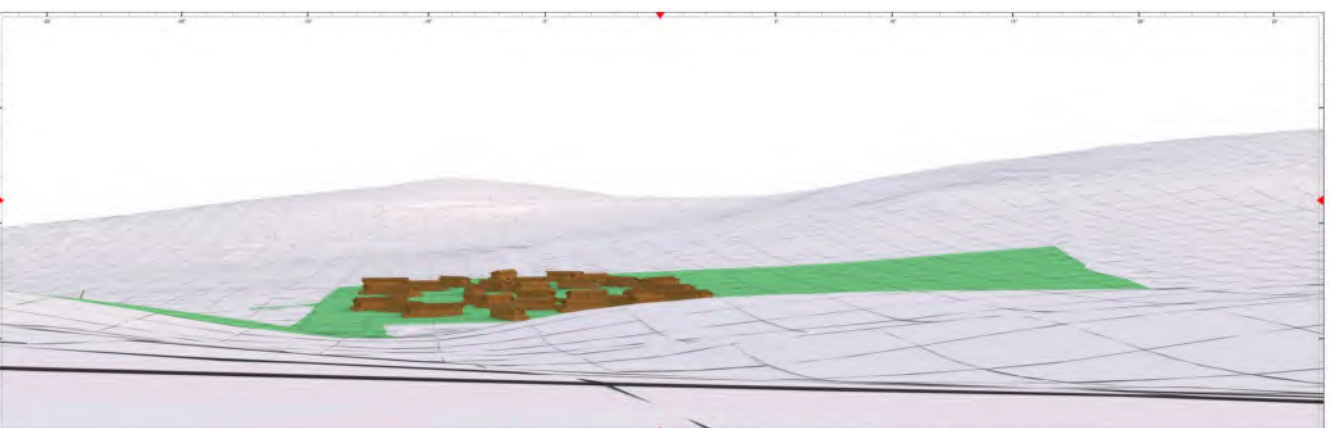


NPA Visuals  
NICHOLAS PEARSON ASSOCIATES

<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>
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View No. 11210	Date: April 17
View: WIDEVIEW 150% BINOCULAR	Project: MARIKERSH HILLSIDE PARK, WINDSOR
Scale: 1:1000	Page: Top 01: View 1 - 100% MONOCULAR (100% MONOCULAR) - 100% MONOCULAR

Figure 14: Example of a LI 06/19 Type 4 compliant 150% enlarged binocular view (NTS)



NPA Visuals  
NICHOLAS PEARSON ASSOCIATES

<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>	<small>When a person, camera or vehicle is used, the view is intended to be viewed from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle. The view should be taken from the same perspective as the person, camera or vehicle.</small>
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View No. 11210	Date: April 17
View: WIDEVIEW WIREFRAME	Project: MARIKERSH HILLSIDE PARK, WINDSOR
Scale: 1:1000	Page: Top 01: View 1 - 100% MONOCULAR (100% MONOCULAR) - 100% MONOCULAR

Figure 15: Example of a LI 06/19 Type 4 compliant wireframe computer model (NTS)



**Figure 16:** Example of LI 06/19 Type 4 compliant photomontage to AVR level 3 (NTS) Yr1



**Figure 17:** Example of LI 06/19 Type 4 compliant photomontage to AVR level 3 (NTS) Yr10

As evidenced by **Figure 9** mature trees and hedgerows on field boundaries and orchards were a common feature within the landscape historically. I still consider that the reinstatement of such features could provide much needed landscape and visual mitigation and amenity value while being in keeping with historic landscape character and their reintroduction should therefore be considered.

Trees need an un-compacted available soil volume of a minimum depth of 600mm for an area roughly equivalent to their mature canopy spread if they are to have any hope of reaching maturity and their expected height and canopy spread. Trees also need a minimum distance from the facade of a building equal to at least one and a half times half their expected mature canopy spread to allow for canopy movement and light availability and to avoid or reduce conflicts and/or damage related to physical contact between the trees and the building.

It may be that the tree planting proposed within open ground or soft landscaped areas may have access to a sufficient volume of un-compacted soil though this still needs to be evidenced. However any trees proposed within hard surfaced courtyards would probably require the use of engineered tree pits such as the GreenBlue Urban ArborSystem (or similar and approved) to ensure the provision of adequate soil volumes and guard against the future deformation of paved surfaces as a result of tree root growth. Any future submission of detailed hard and soft landscape proposals therefore needs to include the specification and detailing of tree planting. Tree planting positions also need to be carefully coordinated with any proposed or existing street lighting and underground services to ensure that conflicts are avoided or resolved.

The GreenBlue Urban Arbor system also allows for engineered tree planting pits to act as Micro SuDs units and I would still expect to see these or similar and approved features incorporated into any future detailed hard and soft landscape scheme because of the clear benefits for the trees and for dealing with site surface water drainage at source.

My preference would be for the additional information outlined above to be submitted and the issues with regard to landscape and visual impact and its appropriate mitigation and management to be resolved prior to the determination of this application.

However If, on balance, the Case Officer is minded to permit the application prior to the submission of additional information and the resolution of these issues then I would wish to see the following conditions included in the notification of decision:

**Hard and soft Soft Landscaping (pre-commencement)**

No development shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed levels, walls, fences and other boundary treatment and surface treatment of the open parts of the site together with any lighting, street furniture and underground services and a programme of implementation.

Reason: to ensure that adequate mitigation for the landscape impact of the proposals and the provision of appropriate and viable hard and soft landscape scheme has been agreed prior to the commencement of the development.

**Landscape Management Plan (pre-commencement)**

No development shall commence until a Landscape Management Plan (LMP) has been submitted to, and approved in writing by the local planning authority. The LMP shall include details of how the hard and soft landscaped parts of the scheme are to be managed in the long term.

Reason: to ensure that arrangements for the long term management and maintenance of the agreed hard and soft landscaping scheme are approved prior to the commencement of the development

**Hard and Soft Landscape Implementation (pre-occupation)**

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the use of the site or in accordance with a programme agreed in writing with the Local Planning Authority.

Reason: to ensure that the agreed hard and soft landscape scheme is implemented.

**Hard and Soft Landscaping Maintenance to Completion (compliance)**

Any trees or other plants indicated in the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planing Authority. Hard and soft landscape features will be maintained for the lifetime of the scheme.

Reason: to ensure that the agreed hard and soft landscaping scheme is established and maintained.

**Relevant national policy - National Planning Policy Framework (NPPF) July 2021**

Paragraph 174 of the National Planning Policy Framework makes clear that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes; recognising the intrinsic character and beauty of the countryside; and minimising impacts on and providing net gains for biodiversity.

Paragraph 176 states that great weight should be given to conserving and enhancing the landscape and scenic beauty of Areas of Outstanding Natural Beauty.

Paragraph 130 asserts that policies and decisions should ensure that developments function well; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history including the surrounding built environment and landscape setting; establish and maintain a strong sense of place; optimise mixed development including green and other public space; and create places that are safe inclusive and accessible and which promote health and well being.

Paragraph 131 states that planning decisions should ensure that new streets are tree lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate), that opportunities are taken to incorporate trees elsewhere in developments (such as parks and **community orchards**), that appropriate measures are in place to secure the long term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

The above policies do not appear to be addressed within section 4.0 'Planning Policy Considerations' of the submitted Design and Access Statement. Though paragraph 131 is a new addition to the NPPF policies 174, 176 and 130 were contained within the previous iteration of the NPPF (February 2019) and policy 131 is relevant as the application has yet to be determined.

As noted above I still consider that insufficient evidence has been submitted to determine whether the proposed development meets the aspirations of the paragraphs above.

**Local Plan - West Dorset, Weymouth & Portland Local Plan 2015**

Policy ENV1 makes clear that development which would harm the character, special qualities or natural beauty of the Dorset Area of Outstanding Natural Beauty including its characteristic landscape quality and diversity, uninterrupted panoramic views, individual landmarks and sense of tranquility and remoteness will not be permitted.

The Policy also makes clear that development should be located and designed so that it does not detract from and, where reasonable, enhances the local landscape character and that development that significantly adversely affects the character or visual quality of the local landscape will not be permitted.

Finally the policy notes that appropriate measures will be required to moderate the adverse effects of development on the landscape.

As previously noted there is little or no evidence within the submitted documents that the developments location and design have been derived, at least in part, from a consideration of the development's impact on landscape character and visual quality; or that appropriate measures have been proposed to moderate any adverse effects that the development may have on the landscape.

Policy ENV10 makes clear that all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness; should be informed by the character of the site and its surroundings; should retain and protect trees and other features that contribute to the areas character; and should provide sufficient hard and soft landscaping to successfully integrate the development within its site and surroundings.

As previously noted in the absence of relevant arboricultural information and hard and soft landscape proposals containing sufficient detail I consider that it is not currently possible to determine whether the development as proposed would meet the requirements of condition ENV10.

Policy ENV11 states that development should ensure that streets and spaces are well defined, safe and pleasant to use; legible and easily navigable; not car or parking dominated; provide for pedestrian and cycle access; provide for public and private amenity, refuse, recycling and storage appropriate to the uses proposed and the character of the area; and are designed to reduce crime and the fear crime.

Again the lack of detailed hard and soft landscape proposals make it impossible to properly assess whether the requirements of this policy have been met by the development proposals.

Policy ENV12 makes clear that development will only be permitted where the siting, alignment, design, scale, mass and materials used complement and respect the character of the surrounding area meaning that the general design should be in harmony with adjoining buildings and features; their scale mass and position should reflect their purpose; the quality of the architecture should be appropriate; the materials should be sympathetic to the natural and built surroundings; alterations or extension should not be overly dominant; and housing should meet or exceed the minimum space standards.

Once again I would note that a lack of detailed information in the the form of AVRs/VVMs of the proposed development make compliance with this policy difficult to properly assess.

### **Neighbourhood Plan - Piddle Valley Neighbourhood Plan 2018 to 2033**

While Policy 8 within the plan identifies the site as being allocated as a mixed use site, to provide affordable and open market housing and small business units (office/workshop or flexible live-work units) it makes clear that the proposals should be heritage led with the preservation and enhancement of the heritage assets being the primary objective. It also makes clear that any new buildings should be sensitively located and modest in scale. The preamble states that *"it is not anticipated that this site will have significant development - whatever comes forward needs to respect what is a very sensitive historic environment, and also any housing will not exceed what would be sufficient to meet local needs as an rural exception site"*.

I can still find no evidence within the submission documents that the proposals has been tested with regard to this policy through public consultation at the local neighbourhood level.

**Officer:** Colm O'Kelly - BSc (hons), MPhil, CMLI, MBA, PGDip

**Job Title:** Senior Landscape Architect - Infrastructure and Delivery Team

**Date:** 02 December 2021

# Comment for planning application WD/D/20/003302

<b>Application Number</b>	<input type="text" value="WD/D/20/003302"/>
<b>Location</b>	<input type="text" value="AUSTRAL FARM, ALTON PANCRAS, DORCHESTER, DT2 7RW"/>
<b>Proposal</b>	<input type="text" value="Removal of modern buildings (including agricultural building, grain store, silage pit &amp; dutch barn etc). Conversion of traditional buildings into offices (Class B1 (a)) and a café (Class A3). Creation of 9no residential units (Class C3) &amp; 2no. workshop buildings (Class B2)."/>
<b>Case Officer</b>	<input type="text" value="Ross Cahalane"/>
<b>Organisation</b>	<input type="text" value=""/>
<b>Name</b>	<input type="text" value="Dorset AONB Team"/>
<b>Address</b>	<input type="text" value="County Hall, Dorchester DT1 1XJ"/>
<b>Type of Comment</b>	<input type="text" value="Comment"/>
<b>Type</b>	<input type="text" value="neighbour"/>
<b>Comments</b>	<input type="text" value="Having reviewed the amended plans in relation to the AONB Team's comments from March 2021, there are concerns regarding the extent of vegetation proposed for removal and the limited details of future planting. As indicated previously, the retention of the hedgerow along the eastern boundary of the site and the potential to augment this with further planting is an important design consideration that does not yet appear to have been addressed. Other impacts on existing vegetation across the site and proposed planting should also be clarified. Finally, the control of lighting across the site continues to be a matter that requires control through the use of a planning condition."/>
<b>Received Date</b>	<input type="text" value="22/11/2021 15:07:49"/>
<b>Attachments</b>	The following files have been uploaded: <ul style="list-style-type: none"><li>•</li></ul>

# Dorset Council draft Annual Position Statement - 5 year housing land supply - stakeholder engagement

## Overview

Dorset Council is seeking to confirm its housing land supply position for the base period of 1st April 2023 to 31st March 2024, by producing an Annual Position Statement (APS).

This APS will be submitted to the Planning Inspectorate in July 2024. The Inspectorate will then provide their recommendation in October 2024 with the housing land supply position then being confirmed until October 2025. The government's Published Planning Practice Guidance [sets out the process for confirming the housing land supply](#).

We have produced a draft Annual Position Statement that sets out the Council's draft five year housing land supply position. The draft APS and Appendices are available here:

- [Draft Annual Position Statement 2024](#)
- [Appendices A to G - sites within the 5 year housing land supply](#)
- [Appendix H - correspondence with developers of specific sites](#)
- [Appendix I - Housing Delivery Test calculations](#)

We are undertaking targeted stakeholder engagement with the development industry and other key stakeholders on the draft report. Your views on the draft report will be important as they will inform the final submission to the Planning Inspectorate.

The Council's position on sites within the 5 year housing land supply, as set out in the draft APS, has been informed by engagement with landowners, agents, and developers of sites. They were asked to complete [a pro-forma](#) with information and other details on delivery of housing. Responses to this engagement are found in Appendix H of the draft APS.

## Introduction

Please enter your details below. Your name and email address are required as part of your submission because we would like to be able to contact you after the consultation, as we look to finalise the Annual Position Statement.

### 1 What is your name?

Name *(Required)*:

Nia Powys

### 2 What is your email address?



Email *(Required)*:

[REDACTED]

### 3 What is your organisation?

Organisation:

Tor&co

### 4 What are your client(s) details (if applicable)?

Client(s) details (name, organisation):

Dudsbury Homes (Southern) Ltd

5 Responses to this consultation will be published during the process of confirming the Annual Position Statement. Please tick this box to declare that you agree to your response being made available for public viewing.

I agree to my response being made available for public viewing *(Required)*:

Agree

## Your response

Please read the draft Annual Position Statement and Appendices below, and provide a response via the online form, or by uploading an attachment.

- [Draft Annual Position Statement 2024](#)
- [Appendices A to G - sites within the 5 year housing land supply](#)
- [Appendix H - correspondence with developers of specific sites](#)
- [Appendix I - Housing Delivery Test calculations](#)

6 Please enter your response to the draft Annual Position Statement below. Alternatively you may attach a response in the next question. If you have comments regarding specific sections or sites within the Annual Position Statement, please clearly indicate them in your response.

Enter your response here:

### 7 Upload a response

**Please attach a copy of any documents you wish to include to this printout.**

Please make sure your file is under 10MB.

File upload

Please see representations within wetransfer link in submission email.



The Planning Inspectorate

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## **Report to Dorset Council**

**by Beverley Doward BSc BTP MRTPI  
Susan Heywood BSc (Hons) MCD MRTPI  
Gareth Wildgoose BSc (Hons) MSc MRTPI**

Inspectors appointed by the Secretary of State

Date 7 May 2024

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Purbeck Local Plan (2018 - 2034)**

The Plan was submitted for examination on 28 January 2019.

The examination hearings were held between 2 July 2019 and 11 October 2019, and on 19 July 2022.

File Ref: PINS/B1225/429/4

### Issue 3 - Is the housing need figure robust?

70. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national policy. The associated guidance in PPG sets out the approach to calculating a minimum annual local housing need figure using the standard methodology. It also indicates that strategic policy-making authorities will need to calculate their local housing need figure at the start of the plan-making process but that this number should be kept under review and revised where appropriate. In addition, it is clear that the local housing need calculated using the standard method may be relied upon for a period of two years from the time that a plan is submitted for examination<sup>26</sup>.
71. Policy H1 of the Purbeck Local Plan, informed by the 2018 Strategic Housing Market Assessment (SHMA) update for Purbeck<sup>27</sup>, identifies an annual local housing need figure of 168 homes which for the period covered by the Plan (2018 to 2034) equates to a figure of 2,688 homes. This was calculated using a base date of 2016 to calculate the projected average annual household growth over a 10-year period, together with the 2014-based household projections and the 2016 affordability ratio. However, at the time of this report, it is more than two years from the time that the Plan was submitted for examination and therefore, it is necessary that a more up-to-date calculation of the local housing need figure is undertaken.
72. With regard to the above, the preparation of the Purbeck Local Plan took place during a period of change and uncertainty in relation to guidance on calculating housing need. In that context, the Council set out a revised calculation in its evidence<sup>28</sup> that is calculated with a base date of 1 April 2022 for household growth over a 10-year period using the 2014-based household projections. It also includes the most up-to-date affordability ratios for Purbeck District published for 2022 that are consistent with the base year and therefore, that we have reasonably identified as the most robust from the evidence. This produces a figure of 187.4 dwellings per annum [dpa] which, when capped as indicated in the PPG (Step 3) results in a minimum local housing need figure of 185.5 dpa or 186 dpa (rounded), which is equivalent to 2,976 homes for the period covered by the Plan.
73. The PPG advises that there is an expectation that the standard method will be used for assessing local housing need and that any other method will be used only in exceptional circumstances<sup>29</sup>. Having regard to the Framework and PPG,

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<sup>26</sup> PPG Reference ID:2a-008-20190220

<sup>27</sup> Document SD20

<sup>28</sup> Document SMMCD5

<sup>29</sup> PPG Reference ID:2a-003-20190220



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## Appeal Decision

Inquiry held on 31 July, 1, 30 and 31 August 2018

Site visit made on 2 August 2018

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

an Inspector appointed by the Secretary of State

**Decision date: 28<sup>th</sup> September 2018**

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**Appeal Ref: APP/W3520/W/18/3194926**

**Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Landex Ltd against the decision of Mid Suffolk District Council.
  - The application Ref 2112/16, dated 2 May 2016, was refused by notice dated 6 September 2017.
  - The development proposed is the erection of 49 dwellings (including 17 affordable dwellings) and construction of a new access.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 49 dwellings (including 17 affordable dwellings) and construction of a new access at Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF in accordance with the terms of the application, Ref 2112/16, dated 2 May 2016, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matters

2. The application was supported by a number of reports and technical information including a Design and Access Statement (DAS), a Planning Statement, a Revised Transport Assessment, a Planning Statement, a Contamination Report Part 1 and Part 2, an Ecology Report and Skylark Survey, a Flood Risk Assessment, a Foul and Surface Water Drainage Strategy, an Archaeological Report and a Landscape and Visual Appraisal.
3. At the Inquiry, a S106 Unilateral Planning Obligation was submitted by the Appellant.<sup>1</sup> This addresses all of the matters sought by the District and County Council in connection with the provision of community and other services arising from the development. The Planning Obligation is signed and dated 29 August 2018 and is a material consideration in this case. A Community Infrastructure Compliance Statement has been submitted by Suffolk County Council (SCC).<sup>2</sup> I return to the Planning Obligation later in this decision.
4. In addition, the Appellant submitted an Agreement with Flagship Housing Group Limited, conditional upon planning permission being granted, to enter into a Deed of Easement<sup>3</sup> to secure pedestrian and cycle access to the north

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<sup>1</sup> APP8

<sup>2</sup> INQ5

<sup>3</sup> APP7

via Steeles Close. I shall return to the proposed easement later in the decision.

5. Statements of Common Ground (SoCG)<sup>4</sup> between the Appellant and SCC were agreed and have been signed by both parties in respect of: (i) Archaeology Matters; (ii) Drainage Matters; (iii) Early Years and Education Matters; and (iv) Highways and Transport. An additional SoCG on Planning Matters including Housing Land Supply was agreed between the Appellant and Mid Suffolk District Council (MSDC).
6. The main parties confirmed the List of Drawings on which the appeal should be determined and this is set out at Document APP1. The List of Drawings includes the House Types (1-9), a Site Location plan PA33, a Site Layout Plan PA31 Rev H and an Offsite Highways Works Plan 112/2015/04 - Rev.P2.
7. The revised National Planning Policy Framework (NPPF 2018) was published on 24 July 2018 shortly before the Inquiry opened and was addressed by participating parties both during the event and in closings. I have taken it in to consideration in my conclusions.<sup>5</sup>
8. Following the close of the Inquiry I sought the views of both main parties in respect of the revisions made to the PPG<sup>6</sup> on 13 September 2018 on Housing and economic land availability assessment. The comments received have been taken into account in my consideration of the appeal proposal.

### **Main Issues**

9. In the light of the above I consider the main issues are:-
  - the effect of the proposed development on highway and pedestrian safety;
  - the impact of the proposed development on designated heritage assets including the setting of listed buildings and the character and appearance of the Woolpit Conservation Area; and
  - whether the Council is able to demonstrate a five-year supply of deliverable housing sites sufficient to meet the full objectively assessed need (OAN) for housing and the implications of this in terms of national and local planning policy.

### **Reasons**

#### *The proposed development and appeal site*

10. The appeal proposal is for 49 dwellings including 17 affordable dwellings (35%) together with a new access to be constructed to serve the development of Green Road. The dwellings would have associated garages and parking areas and pedestrian access from the site onto Green Road and pedestrian/cycle access to Steeles Close. There is a dedicated on-site play area proposed as well as extensive on-site open space and linking footpaths.

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<sup>4</sup> INQ3

<sup>5</sup> Paragraph 212 Annex 1: Implementation

<sup>6</sup> Planning Practice Guidance

11. Woolpit is the third largest village in Mid Suffolk and has a good level of local services and infrastructure including health care, education and two business parks/employment sites and is designated as a Key Service Centre in the Council's settlement hierarchy. The appeal site is located on the southern edge of Woolpit village, to the south of its centre but with access to facilities which are in close proximity – a primary school, health centre, village shops and services are within walking distance.
12. Whilst, for planning policy purposes, the site is located in the designated 'countryside', its northern and eastern boundaries adjoin the defined settlement boundary for the village in the Mid Suffolk Local Plan 1998 (Woolpit Village Inset Map). There is existing residential development on the eastern side of the site on Steeles Road and immediately adjacent to the north lies Steeles Close and the main body of the village; on the opposite side of Green Road, but at the northern end of the appeal site lies residential development in the form of Priory Cottage, a Grade II Listed Building. There is therefore residential development on two sides of the appeal site. Land to the south and west comprises open agricultural land.
13. The appeal site comprises a total site area of about 2.3 hectares. It consists of a rectangular shape block of land which is part of an agricultural field. It is enclosed with an existing tree/hedge line on three sides. The appeal site is broadly level but there is a gentle slope west to east. There is an existing tree/hedge line to a part of the site's Green Road frontage and there are trees to the northern boundary which separate the site from Steeles Close. A public footpath passes north to south along the site's eastern boundary. This footpath connects to the southern part of the village and then to the wider countryside to the south.
14. There is a designated Conservation Area in Woolpit Village its nearest boundary being located about 250m to the north from the appeal site at the junction of Drinkstone Road and Green Road. The appeal site is not within the boundary of a protected landscape and there are no designations which apply to it. No Listed Buildings about the application site but the listed Grade II, 17<sup>th</sup> century, Priory Cottage is situated on the west side of Green Road opposite the north-west corner.

#### *Planning policy*

15. The statutory development plan includes the following documents:
  - (i) The Mid Suffolk District Local Plan 1998 (MSDLP) which was saved in accordance with the Secretary of State's Direction dated 14 September 2007;
  - (ii) The Mid Suffolk District Core Strategy 2008 (CS), as adopted in September 2008 covering the period until 2025; and
  - (iii) The Core Strategy Focused Review 2012 (CSFR) as adopted on 20 December 2012 covering the period until 2027.
16. The Council is in the course of preparing a new Joint Local Plan with Babergh District Council which will replace the CS and will be used to manage development in both districts up to 2036. The Councils have published the Joint Local Plan for consultation (Regulation 18) but the emerging Plan is in its very early stages and thus carries limited weight in the context of this appeal.

A Neighbourhood Plan is currently being prepared for Woolpit. It too is in its very early stages and draft policies have not yet been published so no weight can be attached to the Neighbourhood Plan.

***First Issue - Highway and pedestrian safety***

17. SCC, as Highway Authority, does not object to the proposal subject to conditions being attached to a grant of planning permission. The Council did not refuse the proposal on the basis of highway and pedestrian safety grounds because a highway improvement scheme at the pinch point on Green Road was proposed as part of the development and was to be secured by means of a planning condition. Rather, the Reason for Refusal (RfR) indicates that the proposed development would increase vehicular traffic in the village centre and require the provision of highway works to the north of the site in the vicinity of a number of unspecified listed buildings and within the Conservation Area. The Council then argues firstly, that the nature of the works and the increase in traffic would neither preserve or enhance the character of this part of the Conservation Area and secondly, would not preserve or enhance the setting of the unspecified listed buildings causing less than substantial harm to both.
18. The areas of debate at the Inquiry comprised:
  - Increase in vehicular traffic through pinch point
  - Increase in pedestrian flow through pinch point
  - Personal Injury Accidents (PIA) Analysis
  - Accessibility

*Increase in vehicular traffic*

19. North of the appeal site between Drinkstone Road and just beyond Mill Lane, Green Road narrows significantly to about 4.3m creating a pinch point about 60m long. On the western side there is no footway as the buildings and fences are hard against the edge of the road. On the eastern side there is a narrow footway measuring less than 1m in width, reducing to only 0.85m in parts. This road width is insufficient for two vehicles to pass with pedestrians on the footway being vulnerable to being hit by vehicles. The footway at this width is insufficient to allow pedestrians to pass each other without stepping into the road. It is also too narrow for wheelchair users and pram use so the only alternative for many is to walk along the road.
20. The footway here is also vulnerable to being driven over by vehicles as the kerbed separation is too low to offer sufficient protection. The kerb upstand is between 20mm and 60mm – this does not prevent or deter vehicles from driving over the kerb onto the footway. The Parish Council and others are concerned that at times Green Road can become congested. Both highway experts agree that Green Road is relatively lightly trafficked but this does not mean at times it cannot become congested.
21. I see no reason to doubt the underlying validity of the Appellant's Traffic Assessment (TA) as considered by the Highway Authority. The TA estimated that the proposed development would generate, overall, 33 vehicular trips in the AM peak hour and a total of 38 trips in the PM peak hour which would give

rise to 295 additional trips over a 24 hour period. The majority of this traffic would travel northbound through the pinch point to the transport links and facilities in the village beyond. Based on these TA figures, two-way traffic on Green Road would increase by 15% in the AM peak and by 16% in the PM peak as a result of the development traffic. This equates on average during the AM and PM peak hours to an additional vehicle passing through the pinch point every 2 minutes. In my view this represents at worst, a very modest increase in vehicular traffic through the pinch point.

#### *Increase in pedestrian flow*

22. The Council has assessed the additional pedestrian flows associated with the development: an additional three pedestrians walking northwards in the AM peak and 2 in the PM peak and an additional one pedestrian walking southwards in each of the AM and PM peak hours. The Council's assessment determines the theoretical likelihood of a northbound vehicle, a southbound vehicle and a pedestrian negotiating the pinch point together at any one time during the peak hour for both the existing scenario and that with the proposed development. It concludes that such events would increase threefold with the development in place, which equates to ten additional pedestrian injury risk events per year. These figures were accepted by the Appellant.
23. I appreciate that the Council's assessment is a theoretical risk analysis and that the ten additional pedestrian injury risk events compared to the baseline is relatively small – not even one per month. Nevertheless that increase is significant when considered over time, and it is noteworthy that any conflict between vulnerable road users (pedestrians) and motor vehicles will often result in an injury requiring hospital attention, even allowing for the slight reduction in vehicle speeds through the pinch point. In my view there would be a modest increase in the number of pedestrian injury risk events.

#### *Personal Injury Accidents (PIA) Analysis*

24. The TA demonstrates that there is no recorded accident data for Green Road itself, but there were four accidents which led to injury in the period between 2010 and 2015 (Appendix I). The Appellant accepted that when considering accident data, it is relevant to look more widely than the road on which the development is proposed, and that it is not just about the overall number of accidents but the details of them. Two of the accidents involved pedestrians being struck by passing cars (on The Street and on Heath Road) and that in one of those accidents the narrow width of the road was recorded as a causation factor by the police. Another accident involved a driver striking a line of cars in The Street during the hours of darkness. In my view the circumstances of the accidents which have occurred in the wider area are not inconsistent with a highway safety concern.

#### *Accessibility*

25. I accept that the proposed pedestrian and cycle link via Steeles Close and Steeles Road is likely to be used for a good percentage of pedestrian trips to give access to village services. It would be used for: (i) dropping off and collecting children from the primary school and pre-school as well as after school clubs; (ii) to access childcare services in the grounds of the primary school, such as a "Holiday Club" during school holidays; (ii) attending health appointments; (iv) picking up prescriptions from the dispensary; (v) shopping



at Costcutter Convenience Store with its extended opening hours (0600-2230 hours) and (vi) accessing the Brickfields Business Park, where around 25 companies are based. Moreover, the proposed easement to the north<sup>7</sup> would be entirely adequate for the purposes of guaranteeing access at all times. The terms on which it is granted make it entirely enforceable and I cannot foresee any circumstances which would lead to the grantor being in a position to restrict or prevent its use.

26. Nevertheless, it is noteworthy that the proposed development provides a footpath link from the Green Road access on the west of the appeal site which links to the pavement outside Vine Cottage. Anyone seeking the shortest route to walk to the village centre, to access facilities including the village shop (Co-op), the post office within it, the bus stops, the village pubs, the bakery, the tea room, the hairdressers, the Village Hall, the Church and the petrol filling station would have to negotiate the pinch point and the increased traffic going through it. Even with the Steeles Close access, anyone using it to take the shortest route to the village centre would still travel through the pinch point on Green Road. Use of the access via the Greenway at the south east of the site onto the public footpath would be far from desirable for anyone accessing facilities in the village centre.
27. Taking all of these matters into account I consider that the increase in vehicular and pedestrian traffic from the new development having to negotiate the pinch point on Green Road would exacerbate highway dangers unless appropriate safety improvements can be made. I conclude on the first issue that the off-site highway works specified in Drawing 112/2015/04 Revision P2 are necessary to mitigate the increased safety risk as a result of the development. If an appropriately worded planning condition(s) is imposed to secure the off-site highway works then there would be no unacceptable residual highway or pedestrian safety impact arising from the proposed development.

### ***Second Issue - Heritage Assets***

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA) requires that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the LBA requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
29. Paragraph 193 of the NPPF 2018 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
30. Whilst there is no statutory protection for the setting of conservation areas, paragraph 194 of the NPPF 2018 requires that consideration be given to any harm to or loss of significance of a designated asset, which includes conservation areas, from development within its setting. The main parties confirmed that no harm would be caused to the setting of the Conservation

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<sup>7</sup> APP7

Area in this case and I agree.

*Woolpit Conservation Area*

31. The Woolpit Conservation Area Appraisal (2012) tells us that the Conservation Area covers the historic core of the village and was first designated by the Council in 1972. The Appraisal notes that the built form is marked by a variety of dates, architectural styles and building materials including a variety of roof finishes. The Conservation Area includes the Grade I listed Church of St Mary with its flint and stone chequered flushwork. The remaining listed buildings, the majority being Grade II, are identified as *'timber-framed houses, many now re-fronted in brick'*. The variety of building materials is noted, with exposed timber-framing and bricks from the local brickworks, comprising *'Suffolk whites'* and *'soft red brick'*.
32. In terms of its plan form and layout, Woolpit village has a distinct central triangular island, which *'is a well defined focal point'* which forms the focus for three *'important vistas'* identified on page 11 of the Appraisal. In vista (1) looking north along Green Road towards the village triangle, the view is eroded somewhat by the presence of street signage and the extent of parked cars around this *'island'*. Each important vista contributes to the character and appearance of the Conservation Area.
33. I consider the significance of the Conservation Area derives from its character interest which includes a mixture of medieval, post medieval and later buildings, of a variety of styles and material finishes, arranged around a central village *'triangle'* which is laid out and maintained as a green-edged *'island'*, from which radiate outwards three main thoroughfares; Green Road, Church Street and The Street; and from there extends a wider network of smaller sub-roads. In connection with this, the vehicular traffic is regular enough to be noticeable particularly along the three main roads, but it is not an overbearing element. It contributes to the appearance of the Conservation Area, as does the traffic control measures that form part of the street scenes, most obviously in the form of a variety of bollards.
34. The Council alleges that there would be a significant impact on the appearance of the important vista along Green Road towards the central market place at the centre of the Conservation Area and that the important historical character of the southern *'gateway'* and the important historic street scene would be harmfully altered by the introduction of the highway improvements, resulting in a more urban appearance. In particular, reference is made to the kerbed build out with bollards, the footpath widening with raised kerbs, the erection of a TSRGD 516 sign on the pavement between Pepys House and Tyrells, the disruption of sightlines which have a natural downward slope and the noticeable increase in both vehicular and pedestrian traffic which it is said would detract from the perception of relative tranquillity. I disagree.
35. The changes such as they are would only be appreciable in relatively limited views north and south along Green Road from about the area of the village triangle to the southern edge of the Conservation Area. The proposed off-site highway works would only bring about a change to a limited and localised part of this designated heritage asset. In terms of the revision of road markings, when taken in the context of the existing roadway and indeed the appearance of the wider network of roads within the Conservation Area that are generally

of 'black tarmac with white network markings'; it would not be out of character and would not harm its special interest.

36. In terms of footpath widening, the existing pathway is a standard kerbed tarmac path, about wide enough for one person to traverse. The appeal proposals envisage the widening of this footpath to 1.8m with the kerb face raised to 125mm. Again, whilst this would represent a change to the current situation, it would not be incongruous with the character and appearance of the Conservation Area which includes a large number of kerbed footpaths of varying widths. The final form and finish of these proposals would be subject to detailed design at a later stage and there is an opportunity to include a higher quality surface finishing such as sandy bedding gravel to improve the appearance of this stretch of footpath, more in keeping with the current character of this area of the asset.
37. In my view, the proposed widening of the footpath would also allow better appreciation of the character and appearance of the Conservation Area by providing a more convenient means of accessing the asset to enjoy the quality of the historic built environment.
38. In terms of road signage there are currently numerous examples of instructional road signs elsewhere within the Conservation Area, not least within the village 'triangle' itself. The introduction of a new road sign would be needed at the southern end of the highways works to forewarn drivers heading north into the Conservation Area of the narrowing roadway. The exact location of this sign is not yet fixed and is subject to future agreement. It could, for instance, be located outside the southern boundary of the Conservation Area. Even if located within the asset I see no reason why it could not be sympathetically integrated into the street scene.
39. The kerbed build out with bollards adjacent to Model Cottage would be the most evident change resulting from the proposals, as the current location for this is a featureless part of the black tarmac roadway. However, the use of a variety of bollards for such traffic calming/building protection measures is already widely evident within the wider Conservation Area, with others also used to control parking. In my view, the use of bollards in this location and for this purpose, employing a sympathetic design to be agreed with the Council, would plainly not be intrusive or incongruous with the character and appearance of the wider Conservation Area and would not result in any harm.
40. In terms of the built form of the off-site highway works, the appeal proposals would only be evident from a small part of the wider Conservation Area, would not be incongruous with its current character and appearance, and, with regard to the widened footpath, could actually deliver an enhancement.
41. In relation to the increase in vehicular traffic and any effect on the character and appearance of the Conservation Area, I have identified that there would be a *very modest* increase in the amount of traffic using the immediate road network and on Green Road leading into the village centre. This very modest increase in vehicular traffic would not introduce an element into the Conservation Area that is not already present within the designated area and neither would it increase that existing element of the Conservation Area's character and appearance to any more than a modest degree. The very modest increase in traffic flow would have no effect on the special interest of the Conservation Area and no harm would be generated.

42. I consider there would be no harm caused to the Woolpit Conservation Area as a result of the appeal proposals. The proposals would as a minimum 'preserve' the character and appearance of the Conservation Area, if not actually enhance it through the improvement of the footpath.

#### *Listed Buildings*

43. When assessing the indirect impact of proposals on heritage assets such as those beyond the boundary of a development site, the question which should be asked is whether change within its wider 'setting' would result in a loss of (or damage to) its 'significance' as a heritage asset.
44. The NPPF 2018 defines significance in Annex 2: Glossary as: '*The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting*'.
45. The current Historic England (HE) guidance<sup>8</sup> is clear in stating that change within a heritage asset's setting need not be harmful; the implementation of development proposals within a heritage asset's setting can be positive, negative or neutral. The HE guidance presents an approach to setting and development management based on a five-step procedure. The key issue is whether and to what extent, the proposal would affect the contribution that setting makes to the significance of the heritage asset in question. In the following analysis I give considerable weight and importance to the desirability of preserving the settings of Listed Buildings.

#### *Mullions, Tyrells and The Cottage*

46. These three Grade II Listed Buildings are closely associated with each other and are all late medieval or early post medieval houses and should be considered as a group in terms of the contribution which setting makes to their significance. They also share this group value with those other listed buildings within this same historic core area. Such associations provide positive contributions to the significance of these buildings by providing context in which to appreciate the layout and hierarchy of the earlier settlement. In particular, Tyrells and The Cottage derive significance from their historic and functional associations, as two parts of the same original late medieval dwelling.
47. Insofar as the setting of these three listed buildings contributes to their significance, it does so in terms of (i) their associative relationships within the group, as well as with other surrounding aspects of the historic built environment defining the street scenes around and south of the triangle; (ii) in respect of historic, functional and aesthetic relationships with the positions and alignments of both Green Road and Mill Lane; and (iii) in respect of their historic and functional inter-relationships with spaces forming their garden enclosures.
48. In terms of Mullions, Tyrells and The Cottage, the Council alleges that their settings would experience change as a result of the off-site highway works and increased vehicular traffic. In terms of the off-site highway works, as

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<sup>8</sup> The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) Historic England 2017

previously stated, these can be broadly divided into the following elements: (i) revision of road markings; (ii) footpath widening; (iii) new road signage and (iv) a kerbed build-out with bollards, adjacent to Model Cottage.

49. The proposals would effect physical change to only a short stretch of Green Road, which is already experienced as a modern tarmac road with white markings and street furniture. Although these three listed buildings are identified as deriving some significance from their association with this road, in terms of historic and functional associations, this is in no way dependent on its current appearance.
50. The three listed buildings would be broadly opposite where the kerbed build-out and bollards would be located. However, such a change would not reduce the ability to appreciate these buildings from Green Road or alter their evidential, historic or functional relationships with it. Moreover, the footpath widening adjacent to Mullions, would also be a noticeable change, particularly if the quality of finish was improved from tarmac to a more sympathetic surfacing, but in the context of the tarmac path already present, it would be inconsequential to the significance of the listed building. There is no substance to the allegation that the highway works would have an impact on the structural integrity of Mullions. The other changes, comprising new road signage and revised road markings, in the context of the existing setting would be such a marginal peripheral change as to be all but unnoticeable.
51. It is noteworthy that Dr Duck, the Council's Heritage Officer, did not raise the possibility of harm accruing to the listed buildings within the Conservation Area - including any of these three listed buildings as a result of the implementation of the off-site highway works. Given the very limited change and the existing context of these listed buildings I consider that the off-site highway works would preserve the setting of these listed buildings and would not harm their significance.
52. The appeal proposals would result in a very modest increase in traffic on average in the peak morning and evening hours. This increase would evidently be so marginal as to be barely perceptible and would not result in an apparent change to the experience of these listed buildings. As such, the traffic generation, such as it is would also not harm the significance of any of these listed buildings.

#### *Priory Cottage*

53. The Grade II listed Priory Cottage is the most southerly property in Woolpit and forms the southern gateway to the village. It comprises a cottage dating from the early 17<sup>th</sup> century, with 19<sup>th</sup> century additions. It is assessed as drawing its significance mostly from its architectural and historic interest, as evidenced in its built form. There is also some limited artistic and archaeological interest, which is derived from the few architectural embellishments and limited phasing which it possesses and exhibits. The building is set within private and well-tended gardens that provide an attractive space in which to appreciate its significance.
54. The property is adjacent to Green Road and the regular traffic along this roadway is also a notable feature within its setting. The roadway possesses historic and functional links with Priory Cottage and it forms the predominant means whereby the structure is appreciated. As the Cottage is located on the

edge of the village, there is some limited relationship with the street frontage immediately to the north, which represents pre-20<sup>th</sup> century dwellings. To the south and west, the wider setting of the building comprises open agricultural land, as it is also on the east side of Green Road (i.e. the appeal site).

55. The appeal site is assessed as falling within the setting of Priory Cottage, given that it is possible to experience the Grade II listed building from the farmland it comprises through a gap at the north end of the otherwise bushy and robust hedgerow. This hedgerow largely encloses the east side of Green Road and contains and curtails eastward views outwards from the listed building to the confines of this north-south thoroughfare of Green Road, thus separating the asset from the appeal site.
56. Therefore, whilst the appeal site does fall within the asset's setting, it makes only a very limited contribution to the significance of this building because of the screening effect of the boundary hedgerow and the concentration of the asset's relationships on (i) its garden enclosure (ii) the Green Road frontage north and south and (iii) the agricultural farmland that adjoins it to the west and south. All of these relationships are focussed to the west of the road.
57. The appeal proposals envisage two dwellings (Plots 15 and 16) in the north west corner of the development site served by a private drive that would run parallel to Green Road. A new footpath link with Green Road would run between Green Road and the private drive and thread through a gap in the roadside hedge opposite Priory Cottage. The hedgerow would be retained albeit on a slightly set back alignment.
58. Therefore, the change to the setting of Priory Cottage would only be noticeable as a change from partial views of an agricultural field to partial views of modern properties in the north west corner of the site. This would cause some erosion to the rural context of the area albeit limited by the partial retention of the hedgerow and the setback of the new properties from the Green Road frontage. Otherwise it would not affect the rural setting to the west and south, the relationships with its well-tended private gardens, Green Road or those properties in close proximity to it.
59. I consider that this limited change would result in a very low level of harm to the significance of this listed building at the lowest end of '*less than substantial harm*'. This conclusion is broadly in agreement with Dr Duck's original consultation response on the planning application where he states that the '*overall impact on the setting of Priory Cottage is notably less than substantially harmful*'.<sup>9</sup> No further mitigation is suggested.
60. In line with statute, policy, and case law<sup>10</sup>, considerable weight and importance must be given to the presumption against granting permission for development that would harm the character or appearance of a conservation area or the setting of a listed building. If less than substantial harm is found of whatever magnitude, the decision maker needs to give considerable weight to the desirability of preserving the setting of the asset. In this case I have found a lack of identifiable harm to the Woolpit Conservation Area and the proposals would, as a minimum 'preserve' its character and appearance. However, the overall impact of the proposal needs to take into account the

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<sup>9</sup> Mr Crutchley's Appendix AC5

<sup>10</sup> East Northamptonshire DC v SSCLG [2014] 1 P & R 22 at paragraph 29

less than substantial harm to Priory Cottage and this harm should be weighed against the public benefits of the proposals.

61. The public benefits of the appeal proposals comprise:

- An increase in the provision of housing numbers at a time of pressing need (see my conclusion on the following main issue)
- An increase in choice and type of homes
- 35% affordable housing provision
- Employment opportunities during the construction phase
- Residents would be likely to use the local shops and services within Woolpit making a positive contribution to their vitality and viability
- Provision of 0.5 ha of community open space with green infrastructure features – delivering high quality green spaces available to all
- Footpath improvements to the village centre and the wider countryside
- Highway works in the village centre would deliver benefits to the Listed Buildings and the Conservation Area.

62. In accordance with the test set out in paragraph 196 of the NPPF 2018, I find that the clear public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset.

### ***Third Issue - Housing Land Supply (HLS)***

63. It is common ground that the Council's strategic policy for housing numbers is more than five years old and has not been reviewed. Accordingly, paragraph 73 of the NPPF 2018 indicates that the Council's housing land supply is to be assessed against the standard method for calculating local housing need. The Council's local housing need is 585 dwellings per annum (dpa) and a 20% buffer is to be applied. This amounts to 3,510 dwellings for the next five years, or 702 dpa. The difference between the parties is solely down to supply.

64. No under supply/previous under delivery is taken into account when using the standard method. Therefore, no 'backlog' of unmet need should be taken into account when calculating the Council's housing land supply position.

65. The NPPF 2018 provides specific guidance in relation to the calculation of the five years supply but specifically with regard to qualifying sites, the Glossary definition of 'Deliverable' in Annex 2 goes further than its predecessor. Small sites and those with detailed permission should be considered deliverable until permission expires unless there is clear evidence that they will not be delivered. Sites with outline permission, or those sites that have been allocated, should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years. The onus is on the LPA to provide that clear evidence for outline planning permissions and allocated sites.

66. The Council relies upon the same sites in its supply as were contained in its

Annual Monitoring Report (AMR) dated 11 July 2018. The only new site referred to at the Inquiry was that known as Land on the West of Barton Road, Thurston which was missed out of the AMR in error and for which planning permission was granted on 5 July 2018. The Council has carried out a sense check of the supply against the terms of the NPPF 2018 and referred to events that have occurred after the base date of the AMR.

67. In my view the definition of 'deliverable' in the Glossary to the NPPF 2018 does not relate to or include sites that were not the subject of an allocation but had a resolution to grant within the period assessed within the AMR. The relevant period is 1 April 2017 to 31 March 2018.<sup>11</sup> There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council's supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council's supply. The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need. Indeed that is why there is a clear cut-off date set out in the AMR. Moreover, the site West of Barton Road, Thurston, should be removed from the supply as its permission postdates the cut-off for the relevant period of assessment.
68. Sites with outline planning permission make up a very large proportion of the Council's claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years. I accept that there was clear evidence of what was necessary on one site provided in Mr Robert's evidence<sup>12</sup> and so the 200 dwellings in respect of that site should be added to the Appellant's supply calculations. As for the other 1,244 dwellings with outline permission, the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites.
69. The up-dated PPG on Housing and economic land availability assessment sets out guidance on what constitutes 'deliverable sites' and covers the evidence that a site with outline planning permission is expected to have in support of its inclusion in the supply. The PPG places great weight on the adequacy and sufficiency of consultation with those responsible for delivering dwellings. It is noteworthy that in this case, the Council has failed to adequately demonstrate it has done so. An assessment of the Council's AMR against the updated PPG reveals that the AMR falls substantially short of producing the evidence that a LPA is expected to produce.<sup>13</sup>
70. Furthermore, the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published. The site at Union Road, Onehouse is one amongst others, which was only an allocation at the time the AMR was published. Although planning permission was granted 17 August 2018<sup>14</sup> it does not alter

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<sup>11</sup> Paragraph 1.1 of the Annual Monitoring Report

<sup>12</sup> Mr Robert's POE A4 Build out rates for Chilton Leys

<sup>13</sup> See paragraphs 36 (ID:3-036-20180913); 047 (ID:3-047-20180913) and 048 (ID3-048-20180913)

<sup>14</sup> LPA4



the fact that the site was only subject to an allocation at the cut-off date but the Council did not have any clear evidence that it would provide housing within 5 years.

71. Paragraph 73 of the NPPF 2018 requires the Council's housing supply to be made up of 'specific sites'. The Council was presented with three opportunities to demonstrate that the figure of 858 dwellings recorded in its trajectory table for small sites is robust. Firstly, on production of the AMR. Secondly, the Appellant asked for a list of sites on 30 July 2018 and was supplied with a list of 561 planning permissions, which the Council said made up its 858 dwellings. In this list there was insufficient evidence to either accept or challenge this figure, although a number of defects quickly became apparent to the Appellant. The Council was asked to provide more information but failed to do so. Finally, the Council indicated that it was going to submit a final rebuttal proof of evidence on HLS but it did not do so.
72. The Council argues that the St Modwen case<sup>15</sup> continues to provide sensible guidance on the context, as applied to NPPF 2018 and claims that it can demonstrate a 5 year HLS of 5.39 years. However, I cannot accept that the 858 is a robust figure. I agree that it would be a time consuming exercise for the Appellant to review 561 planning permissions. This is an exercise which the Council should have done before it produced its AMR. The Appellant has completed a partial review and from the evidence that is before me it appears that there are at least 108 defective planning permissions within the list of 561 permissions<sup>16</sup> but does not know by what number one should discount the figure of 858. As the NPPF 2018 carries a presumption that small sites are deliverable until there is clear evidence that they will not be delivered, the 858 has been left in the Appellant's HLS calculation but I consider it is likely to be an overestimate.
73. Drawing all of these threads together I consider that the Appellant's assessment of supply, set out in Mr Short's rebuttal proof of evidence, is the more realistic taking into account the St Modwen judgment. The only change is that the site West of Barton Road, Thurston should now be removed from the supply. This leaves the Council's HLS at 3.4 years. If the small sites problem is taken into account, it is highly likely that the Council's HLS is less than 3.4 years. I conclude on the third issue, therefore that the Council cannot demonstrate a five year supply of deliverable housing sites.

### **Other Matters**

74. I have taken into account all other matters raised including the representations from the Woolpit Parish Council, the Suffolk Preservation Society, the landscape assessment of Woolpit by Alison Farmer Associates and other interested persons. I have also taken into account the various appeal decisions submitted by the main parties. The proposed development has generated a significant amount of public interest and many of the representations which have been submitted relate to the impact on the local highway network or the heritage impact which I have dealt with under the main issues.

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<sup>15</sup> St Modwen Developments Ltd v SSCLG et al [2017] EWCA Civ 1643 paragraph 35

<sup>16</sup> APP6

75. The issue of landscape impact was raised in the representations. However, the Appellant has provided a comprehensive Landscape & Visual Impact Appraisal (LVIA) and the Council takes no issue with this. It is proposed to reinstate the former field boundary to the southern part of the site which would include a mixture of trees and hedging and a landscaped Greenway directly to the north of it which would form part of the pedestrian links throughout the site. The existing trees and hedging along the northern boundary and eastern boundaries of the site would be retained with some new planting proposed along the most southern part of the eastern boundary. Within the site itself, trees and hedging are proposed between dwellings and the public spaces to provide an attractive soft environment.
76. The appeal site would result in the loss of an agricultural field to development and whilst this would have some direct landscape impact, it would not be significantly adverse given its suburban backdrop. The proposed landscape framework would screen and filter views of buildings from the surrounding countryside. The visual impact of the development would be successfully mitigated into the rural edge of Woolpit and would provide an attractive environment for both new residents and those living in the surrounding locality. I therefore find no harm in this regard.
77. Reference is made to alternative housing sites identified in the emerging Joint Local Plan which are located to the north of the village centre. However, as I noted at the start, the emerging Joint Local Plan is in its very early stages and any conflict with this plan carries limited weight at this time and in the context of this appeal.
78. Concerns have been raised in relation to drainage, archaeology and ecological matters. However, it is noteworthy that the Council has not raised any objections in relation to these matters. In my view the concerns which have been raised can be adequately dealt with through the use of planning conditions in accordance with the advice in paragraph 54 of the NPPF 2018.

### **Planning Obligation**

79. The S106 Unilateral Planning Obligation includes the provision of 17 affordable units on site which broadly equates to the Council's requirements for 35% provision. In this respect the Obligation is in line with both paragraph 62 of the NPPF 2018, which requires on-site delivery of affordable homes and Altered Policy H4 of the MSDLP.
80. With regard to open space covenants within the Obligation, the appeal scheme provides open space and a 360m<sup>2</sup> play area with play equipment within the site which meets the Council's policy requirements, notably Policy RT4 of the MSDLP.
81. With regard to covenants with SCC, the Obligation includes contributions in relation to primary school and Early Years provision and Public Rights of Way Improvements. A SoCG on Early Years and Education Matters has been agreed between the Appellant and SCC. There is also a Community Infrastructure Levy (CIL) Compliance Statement submitted by SCC.<sup>17</sup>

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<sup>17</sup>INQ5

82. The Obligation includes the following matters in respect of SCC functions:

- Primary School Construction contribution – £180,719 (equates to £3,688.14 per dwelling). This is necessary if there are no surplus places available at the time of commencement, and if expansion of the existing primary school is confirmed, this Obligation would cease or be returned.
- Primary School Land contribution - £12,936 (equates to £264 per dwelling)– as above; and
- Contribution towards the build costs of a new Early Years setting - £33,332 (equates to £680.24 per dwelling).

83. The proposed development is estimated to generate up to four pre-school children. The proposed development should make a proportionate contribution towards the build cost of the new Early Years setting which in total would cost £500,000 and provide 60 places. The proposed development would generate 11 primary aged pupils but the Woolpit Primary Academy does not have enough places to accommodate all of the development being proposed in Woolpit. Due to the layout of the current school site it is not possible to add further permanent accommodation unless additional land is acquired.

84. Therefore the SCC strategy for primary school provision is to deliver a new 420 place primary school for Woolpit to ensure that there is adequate provision to support housing growth and basic need. The proposed development should make a proportionate contribution to the land and build costs of the new primary school in respect of the 11 pupils generated by it.

85. There are currently forecast to be surplus places available at the current secondary schools serving the proposed development, so no secondary or sixth form contributions would be required from the proposed development.

86. Paragraph 98 of the NPPF 2018 promotes the need to protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users for example by adding links to existing rights of way networks. The anticipated increased use of the PROW network from the development would result in the need for offsite improvement work involving heavy clearance on Woolpit Public Footpath 4. The total financial contribution required is £915. The requirement for the footpath improvement arises directly from the increased population which would be generated by the development in the local area and it would also meet Council policies.

87. The Council has confirmed that none of the obligations would conflict with Regulation 123 requiring that no more than five contributions are pooled towards any one specific infrastructure scheme.

88. In my view, all of the provisions set out in the Section 106 Planning Obligation are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore they all meet the tests with CIL Regulations 122 and 123 and should be taken into account in the decision.

### **Planning Balance**

89. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with

the development plan, unless material planning considerations indicate otherwise. Whilst the RfR cites only a limited number of policies which are said to be breached I deal with all policies that have a bearing on the proposals and in line with the new approach of the NPPF 2018<sup>18</sup> identify those which are most important for determining the appeal and whether they should be considered to be out-of-date.

90. The CS was adopted in 2008 and the MSDLP in 1998. Both plans predate the publication of the NPPF 2012 and the more recent NPPF 2018. The CSFR has had little impact on the saved or CS policies that remain in place and Policy FC1 really only and unnecessarily repeats what was in paragraph 14 of the NPPF 2012. It is now out-of-date because of the test it employs. Policy FC1.1 is policy of a very broad nature with one requirement that development must conserve and enhance the local character of the different parts of the district. It is up-to-date but is not otherwise of significance. The appeal proposal complies with these policies.
91. Policy CS1 of the CS merely sets out the settlement hierarchy. However, it includes the words "*the rest of Mid-Suffolk, including settlements not listed in the above (hierarchy) will be designated as countryside ... renewable energy*". By virtue of this latter requirement it offends paragraphs 77 and 78 of NPPF 2018. It perpetuates the theme of protection of the open countryside for its own sake and its limitations are inimical to the balanced approach which the NPPF 2018 exhorts. It is one of the most important policies and it is out-of-date. The appeal proposal complies with the hierarchical requirements of Policy CS1 but it conflicts with the latter part of this policy as the site is located outside the settlement boundary.
92. As the proposed development is in open countryside, it also offends the requirements of Policy CS2. Policy CS2 is a most important policy and it is out-of-date. The NPPF has never and still does not exhort a restrictive approach to development outside settlements in this manner. It does not protect the countryside for its own sake or prescribe the types of development that might be acceptable. The policy as worded obviates a balancing exercise and precludes otherwise sustainable development by default and thereby defeats the presumption in its favour. It is also contrary to paragraphs 77 and 78 of NPPF 2018.
93. Policy CS5 provides that all development will maintain and enhance the environment including the historic environment, and retain local distinctiveness. It requires development actually to maintain and enhance the historic environment which exceeds the statutory duty (LBA 1990) and goes further than paragraph 192 of NPPF 2018 which requires decision makers to "take account of the desirability of sustaining and enhancing the significance of heritage assets" (my underlining). This is a most important policy and it is out-of-date. It does not make enhancement a requirement where no such requirement is reasonably possible or appropriate to the nature of the proposed development. The policy also fails to acknowledge the balancing exercise which the NPPF 2018 requires to be undertaken in circumstances where the harm is less than substantial.
94. Moreover, I have found that the appeal proposal would accord with national policy advice in the NPPF 2018, notably paragraph 192, and there would be no

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<sup>18</sup> Paragraph 11

conflict with Policy CS5. The proposed development constitutes a high quality design as it proposes a form of development that reflects the character and appearance of the surrounding streetscape. The DAS provides details on materials and finishes. The materials selected for the new dwellings reflect the colours and shades of the Suffolk vernacular buildings of Woolpit in their simple forms and thus retain local distinctiveness in accordance with Policy CS5 and the NPPF 2018 in Section 12. Nor would there be any conflict with Policy CS5 in relation to the off-site highway improvements works in the Conservation Area.

95. Policy GP1 is a most important policy and it is up-to-date. The proposal complies with its requirements. Policy HB8 is also a most important policy and it is up-to-date despite the fact that it predates its CS equivalent. As I disagree with the Council's case on the impact of the proposal on the character and appearance of the Conservation Area, the proposal complies with its requirements. Policy FC2 is the Council's strategic housing policy within the development plan. However, in the light of paragraph 73 of the NPPF 2018, this policy is out-of-date, which is accepted by Mr Roberts.<sup>19</sup>
96. Drawing all of these threads together I find that being outside the settlement boundary and within the countryside, the appeal proposal is not in accordance with the development plan taken as a whole.
97. However, in the context of paragraph 213 of the NPPF 2018, I have found that some of the most important policies for determining this appeal are out-of-date, notably Policy CS1 and Policy CS2. I have attached only moderate weight to the conflict with these policies which lessens the significance of that conflict.
98. At paragraph 62 of this decision, I found that the clear public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset.
99. The tilted balance in paragraph 11 of the NPPF 2018 is engaged because firstly, policies that are most important for the determination of this appeal are out-of-date and secondly, the Council cannot demonstrate a five year supply of deliverable housing sites.
100. Balanced against the identified conflict with the development plan I give substantial weight to the provision of 32 market dwellings and 17 affordable dwellings on a site which is visually and functionally well related to the existing village. Paragraph 59 of the NPPF 2018 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. This comprises a substantial social benefit.
101. I have attached moderate weight in terms of the economic benefits that would arise from the provision of employment opportunities during the construction phase and the spending power from 49 new households within the local area.
102. Furthermore I am satisfied that the proposed development would fulfil the aims of the NPPF 2018 by promoting a high quality design of new homes and

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<sup>19</sup> Proof of evidence paragraph 2.3

places. I find that the provision of on-site community open space with green infrastructure features, the footpath improvements to the village centre and the wider countryside and the highway works in the village centre would all provide environmental benefits. I apportion moderate weight in terms of the environment.

103. Taking all of these matters into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the NPPF 2018 as a whole and that the proposal represents sustainable development. On this basis a decision, other than in accordance with the development plan is justified and therefore the appeal should be allowed.

### **Planning Conditions**

104. I have considered the conditions suggested by the Council<sup>20</sup> in the light of the advice in paragraphs 54 and 55 of the NPPF, the model conditions retained at Appendix A of the cancelled Circular 11/95 and the Government's PPG on the use of planning conditions. I have made minor adjustments to the suggested conditions in the interests of clarity. Condition 1 imposes a shorter timescale than the normal three years but this is justified given the pressing housing need and the advice in paragraph 76 of the NPPF 2018. Condition 2 is necessary for the avoidance of doubt. Condition 3 is required to safeguard heritage assets of archaeological interest. Condition 4 which relates to Construction Management is necessary to ensure minimal impact on the public highway and residential amenity but I have deleted the element relating to haul routes as this relates to land outside the site and thus cannot be controlled by condition. Conditions 5-7 are necessary in the interests of ecology, safeguarding habitats/species and visual amenity. Conditions 8 -10 are required to ensure the development does not cause increased flood risk or increased pollution to the water environment.
105. Conditions 11-23 are necessary in the interests of highway safety, traffic management, safe and suitable facilities for pedestrian and cycle movement and to comply with paragraph 110 of the NPPF. Condition 24 is required in the interests of safeguarding ecology, biodiversity and amenity within the site. Condition 25 is required to ensure the site is suitably served by fire hydrants in the interests of public safety and fire prevention. Condition 26 is necessary to ensure that the development is equipped with access to high-quality telecommunications in accordance with paragraph 112 of the NPPF.
106. Condition 27 is required to ensure that recycling bins are not stored on the highway in the interests of highway safety. Condition 28 which relates to screen walls and/or fences is required in the interests of residential amenity. Condition 29 is required to ensure the appropriate recording and analysis of archaeological assets. Condition 30 is required to ensure the provision and long-term maintenance of adequate on-site space for the parking and manoeuvring of vehicles. Condition 31 relates to a Residents Travel Pack to reflect the national policy aim of achieving the fullest possible use of public transport, walking and cycling.

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<sup>20</sup> INQ4

**Conclusion**

107. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

*Harold Stephens*

INSPECTOR

## **SCHEDULE OF PLANNING CONDITIONS (1-31)**

### **TIME LIMIT FOR IMPLEMENTATION**

- 1) The development hereby permitted shall be begun not later than the expiration of two years from the date of this permission.

### **LIST OF APPROVED DRAWINGS**

- 2) The development hereby permitted shall be carried out in accordance with the following drawings:

5018 PA01 House Type 1  
5018 PA02 House Type 1  
5018 PA03 Single Garage  
5018 PA04 House Type 2  
5018 PA05 House Type 2  
5018 PA06 House Type 3  
5018 PA07 House Type 3  
5018 PA08 House Type 3  
5018 PA09 Rev. A House Type 3  
5018 PA10 Rev. A House Type 4  
5018 PA11 House Type 4  
5018 PA12 Rev. A House Type 4  
5018 PA13 House Type 5  
5018 PA14 House Type 5  
5018 PA15 House Type  
5018 PA16 House Type 6  
5018 PA17 House Type 6  
5018 PA18 Rev. A Cart Lodge  
5018 PA19 House Type 7  
5018 PA20 House Type 7  
5018 PA21 House Type 7  
5018 PA22 Rev. A House Type 8  
5018 PA23 House Type 8  
5018 PA24 House Type 8  
5018 PA28 House Type 9  
5018 PA29 House Type 9  
5018 PA31 Rev H Site/block roof plan  
5018 PA32 Rev C Street Elevations  
5018 PA33 Site Location Plan  
5018 PA34 rev A Typical Elevations  
5018 PA35 rev B Street Elevations  
5018 PA36 ASHP SIZES

### **PRE - COMMENCEMENT CONDITIONS**

#### **Archaeology**

- 3) No development shall take place within the site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has previously been submitted to and approved in writing by the Local Planning Authority.



The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

### **Construction Management**

- 4) Prior to the commencement of development details of a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall incorporate the following information:
  - a. Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
  - b. Details of the storage of construction materials on site, including details of their siting and maximum storage height.
  - c. Details of how construction and worker traffic and parking shall be managed.
  - d. Details of any protection measures for footpaths surrounding the site.
  - e. Details of any means of access to the site during construction.
  - f. Details of the scheduled timing/phasing of development for the overall construction period.
  - g. Details of any wheel washing to be undertaken, management and location it is intended to take place.
  - h. Details of the siting of any on site compounds and portals.
  - i. Monitoring and review mechanisms.

The construction shall at all times be undertaken in accordance with the agreed methodology approved in writing by the Local Planning Authority.

### **Landscaping and Biodiversity**

- 5) All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological report (MHE Consulting August 2015) as already submitted with the planning application and agreed with the Local Planning Authority prior to determination.
- 6) No development shall commence until a detailed 'hard' and 'soft' Landscaping Scheme, which shall include any proposed changes in ground levels, has been submitted to, and approved in writing by, the Local Planning Authority.

The 'hard' landscaping shall include details of all hard surface materials and boundary treatments to be used within the development with a timetable for implementation, including all means of enclosure and boundary treatments, residential screen walls and fences.

The 'hard' landscaping shall be implemented and completed in accordance with the approved details and agreed timetable.

The 'soft' landscaping shall include details of the existing trees and plants on site to be retained together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication 'BS 5837:2012 Trees in relation to design, demolition and construction'.

The 'soft' landscaping shall include details (including species, size of stock at time of planting, location) of all new plants and trees to be provided as well as any areas for seeding. The new landscaping should comprise of native species only as defined in Schedules 2 and 3 of the Hedgerow Regulations 1997.

The 'soft' landscaping shall be implemented in accordance with the approved details within the first planting season (October - March inclusive) following the commencement of development.

Any trees, hedges, shrubs or turf identified within the approved Landscaping Scheme (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species.

The approved Landscaping Scheme shall be carried out in its entirety and shall accord with the approved drawings under this permission.

- 7) Prior to the commencement of development on the site a skylark mitigation strategy, including a timetable for implementation, shall be submitted to, and agreed in writing by, the Local Planning Authority. The agreed strategy shall be implemented in full to mitigate the loss of potential nesting habitat.

### **Site Drainage**

- 8) No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved.
- 9) No development shall take place until a surface water drainage scheme for the site, including a timetable for implementation, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 100 year + Climate Change storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be

implemented in accordance with the approved details and timetable before the development is completed. Details of which will include:

- a. Details of further infiltration testing on site in accordance with BRE Digest 365 to verify the permeability of the site (trial pits to be located where soakaways are proposed and repeated runs for each trial hole). Borehole records should also be submitted in support of soakage testing.
  - b. Infiltration devices should be no more than 2m deep and will have at least 1.2m of unsaturated ground between base of the device and the groundwater table.
  - c. Dimensioned plans illustrating all aspects of the surface water drainage scheme including location and size of infiltration devices and the conveyance network. A statement on the amount of impermeable area served by each infiltration device should also be illustrated on the plans and should be cross referenceable with associated design calculations.
  - d. Full modelling results (or similar method) to demonstrate that the infiltration device has been adequately sized to contain the critical 100yr+ Climate Change event for the catchment area they serve. Each device should be designed using the nearest tested infiltration rate to which they are located. A suitable factor of safety should be applied to the infiltration rate during design.
  - e. Infiltration devices will have a half drain time of less than 24 hours.
  - f. Modelling of conveyance networks showing no above ground flooding in 1 in 30 year event, plus any potential volumes of above ground flooding during the 1 in 100 year rainfall + Climate Change.
  - g. Infiltration devices shall only be used where they do not pose a threat to groundwater. Only clean water will be disposed of by infiltration devices due to the site being inside a Source Protection Zone. Demonstration of adequate treatment stages for water quality control shall be submitted - SuDS features should demonstrate betterment to water quality, especially if discharging towards a watercourse or aquifer.
  - h. Topographic plans shall be submitted depicting safe exceedance flow paths in case of a blockage within the main surface water system and/or flows in excess of a 1 in 100 year rainfall event. These flow paths will demonstrate that the risks to people and property are kept to a minimum.
  - i. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.
  - j. Arrangements to enable any surface water drainage within any private properties to be accessible and maintained including information and advice on responsibilities to be supplied to future owners.
- 10) No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the Local Planning Authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:
- a. Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or offsite flood risk associated with construction.

## **Highways**

- 11) No development shall commence until details of the estate roads and footpaths (including layouts, levels, gradients surfacing and means of surface water drainage, lighting and traffic calming measures), have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and completed in accordance with the approved details and agreed timetable.
- 12) No development shall commence until a detailed scheme for highway improvements to Green Road, comprising traffic calming measures and footway widening provision which shall be in general accordance with those details as shown on Drawing no. 112/2015/04 Revision P2, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 13) No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority, of the means to prevent the discharge of surface water from the development onto the highway. The development shall be carried out and completed in accordance with the approved details and agreed timetable.

## **PRIOR TO OCCUPATION OR OTHER STAGE CONDITIONS**

### **Highways**

- 14) No part of the development shall be commenced above slab level until the new vehicular access onto Green Road has been laid out and completed in all respects in accordance with Drawing No. 5018 PA31 Rev H Site/block roof plan and with an entrance width of 5.5 metres and been made available for use. Thereafter the access shall be retained in the specified form.
- 15) Prior to the access from Green Road into the site being constructed, the ditch beneath the proposed access shall be piped or bridged in accordance with details which previously shall have been submitted to and approved in writing by the Local Planning Authority and shall be retained thereafter in its approved form.
- 16) The new estate road junction with Green Road, inclusive of cleared land within the sight splays to this junction, must be formed prior to any other works commencing or delivery of any other materials.
- 17) No development shall commence above slab level until a scheme for the provision and implementation electric car charging points for the development has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the occupancy of the development. The scheme

shall be implemented, and the measures provided and made available for use, in accordance with such timetable as may be agreed.

- 18) Details of the gateway feature identified on drawing 5018 PA31 Rev H to be located to the southwest corner of the site shall be submitted to and agreed with the Local Planning Authority and shall be completed prior to occupation of the first dwelling and thereafter retained in the approved form.
- 19) Before the access onto Green Road is first used, visibility splays shall be provided as shown on Drawing No. 5018/PA31 Revision H, as submitted, and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays at any time.
- 20) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least binder course level or better.
- 21) No dwelling shall be occupied until the area(s) within the site, shown on approved drawing 5018 PA31 Rev H for the purposes of loading/unloading, manoeuvring and parking of vehicles, including electric charging points and secure cycle storage, serving that dwelling has been provided and thereafter that area(s) shall be retained and used for no other purpose. Thereafter those areas applicable to that dwelling shall be retained and remain free of obstruction except for the purpose of manoeuvring and parking of vehicles.
- 22) A metalled footway/cycleway, as shown on Drawing 5018 PA31 Rev H of a minimum 2.0 metres width, shall be provided from the site into Steeles Close, northwards to connect with the existing access in Steeles Close. The metalled footway shall be provided and made available for use prior to the first occupation of any dwellings in the development.
- 23) No dwelling shall be occupied until the highway improvements secured under Condition 12 above have been constructed in strict accordance with the approved details and made available for public use and thereafter retained post construction in the approved form.

### **Site Infrastructure/Other**

- 24) Within three months of the commencement of development a detailed lighting scheme for all public areas to be lit shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show how and where external lighting will be installed, (through technical specifications and the provision of appropriate lighting contour plans which shall include lux levels of the lighting to be provided), so that it can be:
  - a. Clearly demonstrated that areas to be lit have reasonably minimised light pollution, through the use of minimum levels of lighting and features such as full cut off cowls or LED.
  - b. Clearly demonstrated that the boundary vegetation to be retained, as well as that to be planted, will not be lit in such a way as to disturb or

prevent bats using their territory or having access to their breeding sites and resting places or foraging areas, through the use of minimum levels of lighting and features such as full cut off cowls or LED.

All external lighting shall be installed in accordance with the specifications and locations as set out in the approved scheme and shall be maintained thereafter in accordance with that scheme.

- 25) Within three months of the commencement of development details of the provision of fire hydrants for the development, including a timetable for installation, shall be submitted to and approved in writing by the Local Planning Authority. The fire hydrants shall be installed in accordance with the approved details in their entirety and in accordance with the agreed timetable.
- 26) Within three months of the commencement of development, details of how superfast or ultrafast broadband infrastructures will be delivered to every household in the development, subject to network capacity being available, shall be submitted to and approved in writing by the Local Planning Authority. The approved superfast broadband infrastructures for each dwelling shall be installed prior to first occupation of that dwelling.
- 27) Within three months of the commencement of development, details of the areas to be provided for the storage of refuse/recycling bins shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the first occupation of the dwelling to which it relates and shall be retained thereafter and used for no other purpose.
- 28) The residential screen walls and/or fences as may be approved pursuant to the Landscaping Scheme under Condition 6 above, shall be erected prior to the dwelling/s to which they relate being first occupied and thereafter shall be retained in the approved form.
- 29) No dwelling shall be occupied until the archaeological site investigation and post investigation assessment, secured under Condition 3 above, has been completed and submitted to, and approved in writing by, the Local Planning Authority.

#### **POST OCCUPANCY MONITORING/MANAGEMENT**

- 30) Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development shall be carried out in such a position as to preclude vehicular access to those vehicular parking spaces and no alterations shall be carried out to the approved garage units that would preclude the parking of vehicles within them without planning permission being granted in that regard.
- 31) Within one month of the first occupation of any dwelling, the occupiers of each of the dwellings shall be provided with a Residents Travel Pack (RTP). Not less than three months prior to the first occupation of any dwelling, the contents of the RTP shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority and shall

include walking, cycling and bus maps, latest relevant bus and rail timetable information, car sharing information, personalised travel planning and a multimodal travel voucher. The RTP shall be maintained and operated thereafter.

End of Conditions Schedule

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Asitha Ranatunga of Counsel	Instructed by the Council
He called:	
Luke Barber HND BSc FD C Eng.	Principal Engineer Suffolk CC
Nicholas Joubert MSc	Heritage Consultant
Andrew Ryley BA (Hons) MSc MRTPI	Associate Director DLP Planning Ltd
Alex Roberts BSc (Joint Hons) Associate RTPI	Director DLP Planning Ltd

### **FOR THE APPELLANT:**

Mr Paul Shadarevian QC	
He called:	
Gerry Bullard C Eng. MICE	Partner GH Bullard & Associates LLP
Andrew Crutchley BA (Hons) PG Dip (Oxon) MCiFA	Director The Environmental Dimension Partnership Ltd
Leslie Short BA MRICS MRTPI	Director Artisan Planning and Property Services Ltd

### **INTERESTED PERSONS:**

John Guyler	Chairman of Woolpit Parish Council
John Christie	Local Resident
Susan Eburne	Local Resident

### **DOCUMENTS SUBMITTED AT THE INQUIRY**

- INQ1 Notification Letter
- INQ2 Letters of Representation
- INQ3 Statements of Common Ground
- INQ4 Suggested Planning Conditions
- INQ5 Suffolk County Council Community Infrastructure Levy Regulations (CIL) Compliance Statement dated 27 March 2018



### **DOCUMENTS SUBMITTED BY THE LPA**

LPA1 Opening Remarks

LPA2 Pytches Road, Woodbridge – Traffic Calming scheme with buildout

LPA3 Letter from Storey Homes dated 13 August 2018: Land at Gardenhouse Lane, Rickinghall

LPA4 Mid Suffolk District Planning Permission: Reference 4455/16

LPA5 List of sites disputed by the Appellant

LPA6 Closing Submissions

### **DOCUMENTS SUBMITTED BY THE APPELLANT**

APP1 List of Drawings

APP2 HCC Decision *CPRE v Dover DC* [2015] EWHC 3808 (Admin) [APP2]

APP3 Agenda Document for MSDC Development Control Committee A 29.8.2018

APP4 Appeal Decision APP/N1730/W/17/3185513

APP5 Hart District Local Plan 1996-2006 Saved Policy RUR2

APP6 MSDC Minor Sites Outstanding Planning Permissions (April 2018)

APP7 Agreement to enter in to an Easement conditional on Appeal dated 29 August 2018 between Flagship Housing Group Limited and Landex Limited

APP8 Certified Copy of Unilateral Undertaking dated 29 August 2018

APP9 Letter from Burgess Homes Limited re site at Back Hills, Botesdale

APP10 Closing Submissions

### **INTERESTED PERSONS' DOCUMENTS**

IP1 Statement by John Guyler

IP2 Statement by John Christie

IP3 Statement by Susan Eburne



## Appeal Decision

Inquiry Held on 12-15 and 19-20 February 2019

Site visit made on 21 February 2019

**by Robert Mellor BSc (Est Man) DipTRP DipDesBEnv DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> March 2019**

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**Appeal Ref: APP/Z1510/W/18/3207509**

**Land off Colchester Road, Bures Hamlet, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Braintree District Council.
  - The application Ref 17/02291/OUT, dated 21 December 2017, was refused by notice dated 26 June 2018.
  - The development proposed is for the erection of up to 98 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline and all matters are reserved for subsequent determination apart from the principle of the development and the means of access.

### Main Issues

3. Having regard to the provisions of the development plan and to other material considerations, including national policy, I consider the main issues to be:
  - What effect the development would have on the landscape character and appearance of the area.
  - What effect it would have on the significance of heritage assets.
  - Whether adequate provision would be secured for affordable housing and for necessary infrastructure to support the development.
  - What effect the development would have on biodiversity including whether any likely significant effect on the Blackwater Special Protection Area/RAMSAR site would require that an Appropriate Assessment be made of such impacts before determining the appeal.
  - Whether there is a 5-year supply of housing land in Braintree District.

- Whether, having regard to the planning balance and to the provisions of paragraph 11 of the National Planning Policy Framework, if the most important development plan policies for determining the application are out-of-date, or if there is not a 5-year supply of housing land, should the proposal trigger a presumption in favour of this development of market and affordable housing or do any of the listed exceptions to that presumption apply here?

### **The Policy Context**

4. Statute requires that the appeal be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan includes the saved policies of the Braintree Local Plan Review (2005) (the RLP) and the Braintree Core Strategy (2011) (the CS). Material considerations here include: the National Planning Policy Framework (2019) (the Framework); national Planning Practice Guidance (PPG); the emerging Braintree Local Plan (eLP); and the Dedham Vale Area of Outstanding Natural Beauty and Stour Valley Management Plan (the MP).

### **The Site and its Surroundings**

5. Bures Hamlet in Braintree District, Essex, is on the western side of the River Stour and faces Bures St Mary in Babergh District, Suffolk, on the eastern side of that river. The built-up areas of the 2 settlements meet at the main river bridge and the 2 parishes function as a single village with many shared services.
6. The appeal site is an L-shaped open arable field to the south of Bures Hamlet. It fronts Colchester Road to the north east and is raised above the level of that road. To the south east the site boundary runs along the Cambridge Brook which joins the River Stour to the east of Colchester Road. To the south west the site is bounded by the embankment that carries the Marks Tey-Sudbury branch railway line across the valley of the Cambridge Brook. To the north west the site in part adjoins a smaller arable field owned by Braintree District Council and otherwise adjoins an area of mixed 20<sup>th</sup> century suburban residential development.
7. Each village has a designated conservation area. That at Bures Hamlet is limited to the village core. It excludes the appeal site and the adjacent 20<sup>th</sup> century housing which separates the appeal site from that village core. The Bures St Mary Conservation Area extends beyond the core of that settlement to include open land in mainly open recreational use on the east bank of the river opposite the appeal site.

## **REASONS**

### **Landscape character and appearance**

8. The appeal site lies outside but adjoining the development boundary of Bures Hamlet as currently defined in the development plan by RLP Policy RLP2 and CD Policy CS5 and also as defined in the emerging Braintree Local Plan by eLP Policy LPP1. Each policy treats the areas outside development boundaries as countryside where proposals are subject to a policy restriction on development that would exclude the proposed type of housing development. The proposed development would thereby be in conflict with both the current and emerging

development plan policies. However, the weight to be attached to the policies is disputed by the parties and is addressed below under the Planning Balance.

9. RLP Policy RLP 80 provides amongst other things that development will not be permitted that would not successfully integrate into the local landscape. However, it lacks more specific criteria for the assessment of proposals. CS Policy CS8 is a wide-ranging policy for the Natural Environment and Biodiversity. It applies both within and beyond the development boundary. Amongst other things it provides that development: *'must have regard to the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment'*. This provision remains applicable notwithstanding that, whilst there has been an assessment of landscape character, the further definition of Landscape Character Areas and guidance as envisaged in the policy (and in the text relating to Policy RLP 80) has not come forward.

#### *Landscape Baseline*

10. The Braintree Landscape Character Assessment (LCA) [ID12] is helpful in assessing the baseline situation on the Essex side of the River Stour. The site falls within the A2 Stour River Valley Landscape. That landscape type covers an extensive area and the LCVA is inevitably broad brush in its scope. However characteristic features identified in the LCA and found on and around the appeal site include, as identifiable landscape qualities: a broad flat valley floor; a patchwork of pasture and arable farmland on the valley sides; plantations of cricket bat willows on the floodplain; traditional settlements with limited modern development; panoramic views of the valley; and church towers as distinctive features. Visual characteristics include: the river as a focal point; churches as key landmarks; and panoramic views from valley slopes and along the valley floor.
11. Of particular relevance to the appeal proposal, the LCA identifies the skyline of the valley slopes as visually sensitive with potential new development being highly visible within views across and along the valley floor. Views to the valley sides from adjacent landscape character areas (such as here from the Suffolk side of the river) are also cited as sensitive. Overall the character area is assessed as having relatively high sensitivity to change.
12. Key planning and land management issues are identified as including: *'small urban extensions of the larger settlements within the valley'*. Suggested landscape planning guidelines include: *'Consider the visual impact of new residential development ... upon valley slopes'*, *'Maintain cross-characteristic views across and along the valley'* and *'Ensure any new development on valley sides is small-scale, responding to historic pattern, landscape setting and distinctive building styles.'*
13. Although near views of the appeal site are available from the adjacent road, railway, dwellings, and some agricultural land within Essex, there are also medium and long views of the appeal site from the valley floor and valley sides within Suffolk. From there the site is currently seen as rising open arable land on the valley side, partly enclosed by hedges and trees, and set against a backdrop of woodland along the railway embankment which disguises the man-made character of that feature. There are some long views from the valley floor within the Conservation Area across the site which in winter can include

- glimpses of the distant church tower at Mount Bures. From higher ground on the Suffolk side the site reads as a continuation of the similar rolling farmland to the south and also to the west beyond the railway. It contributes with that other land to what has been described as the green nest setting of Bures.
14. The landscape on the Suffolk side of the river is part of the baseline of the wider area around the appeal site and is important to its context. It shares many landscape and visual characteristics with that on the Essex side. In the Babergh landscape guidance (2015) [ID11] the adjacent landscape character areas are the 'Valley Meadowlands' on the valley floor and the 'Rolling Valley Farmlands' above. Relevant characteristics of the latter area include: '*From elevated locations ... substantial views are obtained*'; and '*Historic villages blend with the valley landscape, with the buildings complementing a landscape of the highest visual quality.*' An objective for both character areas is to: '*maintain and enhance the distinctive landscape and settlement pattern*'. The guidance warns in relation to the Valley Meadowlands that: '*The sense of tranquillity of this landscape ... can ... be impacted by development of the adjacent Rolling Valley landscapes which are often a focus for settlement and development*'. As the landscape on both sides of the valley share similar characteristics that effect would also apply to development on the Essex side.
  15. The appeal site lies close to the Dedham Vale Area of Outstanding Natural Beauty. However, there is little direct inter-visibility and no harm to the setting of the AONB has been alleged by the Council. Nevertheless, there is a long-standing ambition shared by the relevant local Councils and amenity groups to extend the AONB to include more of the Stour Valley. To that end a Report entitled: '*Special Qualities of the Dedham Vale AONB – Evaluation of the Area between Bures and Sudbury*' was commissioned from Alison Farmer and produced in 2016 (The Farmer Report).
  16. The Farmer Report concluded that only part of the extensive area evaluated was of a quality to merit designation as an extension to the AONB. It identified a potential candidate area for the AONB extension that includes Bures and the surrounding area. Amongst other things the Farmer Report commented on the relatively intact pattern of the landscape north and south of Bures and that a conservation area includes the valley floor. However, it also notes that peripheral development in Bures has altered the way in which the settlement sits in the landscape. Before defining a boundary for the AONB the Report cited a need for further scrutiny at Bures and two other settlements regarding whether the settlements should be included in the AONB or excluded. The Report noted on the one hand that the settlement is surrounded by high quality landscape but on the other that there have been housing estate extensions to the south west (adjoining the appeal site) and to the south east (in Bures St Mary). Particular scrutiny was recommended as to: '*the extent to which modern housing effects [sic] the intact character of the settlement and its relationship with the valley floor*'.
  17. I saw that whereas the two village conservation areas are mainly characterised by local vernacular buildings, often built in rows or terraces close to the road, the peripheral 20<sup>th</sup> century extensions referred to in the Farmer Report are made up of a mixture of ribbon and estate development in a variety of different contemporary styles and materials that are generally not characteristic of the Stour Valley. They are more suburban in layout than the historic village cores.

18. The appeal site adjoins some of that modern housing on part of its northern boundary but is otherwise buffered by an intervening field. The remaining boundaries adjoin woodland and the brook or Colchester Road, beyond which is an area of meadowland and the river. In its open and gently sloping condition as arable land I consider that the appeal site is part of the intact high quality landscape described in the Farmer Report and that its landscape character has not been significantly affected by the adjacent modern housing.
19. Unusually, the statutory Management Plan for the Dedham Vale AONB also includes the whole of the Stour Valley Project Area, although only part of that area is recommended in the Farmer Report for consideration for inclusion in an extension to the AONB. The Project Area lies outside the AONB boundary and does not itself have any statutory landscape or other designation. It is thus not subject to the statutory requirement to prepare a management plan. Nevertheless, the Management Plan is a material consideration. It does not seek to preclude housing development in the AONB or the Stour Valley. However, it qualifies support for such development as applying to that which: sits well with the patterns of historic villages; contributes to the architectural patterns of the area; and which seeks to meet the needs of the community in terms of affordable housing.
20. Paragraph 127 of the Framework provides amongst other things that planning decisions should ensure that developments are: *'sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'*. Paragraph 170 of the Framework provides amongst other things that planning decisions should contribute to and enhance the natural and local environment by: *'a) protecting and enhancing valued landscapes, ... (in a manner commensurate with their statutory status or identified quality in the development plan)'* and *'b) recognising the intrinsic character and beauty of the countryside ....'*
21. I consider that recognition of the intrinsic character and beauty of the countryside would have little practical effect without an assessment of the particular qualities of the countryside and the landscape setting where development is proposed and the effect of that development upon them. Neither, having regard to Paragraph 127, do I consider that the exhortation to protect and enhance *'valued'* landscapes is necessarily limited to landscapes that have either a statutory designation or a local designation in the development plan.
22. The Framework does not provide a definition of a valued landscape. However, I consider it improbable that the addition of the words in brackets to paragraph 170(a) which occurred in July 2018 was intended to encourage policy makers to revive the practice of creating local *'Special Landscape Areas'* or similar designations in development plans as a means of identifying a valued landscape. Previous advice had sought to discourage such designations in favour of landscape character assessment which would identify the distinctive and valued qualities of landscapes. That is of particular relevance here where the RLP designations of Special Landscape Areas including in the Stour Valley were superseded in the CS by policies which referred to the use of landscape character assessment.

23. Had the creation of new local designations been the Government's intention then I consider that it would have been highlighted in the public consultation on the changes to the Framework and made explicit in the new text. Moreover, even if that were the intention there would be a long hiatus whilst all the necessary work was carried out to identify, consult upon, examine, and adopt the necessary policies as part of the statutory development plan framework, during which sensitive landscapes would remain vulnerable to insensitive development. In any event, whether or not the site qualifies as a 'valued landscape' in the terms of the Framework, the Framework at Paragraph 127 requires development to be sympathetic to its landscape setting. Such consideration must necessarily have regard to the sensitivity of that landscape.

*Landscape Value*

24. In this case I consider that there is ample evidence that the landscape around Bures, including the appeal site, is not ordinary countryside of no value but is of high sensitivity and is locally valued. That evidence encompasses: its inclusion in the Stour Valley Project Area and the Management Plan; the commissioning and conclusions of the Farmer Report; the submissions to Natural England to review the AONB designation; and the related text of the emerging Local Plan at paragraph 8.27 which highlights the sensitive nature of the upper Stour Valley and supports the aims of the Management Plan whilst also seeking to avoid prejudicing the expressed long term aim to extend the AONB to this area.
25. The appeal site itself displays many of the characteristics of the A2 character area. It is arable farmland on the rolling valley sides. It is visible both from within and across the valley. It contributes positively to the setting of Bures within the valley, notwithstanding that other nearby development may have had an adverse impact in that regard.

*Landscape Effects*

26. The planning application was accompanied by a Landscape and Visual Impact Assessment (LVIA). This focussed most attention on the site itself and its landscape features. These were assessed as of only medium landscape quality, sensitivity and value. The LVIA did not acknowledge the conclusions of the LCA that the landscape of the wider character area is of high sensitivity or the Farmer Report conclusions that the landscape south of Bures is of high quality (and similar to that of the AONB). I therefore consider that the LVIA understates the sensitivity and value of the appeal site as part of that landscape. Neither did it acknowledge the conclusions of that Report that the peripheral housing estate extensions had altered (and by inference harmed) the way in which the settlement sits in the landscape such that further scrutiny may conclude that the settlement would not itself merit inclusion in the AONB.
27. Where the LVIA does refer to the impact of the proposed development on that wider landscape it was seen only in the context that it would be an incremental addition to the existing settlement to the northwest. This led to a conclusion that there would be no significant adverse landscape effects and no more than moderate adverse visual effects in the near vicinity. I disagree.
28. The application is in outline and thus no design details have been submitted for determination. However, the lower part of the site to the south adjacent to Cambridge Brook is in a flood zone which would not be suitable for built

development. The proposal is for 98 dwellings and the illustrative layout indicates that this would probably be 2 storey development with a suburban style road layout. A respect for traditional architectural styles in the area as indicated in the Design Statement would imply relatively steep gabled roofs. Together with the raised level of the site above Colchester Road the overall effect would be a marked change from an open field visible from the valley floor as part of an area of open countryside to a relatively dense and homogenous block of suburban development without significant visual gaps. It would be of different townscape and visual character to the characteristic street scenes to be found in the village cores of the two conservation areas and also different in style, materials and form from the adjacent 20<sup>th</sup> century development.

29. Whilst the LCA and Management Plan preferences for 'small-scale' development are not defined, I do not consider that this proposal could be so described. That a similar preference is included in the guidelines for many other landscape character areas in Braintree is unsurprising given that this is a mainly rural area where most existing development has occurred organically and at a small scale. The development would add considerably to the peripheral extension of Bures Hamlet towards the south in the form of a large housing estate, exacerbating and extending the adverse effect that the 20th century development has already had on the historic settlement pattern, including in views from higher ground in Suffolk.
30. The development would contain views from the valley floor which would then be surrounded by built development on 3 sides. Panoramic cross-valley views would be restricted and there would be a loss of outward views from the valley floor to the open countryside. Even were the buildings to be limited in height to 2 storeys (or 9m) they would still break the skyline in views from the valley floor, a matter highlighted in the LCA. The development would also appear urban and intrusive as seen in near views from the Colchester Road and from the recreational cycle routes along that road. The indicated landscaping, which may be different in the final scheme, would take time to establish and would only partially mitigate these effects in the longer term by softening but not screening the edges of the development.

#### *Visual Effects*

31. Many of the landscape effects, including the loss of open landscape character and the restriction of views, would be perceived visually by neighbouring residents, persons using Colchester Road (including recreational cyclists), walkers on the network of local and longer-distance footpaths on the valley floor (including permitted paths), users of the open space opposite the site, and by both commuters and leisure users of the adjacent railway line. The sensitivity of these users would vary according to the reason for their presence as well as other factors such as distance from the development. The most sensitive users would be those using the public footpaths and the recreational cycle routes and the neighbouring residents. However other road and rail users would include those visiting the area for leisure purposes who can be expected to be more sensitive. All would experience some negative visual effects from the loss of longer views and the change in landscape character.



### *Conclusion*

32. Paragraph 48 of the Framework provides amongst other things that existing development plan policies adopted prior to the publication of the Framework should be given due weight according to their degree of consistency with the Framework. In that regard, I consider that CS Policy CS8 is generally consistent with the Framework objectives to recognize the intrinsic character and beauty of the countryside, which certainly apply here, and for development to be sympathetic to, and enhance, its landscape setting, which this proposal would not. That policy merits substantial weight.
33. Having regard to the nature, scale and setting of the proposed development I conclude that it would be a major development with a significant adverse impact on the character and appearance of the countryside and on the sensitive landscape setting of Bures and Bures St Mary, including its Conservation Area, contrary to the Guidelines in the LCA and in conflict with CS Policy CS8 and RLP Policy RLP 80.

### **Heritage Assets**

34. In the development plan the RLP and CS heritage policies are no longer consistent with more up-to-date policy for heritage assets in the Framework that includes provision to assess whether there is harm to the heritage significance of the designated or undesignated asset and then to weigh that harm with any benefits of the development. In this case I therefore attach greater weight to the Framework policies.
35. The appeal site is too distant from the listed churches and most other designated heritage assets in the wider area to have any appreciable effect on their settings or significance. The exceptions are the Bures St Mary Conservation Area and the Grade II listed Brook House which are closer to the site. The Conservation Area includes the open recreation land on former meadows on the opposite side of the River Stour. That is part of the valley floor and it is contiguous with surviving meadows beside the river. In its present form the appeal site is open countryside and it provides an open visual connection with the wider countryside. However, the built development of the appeal site at the proposed scale would be very visible from the conservation area and would close off that view to the west and create a much more urban setting. Those adverse landscape and visual effects would cause harm to the significance of the conservation area by reason of the loss of a significant part of its open countryside setting.
36. In the case of Brook House the appeal development would be seen in some long filtered views from that property as part of the wider setting of the listed house which otherwise has long been characterised by mainly open countryside. However, those views would be against a backdrop of more distant 20<sup>th</sup> century development which has already intruded on that setting to a degree.
37. In each case I agree with the conclusions of the main parties that there would be some, less than substantial, harm to the heritage significance of these designated assets. Any such harm nevertheless merits great weight in accordance with paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development.

38. The site includes some undesignated buried heritage assets which have been dated to the Bronze Age. However, they are of a common type and have been damaged by past human activity such as ploughing which has diminished their significance such that they would not satisfy the criteria for scheduling as ancient monuments. Neither are they visible except from the air as crop marks for a brief period in each growing season. The assets are unlikely to have a connection with other assets in the valley from different eras and there is no objection from the Council or its archaeological advisers to the loss of what little remains of the asset subject to an appropriate condition to investigate what remains. The very slight residual harm to significance from the loss of any physical remains would nevertheless fall to be included in the planning balance.

### **Affordable housing and necessary infrastructure**

39. Planning permission was refused in part because of a lack of provision to secure both the promised affordable housing and also financial contributions to provide necessary social infrastructure, especially the creation of adequate capacity in health and education provision to serve the development.
40. A completed unilateral undertaking has been submitted by the Appellant under Section 106 of the Act which would ensure compliance with CS Policy CS2 in respect of the 40% affordable housing provision sought in rural areas. It also makes provision for financial contributions to enhance education provision and primary health services as requested by the local education authority (Essex County Council) and the NHS respectively. Other provisions include contributions to the provision or enhancement of sports facilities and allotments. Provision would also be made for on-site open space for public use.
41. It is possible that the education and health contributions in particular may be put towards facilities that would not be directly used by occupiers of the development. That is because residents would be likely to use existing facilities closer to the appeal site. In that case other persons may be displaced to go elsewhere, depending on how those facilities are managed in the future. However, with the agreed contributions and with similar provision in relation to other new development, the overall capacity of facilities in the area is likely to be adequate to account for the increase in overall demand.
42. I consider that these measures would accord with relevant Community Infrastructure Regulations and CS Policy CS11.
43. The provision made by the undertaking for potential mitigation of effects on bio-diversity is considered below.

### **Biodiversity**

44. As an arable field the main part of the appeal site has limited bio-diversity or ecological interest and the development should not cause a direct loss of habitat. Moreover, there is the opportunity to enhance the site's flora as significant areas at the side edges are likely to be available to reinforce, strengthen, and diversify existing hedgerow and tree planting and to improve the bio-diversity of open parts of the site. That would more than compensate for the likely loss of one tree adjacent to the proposed access.

45. In respect of fauna it appears that the original ecological surveys may have correctly recorded and addressed the presence of badgers adjacent to the railway but missed some of the potential habitat of water voles and possibly otters along the brook. Whilst there would not necessarily be a direct loss of habitat or adverse effect on these protected species, it may be necessary to control public access to this area in a final design by fencing or other means and a suitable buffer. The illustrative layout indicates that there would be space available for that purpose although that would reduce the area of accessible public open space.
46. At the time of the application, Natural England had no objection to the proposed development. However, they have subsequently published draft proposals to mitigate the impacts of increased recreational use on Special Protection Areas (SPA) of European importance as wildlife habitats on the Essex Coast. These include the draft designation of a 22km zone from the Blackwater Estuary within which mitigation payments would be sought from new residential developments to fund management of the SPA.
47. Before a need for avoidance measures or mitigation payments could be justified it would first be necessary to establish if the development would have a likely significant effect on the SPA, in which case an Appropriate Assessment would then need to be undertaken.
48. The Appellant has submitted evidence to the effect that there would be no likely significant effect having regard to the remoteness of the site from the Blackwater Estuary SPA, the length of the routes between the site and that estuary (which exceed 22km) and the limited access possibilities at the nearest parts of the estuary. It is also pointed out that there are other similar SPAs at closer distances and that no objections in respect of a likely significant effect have been alleged. Nevertheless, the Appellant has offered a mitigation payment in case there is judged to be such an effect and if an Appropriate Assessment were to conclude that such mitigation was both necessary and appropriate. The Council relies on the blanket approach of Natural England in respect of distance. However, the Council's own evidence is that a development of less than 100 dwellings (as this would be) would not have a likely significant effect. When considering a near duplicate proposal on the same site the Council did carry out what it describes as an Appropriate Assessment and concluded then that the proposal would not adversely affect the integrity of the habitats site.
49. I do not rely on the Council's conclusions as they do not appear to have taken account of potential cumulative effects of multiple developments. However, I prefer the Appellant's evidence in relation to the actual potential effects and conclude that a development on this site at the outer edge of the draft zone and with limited opportunities for access along long and convoluted routes makes a pathway of effect unlikely and makes it improbable that the site's development would have a likely significant effect.
50. In these circumstances I do not consider it necessary to carry out an Appropriate Assessment or to require the mitigation payment described in the unilateral undertaking.
51. I conclude that the development is not in conflict with the bio-diversity provisions of CS Policy CS8.

## Housing Land Supply

52. Although not a provision of the development plan, national policy at paragraph 73 of the Framework (2019) provides that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need where the adopted strategic policies are more than 5 years old [as here].
53. At the date when the application was determined in June 2018, the Council accepted that it was unable to demonstrate that it had the minimum 5-year supply of housing land required by the Framework (2012). Shortly afterwards in July 2018 the Government published the updated Framework (2018) which, amongst other changes, modified how the housing requirement should be calculated. Changes to the supporting Planning Practice Guidance were then published in September 2018 in respect both of the housing requirement calculation and the evidence sought to demonstrate the available supply.
54. In January 2019 the Council published an Annual Monitoring Report with a base date of 31 March 2018 and which claimed that the Council could demonstrate a housing land supply in excess of 5 years. This was based on a local housing need requirement using the recommended standard method and derived from the latest 2016 household projections.
55. Following a Technical Consultation the Government has made further relevant changes to the Framework and to the PPG. These were published during the Inquiry in February 2019. Amongst other things these changes provide that the 2014 household projections should be used when calculating the standard method and that alternative approaches to calculating housing need should only be considered at the policy-making stage and not in decision-making.
56. When calculated in line with the latest policy and guidance (and the results of the Housing Delivery Test - also published in February 2019), the Council continues to maintain that it has a supply in excess of 5 years. The Framework provides that there should be an annual assessment of supply. The PPG at paragraph 3-038 also allows that for applications and appeals it is only necessary to demonstrate supply once a year. The Council does not yet have up-to-date strategic policies on which an Annual Position Statement would be based. It therefore relies instead on the Annual Monitoring Report (AMR) published in January 2019.
57. The Appellant challenges the Council's supply figures as set out in the AMR. The main area of disagreement concerns the treatment of outline planning permissions for major development in the calculation of supply. Also at issue is whether sites subject only to a resolution to grant planning permission at the base date should be included (as for example where the grant of planning permission depends upon the completion of a Section 106 planning obligation).
58. Based on the 2014 household projections, and with an agreed 5% buffer, both main parties now agree that the local housing need at 31 March 2018 over 5 years is for 4,457 dwellings. The Council estimates the supply at 4,834 dwellings (5.42 Years) to include 2,247 dwellings on sites with outline permission at the base date, 200 at 'growth locations' and 267 at 'other sites'.
59. The Appellant has offered 2 alternative calculations. What is described as a 'strict' interpretation would result in a supply of 2,977 dwellings (3.34 years).

This excludes the above supply at the growth locations and other sites and reduces the supply on sites with outline permission to 857 dwellings, mainly due to a claimed lack of clear evidence that these would have been deliverable at the base date of 31 March 2018. In the alternative the Appellant has also calculated supply based on what is described as a '*benevolent*' approach which would result in a supply figure of 3,968 dwellings (4.45 years). In that case the supply from sites with outline permission at the base date would be 1,613 dwellings.

60. My attention has been drawn to how these matters have been addressed in other appeal decisions, albeit that they pre-dated the latest Government policy and guidance. In particular, in the Woolmer decision<sup>1</sup> the Inspector opined that the definition of 'deliverable' in the Glossary of the Framework 2018 is a closed list. If so, whilst the definition is set out in the first sentence, a closed list would mean that only the types of housing sites listed in the second and third sentences of the definition could qualify as deliverable. The Framework 2019 has slightly modified and restructured the definition but the changes do not provide additional confirmation that the list is closed.
61. The Council has drawn attention to the Salford decision<sup>2</sup> by the Secretary of State where sites with a resolution to grant permission subject to a Section 106 agreement had been included in the housing supply and the Secretary of State had made no criticism of that approach. However, as the supply in that case was agreed to be far in excess of 5 years it made no difference to the principal issues and it does not appear that the Secretary of State gave active consideration to that matter. I therefore accord it little weight.
62. In the Woolpit decision<sup>3</sup> the Inspector concluded that all permissions issued after the base date should be excluded on the basis that its consideration would also require a review and extension of the period over which housing need is to be assessed. I disagree on that latter point. It is not necessary to adjust the housing need period if the assessment of supply only concerns that which is expected to be delivered within the original 5-year period. However, I agree that new planning permissions after the base date should be excluded and that would include permissions subject to a resolution to grant subject to a Section 106 obligation. Uncertainty about when such an obligation would be completed could put back a potential start date by months or even years. Information about significant new supply from such sources after the base date but before the annual assessment might nevertheless be material when considering the weight to be accorded to an identified shortfall in supply.
63. In respect of information received after the base date about the progress of sites with outline permission at the base date, I consider that this information should be included in the AMR in order to provide the necessary '*clear evidence*' of whether and when housing will be delivered. An example could be that a site with outline planning permission at the base date had subsequently been the subject of an application for full permission for a similar development in preference to a reserved matters application. That can occur when some amendment to the scheme had meant that whilst housing delivery was still expected a reserved matters application was not appropriate. That an

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<sup>1</sup> Appeal Ref APP/C1950/W/17/3190821

<sup>2</sup> Document ID20

<sup>3</sup> Appeal Ref APP/W3520/W/18/3194926

- essentially similar development was now being advanced by a different route should not to my mind preclude the site from inclusion in the base date supply.
64. The March 2018 base date of the Council's AMR preceded its publication by more than 9 months. However, a base date close to the beginning/end of the financial year is widely accepted as a suitable annual monitoring period. It is entirely reasonable that the base date is not updated to a new date for each application or appeal, as confirmed by the PPG. Reasons for the delay in preparing and publishing the report here include that the Framework was significantly modified 4 months after the monitoring period in July 2018 to include a new standard method to assess the housing requirement and a revised definition of deliverable sites for inclusion in the supply. Also, the PPG guidance about how to assess need and supply was only issued 6 months after the monitoring period in September 2018. It can be expected that subsequent reports using current guidance would be compiled and issued closer to the annual base date.
65. The Framework definition of deliverable sites provides that in some cases (including outline permissions for major sites and also for development plan allocations where there is as yet no planning permission) there should be clear evidence that housing completions will begin on site within five years. To establish the site's contribution to the housing supply there would also logically need to be an assessment of the amount of housing expected to be delivered within that five-year period.
66. Where there is to be reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. That would qualify as publicly available in an accessible format as the PPG requires. It would accord with guidance in PPG Paragraph 3-048 which applies to all forms of annual review including, but not limited to, annual position statements. That is not to say that there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached.
67. The information published here in the AMR is minimal and it relies heavily on unsupported assertions that a site will be delivered. That does not amount to clear evidence. In most cases it does not include the additional information that was introduced only in oral evidence at the inquiry such as: the date when a reserved matters submission was made or anticipated; when a S106 obligation was completed; why a full planning application and not a reserved matters application was submitted on a site that already had outline permission; the source of an estimate of a delivery rate; any assumptions and yardsticks that were applied where direct information was in doubt or missing; or other information of the type suggested in PPG paragraph 3-036. Information of that type could be readily summarised and published, possibly in a tabular form.
68. Overall, and having heard the Council's oral evidence about progress on sites which is said to have informed its conclusions in the AMR, I consider that the Appellant's 'strict' approach unreasonably excludes many sites where it is very probable that there will be significant delivery of housing within the 5-year period. On the other hand, the Council has over-estimated the rate at which some sites may be developed and progress on some sites remains unclear even

when taking into account the Council's additional oral evidence of what has occurred since March 2018. Sites that were subject only to a resolution to grant permission at the base date should be excluded.

69. I consequently do not consider that the Council has demonstrated in the AMR with clear evidence that it has a 5-year housing supply. Whilst there is insufficient evidence to make a precise assessment, the likelihood is that the supply is closer to the Appellant's 'benevolent' approach which concludes that there is a 4.45-year supply. That represents a shortfall, albeit not a severe one. The weight to be attached to the shortfall may also be reduced in that there is some evidence of factors which will increase supply such as the issuing of permissions for developments that were only subject to resolutions to permit at the AMR base date. There is also at least one permission issued on a major site after the base date where development has already commenced on site. It is also material that the eLP examination is advancing and that the adopted plan can be expected both to redefine the housing requirement and to make provision to address it.

### **Other Matters**

70. I have taken into account all other matters raised in representations. In particular I consider that the location and dimensions of the access junction would be adequately safe. Although not clearly specified in the Section 106 agreement, the advance provision of dropped kerbs at junctions and raised kerbs at the bus stop could be the subject of a condition to facilitate disabled access.
71. For a small rural village, the accessibility by public transport is unusually good and there is a range of services and facilities within walking or cycling distance. The limited parking at the station would be likely to encourage rail users to walk or cycle to the station.
72. However, neither these nor the other matters raised outweigh my conclusions on the main issues.

### **The Planning Balance and Conclusions**

73. I conclude above that the proposal would contravene adopted development policies for the control of development in the countryside outside development boundaries. There would also be conflict with policies to protect the character and appearance of the area and specifically with CS Policy CS8 in respect of the landscape and visual effects. That conflict here outweighs compliance with some other development plan policies such that there would therefore be overall conflict with the development plan.
74. However, the apparent lack of a deliverable 5-year housing supply means that at least some of the other most important development plan policies for determining the application are out of date inasmuch as they would not provide for a sufficient supply. In particular the CS Policy CS5 and RLP Policy RLP2 development boundary is out of date as there is a lack of evidence that sufficient housing to meet the identified local housing need could be provided within the adopted boundaries. Limited weight can yet be accorded to the emerging Local Plan and its development boundaries which are not yet part of the development plan which may change prior to adoption. That and the supply shortfall necessarily triggers the application of paragraph 11 of the

Framework, notwithstanding the evidence of progress towards delivering additional housing sites since the AMR base date, and progress on the eLP.

75. Paragraph 11 provides in these circumstances that planning permission should be granted unless:

- i) *'The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or*
- ii) *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

76. In relation to (i) I have concluded that there is not likely to be a significant effect on the Blackwater Estuary Special Protection Area. Whilst great weight is to be accorded to the less than substantial harm to the designated heritage assets, that harm falls to be weighed with the public benefits of the development.

77. The public benefits of the development include: the social benefits of the provision of market housing and affordable housing in circumstances where there is a local and national shortage against assessed needs; the economic and employment benefits associated with the construction and subsequent occupation of the housing including local spending in shops and services; some benefits to bio-diversity of flora; and the provision of on-site informal open space potentially in excess of policy requirements. However the latter merits only limited weight as no minimum level of provision is set out in the application, the Section 106 undertaking or the agreed conditions, and because there is no identified local lack of open space or play provision in the area.

78. Neither the harm to the setting and significance of Brook House nor the harm to the significance and setting of the Bures St Mary Conservation Area would outweigh the public benefits either separately or together. Thus, these effects would not on their own provide a clear reason for refusing the development or overcome the paragraph 11 presumption in favour of development. However, the harm to the setting of the conservation area overlaps with and reinforces other harm to the character and appearance of the area which also falls to be weighed with the benefits in the application of sub-paragraph ii above.

79. The main identified harm is the harm to landscape character and to the visual amenity of the area including the loss of the site's openness, the breach of the skyline by a large-scale development, and the loss or containment of open cross-valley views. This includes the associated conflict with relevant development plan policies in that regard including CS Policy CS8 which are important to the determination of the appeal and which are not materially inconsistent with national policy or out of date. Neither, having regard to Framework paragraph 127, would the development be sympathetic to its landscape setting.

80. My final conclusion is therefore that the proposal is in overall conflict with the development plan and that is not here outweighed by other material considerations. In the terms of paragraph 11(d)(ii) of the Framework the significant adverse impacts of granting planning permission would significantly



and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal should therefore be dismissed.

*Robert Mellor*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ashley Bowes	of Counsel instructed by Ian Hunt, Head of Law and Governance, Braintree District Council
He called	
Gill Wynne-Williams BA DipLA MLI	Landscape Architect and Managing Director of Wynne-Williams Associates Ltd
Beverley McClean BA DipCM MRTPI	Planning Officer, Dedham Vale Area of Outstanding Natural Beauty
Kathryn Carpenter BA(Hons) DipEnvPlg	Senior Planning Officer (Housing Supply) Braintree District Council
Melanie Corbishley BA(Hons) MA	Senior Planner, Braintree District Council

### FOR THE APPELLANT:

Thea Osmund-Smith	Of Counsel, instructed by Megan Farmer
She called	
Silke Gruner BHons CMLI	Associate Landscape Architect and Urban Designer, CSA Environmental
Gail Stoten BA MCIfa FSA	Heritage Expert, Director of Pegasus Planning Group
Aiden Marsh BSc PhD MCIEEM CCol	Ecological Director CSA Environmental
Matthew Spry BSc(Hons) DipTP (Dist) MRTPI MIED FRSA	Housing Land Supply, Senior Director Lichfields
Megan Farmer MPlan MRTPI	Planning Manager, Gladman Developments Ltd

### INTERESTED PERSONS:

David Lee	Chair of Bures Hamlet Parish Council
Gill Jackson	Chair of Bures St Mary Parish Council
Elaine Conerney	Local Resident
Nicholas Temple	Neighbouring landowner and conservationist
Robert Erith	Chair, Dedham Vale Area of Outstanding Natural Beauty
Charles Aldous	Former Chair Colne-Stour Countryside Association
Geoffrey Probert	President, Suffolk Preservation Society
Hugh Turner	Concerning archaeological heritage
Ken Jackson	Concerning arboricultural and site related matters
Kenn Butcher	Concerning highways and transport matters
Sheila Butcher	Concerning the Statement of Community Involvement

## DOCUMENTS

- 1 Appellant's Opening Statement
- 2 Council's Opening Statement

- 3 Statement of Common Ground
- 4 S106 Unilateral Undertaking
- 5 Appellant's Note Concerning Primary Education Impact
- 6 Extract from Annual Monitoring Report concerning affordable housing delivery
- 7 Approved Applications and Allocations in the Stour Valley Project Area
- 8 Gov.UK advice on AONB designation and management
- 9 Gruner Proof photos printed at A3
- 10 *Gladman v SSHCLG and Central Beds [2019] EWHC 127*
- 11 Joint Babergh and Mid Suffolk DC Landscape Guidance (August 2015)
- 12 Landscape Character of Braintree District (2006)
- 13 Essex CC Guide to Developer Contributions (2016)
- 14 Revised figures for financial contributions (2018)
- 15 *Baroness Cumberledge of Newick and Patrick Cumberledge v SSCLG and DLA Delivery Ltd [2017] EWHC 2057*
- 16 *Baroness Cumberledge of Newick and Patrick Cumberledge v SSCLG and DLA Delivery Ltd [2018] EWCA Civ 1305*
- 17 Decision Letter for Appeal Ref APP/R3650/W/16/3165974 Haslemere
- 18 *Gladman Developments Ltd v Daventry DC and SSCLG [2016] EWCA Civ 1146*
- 19 Letter dated 23 October 2018 to Braintree DC from Planning Policy Reform Division MHCLG
- 20 SofS Decision Letter for Appeal Refs: APP/U4230/W/13/2209607 & APP/U4230/W/17/3180726 Salford
- 21 Decision Notice for Application 18/02139/OUT (Playing Pitches at Cambridge Way, Bures Hamlet)
- 22 Statement by Elaine Conerney
- 23 Statement by David Lee
- 24 Statement by Nicholas Temple
- 25 Statement by Hugh Turner
- 26 Statement by Sheila Butcher
- 27 Statement by Gill Jackson
- 28 Statement by Ken Jackson
- 29 Statement by Robert Erith
- 30 Map of National Cycle Network Route 13 at Bures
- 31 'Cycling through a masterpiece' local cycle routes
- 32 Statement by Charles Aldous and appended photos of old Bures St Mary
- 33 Statement by Geoffrey Probert
- 34 Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (2018-2038) – Essex CC and Appendices to Document 34
- 35 Documents to support Mr Butcher's statement
- 36 Schedule of major housing sites with outline planning permission at 31 March 2018
- 37 Petition opposing the development of the appeal site with 592 signatures
- 38 Suggested site visit itinerary
- 39 Update of planning history of Station Field, Land West of Kelvedon Station

- 40 Updated 5 year Housing Land Supply position following February 2019 changes to National Planning Policy Framework
- 41 Statement of compliance for financial contributions in relation to Community Infrastructure Levy Regulations
- 42 Government response to the technical consultation on updates to national planning policy and guidance 19 February 2019
- 43 Supplementary written statement from Hugh Turner
- 44 Updated 5 year Housing Land Supply position following February 2019 changes to National Planning Practice Guidance on 20 February 2019
- 45 Appellant's Technical note in response to Mr Butcher's evidence on transport matters
- 46 Appellant's Statement in response to representations concerning increased noise from road traffic
- 47 Council's closing submissions
- 48 *CEG Land Promotions Ltd v SSHCLG and Aylesbury Vale DC [2018] EWHC 1799*
- 49 *Redhill Aerodrome Ltd c SSCLG and others [2014] EWCA Civ 1386*
- 50 *St Modwen Developments Ltd v SSCLG & Another [2017] EWCA Civ 1643*
- 51 Closing submissions on behalf of the Appellant



## Appeal Decision

Inquiry Held on 14-17 and 21 May 2019

Site visit made on 22 May 2019

**by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI**

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

**Decision date: 19<sup>th</sup> August 2019**

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### **Appeal Ref: APP/A1530/W/18/3207626**

#### **Land off Colchester Road, West Bergholt, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Ltd against Colchester Borough Council (CBC).
  - The application Ref:173127, is dated 28 November 2017.
  - The development proposed is the erection of up to 97 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.
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### **Decision**

1. The appeal is dismissed, and the grant of outline planning permission refused for the erection of up to 97 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.

### **Preliminary matters**

2. The appeal application is in outline, but with access to be determined as part of the application. Site access is proposed off Colchester Road via a priority-controlled junction. I have had regard to other details shown on the Development Framework Plan (Drawing No.CSA/3447/103F) as illustrative material not forming part of the application.
3. CBC failed to make a decision on the planning application in the required amount of time. However, had it been able to do so, CBC would have refused the application. The reasons for refusal would have made reference to: 1. The site being located outside the settlement boundary and unallocated, and therefore contrary to Core Strategy Policies SD1, ENV1 and H1, and premature given the emerging Local Plan and West Bergholt Neighbourhood Plan. 2. The effect on the character and setting of the settlement, and resultant conflict with Core Strategy Policy ENV1 and Development Policy DP1. 3. New build development in the open countryside in the scale and manner proposed resulting in a loss of the open rural aspect to the south of the listed Malthouse, the visual separation between West Bergholt and the listed Barn at Hill House, along with concern about views of the listed main Truman buildings from the application site, contrary to Core Strategy Policy ENV1 and Development Policy 14 and the NPPF. 4. Failure to secure a range of planning obligations, contrary to Core Strategy Policies SD2, H4 and Development Policy DP3, the

NPPF and supplementary planning documents and guidance.

4. An amended access scheme was submitted at the appeal stage.<sup>1</sup> This proposes siting the proposed access onto Colchester Road to the north-west of the location shown on the original drawing. It also proposes visibility splays of 2.4 m x 80 m instead of 2.4 m x 43 m. Road markings and carriageway alignment would be altered to remove the existing right turn arrangement for Maltings Park Road. The proposed amended scheme would also remove the initially proposed ghost island right turn lane arrangement for the access to the appeal site.
5. I consider that the proposed alterations, insofar as they would affect access to the appeal site for the determination of this appeal, would be minor alterations that would not substantially alter the proposal. CBC has no objection to these alterations. Local residents and representatives of the Parish Council who attended the Inquiry were given the opportunity to consider, and to comment on, the proposed revised access. Concern was expressed about available space within the highway for the proposed revisions for the Maltings Park Road junction.<sup>2</sup> But this would be a matter for consideration in discharging the suggested planning conditions.<sup>3</sup> I do not consider that determining the appeal on the basis of the amended scheme would be prejudicial to the interests of any other party. I have, therefore, determined the appeal on the basis of the amended scheme as shown on Site Access Plan Drawing Ref 1879-F04 Rev A.
6. A petition with 180 signatures, along with 174 emails supporting the petition, was submitted at the Inquiry opposing the application and supporting the rejection of the appeal as contrary to West Bergholt's Neighbourhood Plan (WBNP) and the Borough's current and emerging Local Plan.<sup>4</sup>
7. The Examiner's Report into the WBNP was submitted to the Qualifying Body for fact checking during the Inquiry. Time was therefore made available for the parties to make written submissions about the Report once it was made public. The Inquiry was closed in writing on 1 July 2019.
8. A unilateral planning obligation, dated 17 June 2019, provides for affordable housing on commencement of the development that is the subject of this appeal.<sup>5</sup> It also provides for an off-site open space contribution, along with contributions towards education, healthcare, archaeology, community facilities and Natura 2000. At the Inquiry CBC did not pursue its fourth putative reason for refusal.
9. CBC and the appellant submitted a Statement of Common Ground dated 18 and 23 April 2019 (SoCG1). A separate SoCG concerning a Habitat Regulations Assessment is dated 11 and 16 April 2019 (SoCG2). A SoCG in relation to the frontage hedgerow along Colchester Road is dated 21 May 2019 (SoCG3).<sup>6</sup>

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<sup>1</sup> The Council's determination of its putative reasons for refusal considered the access arrangement shown on Site Access Plan Drawing Ref 1879-F01.

<sup>2</sup> ID32c.

<sup>3</sup> ID27 Suggested planning Condition 16.

<sup>4</sup> ID6.

<sup>5</sup> ID4.

<sup>6</sup> ID31.

## **Main issues**

10. The main issues in this appeal are the effects of the proposed development on:
- (a) The character and appearance of the area.
  - (b) Heritage assets.
  - (c) The supply of housing.

## **Planning policy**

11. The development plan for the area includes the Colchester Borough Core Strategy, which was adopted in 2008 and updated in 2014 (CS), and the Colchester Borough Development Policies, which was adopted in 2010 and amended in 2014 (DP), along with the Site Allocations DPD 2010. I consider that the following policies are most relevant to the main issues in this appeal.
12. Policy SD1 of the CS states that the Borough will deliver at least 19,000 homes between 2001 and 2023 and that growth would be located at the most accessible locations in accordance with the settlement hierarchy. This housing growth was derived from the now revoked East of England Plan. West Bergholt is designated as a rural community in the settlement strategy. Policy SD1 expects development to achieve compatibility with local character. The 2014 update to the CS added a provision to this policy to reflect the 2012 NPPF's position about taking account of whether any adverse impacts would significantly and demonstrably outweigh the benefits. CS Policy H1, concerning housing delivery, reflects the strategy in Policy SD1.
13. CS Policy ENV1 states that the natural and historic environment, along with the countryside, will be conserved and enhanced. It adds that unallocated greenfield land outside of settlement boundaries, such as the appeal site, will be protected and where possible enhanced, with any development strictly controlled to conserve the environmental assets and open character.
14. Policy DP1 provides, amongst other things, that proposals respect or enhance the landscape that contributes positively to the site and the surrounding area. Policy DP14 states that development will not be permitted that will adversely affect a listed building. It adds that development affecting the historic environment should seek to preserve or enhance the heritage asset.
15. CBC has been working jointly with Tendring and Braintree District Councils to bring forward local plans with a common section setting out strategic growth policies, including overall housing requirements and the provision of three cross-border garden communities. The Draft Colchester Borough Local Plan 2017-2033 (eLP) was submitted for examination in 2017 and hearing sessions began in 2018. The examination is currently paused whilst further work is undertaken.
16. The West Bergholt Neighbourhood Area was designated in 2013 and the draft WBNP was subject to Regulation 14 consultation in 2018. Regulation 16 consultation on the submitted WBNP took place earlier this year and independent examination commenced in April. I have taken into account the Examiner's Report and the respective comments from the parties.<sup>7</sup> CBC advised by email dated 12 June 2019 that the referendum for the WBNP is scheduled for 19 September 2019. The WBNP proposes that the minimum

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<sup>7</sup> ID33 and ID35-37.

number of dwellings to be provided over the plan period of 2018-2033 will be 120, with these dwellings provided on two sites identified to the north of the existing settlement. The appeal site lies outside the proposed WBNP settlement boundary, and in an area identified to avoid coalescence with Colchester.

17. I have taken into account the *National Planning Policy Framework* (hereinafter the *Framework*) and the *Planning Practice Guidance* (hereinafter the *Guidance*). The *Guidance* was revised after the close of the Inquiry and the parties were invited to comment on any relevant changes.<sup>8</sup>

## Reasons

### *Character and appearance*

18. The appeal site has an area of 4.13 ha and is located on the south-eastern edge of West Bergholt, some 4 km to the north-west of Colchester. It comprises two grassland fields, an eastern field and a western field, that are separated by a central belt of trees and vegetation. The eastern field has a frontage onto Colchester Road, which is marked by a hedgerow described by the parties as a failing elm hedge.
19. In the 2003 Essex Landscape Character Assessment the appeal site lies within the Colne Valley (C7) LCA, with a landscape sensitivity level of Moderate, where development may be capable of being absorbed. In CBC's 2005 Landscape Character Assessment the site lies predominantly in the A5 Colne River Valley Slopes LCA. The key characteristics of LCA A5 include a mosaic of medium to large-sized predominantly arable fields with hedgerows, and concentrations of smaller fields with intact hedge boundaries adjacent to settlements. A part of the appeal site lies within LCA B6 Great Horkelesley Farmland Plateau, which is located on an area of gently rolling plateau to the north of the Colne River valley. It adds that West Bergholt is a large nucleated village. The landscape planning guidelines refer to the conservation of the landscape setting of existing settlements such as West Bergholt. I have also had regard to the 2005 Landscape Capacity of Settlement Fringes and the 2009 Assessment of Open Countryside. However, I give more weight to the 2003 and 2005 landscape character assessments cited above as particularly relevant to the issues which need to be addressed in determining this appeal.
20. It was evident from my site visit that both the eastern and western fields of the appeal site have a rural feel that relates much more to the wider agricultural area than to the nearby development within the settlement. The appeal site adjoins the settlement, and its fields are small with largely intact hedgerow boundaries; attributes which reflect the key characteristics of LCA A5. This is an area of landscape transition, which is sensitive to change. The appeal site forms an important part of the rural setting for the village, notwithstanding the agreement of the landscape experts that it is not a valued landscape for the purposes of the *Framework*. Its redevelopment for up to 97 dwellings would result in a change of major magnitude that would have a significant adverse impact on the landscape resource. In my judgement, the proposed development would have an adverse effect on the landscape character of the area of substantial significance. I turn next to consider the visual effects of the proposal.

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<sup>8</sup> ID38 and ID39.



21. The western field is bounded by the rear of residential development that fronts onto Albany Road and Colchester Road, to the east by the belt of trees between the eastern and western fields, and by the wooded curtilage of a dwelling to the south. With appropriate siting, design and landscaping residential development of the western field could be largely visually contained so that it was not prominent from public vantage points. However, some filtered views would be likely from Albany Road and for some residential receptors, where the change from an open field to housing would, where apparent, result in an adverse visual impact of moderate significance.
22. Some 40 m of the existing roadside hedgerow would be required to be removed to facilitate the proposed access. A further 8 m would need to be removed for a visibility splay. A new mixed native hedgerow with hedgerow trees would be planted behind the existing elm hedge to the west of the proposed access and behind the visibility splay of the removed sections of hedge. A proposed landscape management plan would require the existing remaining elm hedge to be maintained no higher than 2.5 m.<sup>9</sup>
23. Development within the eastern field would be visible from Colchester Road while the replacement roadside hedgerow matured, and at all times through the proposed new access. In this location dwellings and residential paraphernalia would appear as an intrusive feature in the countryside surrounding the settlement, which I consider in more detail in the following paragraphs. In this context, the proposed development would have an adverse effect on the visual amenity of the area of substantial significance.
24. It was evident at my site visit that the dwellings off Maltings Park Road mark a sharp transition between the settlement and the surrounding countryside. The scattered dwellings along, and sited off, Colchester Road, including the buildings in the vicinity of Hill House, to the east of the Maltings development, are perceived as being contained within the countryside that lies between West Bergholt village and Braiswick. This perception is not significantly altered by the existence of street lighting and signage on the approach to West Bergholt. I concur with the Parish Council's assessment of where the village starts.<sup>10</sup>
25. The development of the eastern field would project built form and suburban type activity beyond what is currently perceived to be the confines of the settlement. Although siting is a reserved matter it would be likely that the proposed dwellings would extend across this field, as is indicated in the illustrative Development Framework Plan. The apparent depth of the residential development, given that the land slopes to the south, would be apparent from Colchester Road. An expansion of the settlement of this scale and prominence, in this location, would significantly detract from the sense of separation between West Bergholt and Braiswick.
26. Given the relationship between these settlements in terms of separation distance, topography, highways and other infrastructure, the existing intervening countryside between West Bergholt and Braiswick is particularly vulnerable to the harm that would result from creeping coalescence blurring their separate identities. I find that the proposal would conflict with emerging WBNP Policy PP22, which provides that development will not be supported in the area shown on Map PP22, which includes the appeal site, if individually or cumulatively it would result in increasing the coalescence between West

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<sup>9</sup> ID31.

<sup>10</sup> ID9a.

Bergholt village and Braiswick, reducing their separate identity by reducing the separation between these two settlements.

27. On the first main issue, I find that the proposal would have a substantial adverse effect on the character and appearance of the area, and so would conflict with CS Policy ENV1. It would also conflict with that part of CS Policy SD1 that expects development to achieve compatibility with local character. In addition, the scheme would be at odds with the requirement in CS Policy DP1 that proposals respect or enhance the landscape that contributes positively to the site and the surrounding area.

#### *Heritage assets*

28. There are four Grade II listed buildings associated with the former Truman's Brewery in the vicinity of the appeal site. These comprise a main building, a brewery house and hophouse which are located on the northern side of Colchester Road, along with a malthouse on the southern side of Colchester Road. The malthouse has been relocated from a site further to the east, but its listing description does not mention its rebuilding with the addition of skylights and dormer windows. The converted barn near Hill House, which lies to the east of the appeal site, is also a Grade II listed building.
29. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. The parties agree that the appeal scheme would result in some harm to designated heritage assets, which as less than substantial harm for the purposes of the *Framework* must be weighed against the public benefits of the proposed development. But to properly weigh heritage considerations in the planning balance it is necessary to assess the extent of the harm to the listed buildings affected in this case.
30. The former brewery buildings north of Colchester Road were originally set within the countryside outside the settlement but have now been incorporated within the village and redeveloped for housing/offices. The modern housing estate to the north of the former brewery buildings has fundamentally altered the rural setting of the listed buildings. However, parts of the brewery are four storeys with a distinctive roofscape that is a prominent feature in views from the wider area. There is no documented functional relationship between the brewery and the appeal site. Nevertheless, the appeal site forms part of the remaining rural context for these distinctive buildings. The proposed development would remove one of the last links between the brewery and its original rural context, and this harm to the setting of the listed buildings would diminish their historic significance. The appellant's assessment of a very minor impact underrates the importance of the appeal site in providing some rural setting for these important buildings. I consider that the extent of the harm here would be of slight/moderate significance.
31. The malthouse has lost its original setting with its relocation. Its setting is now largely confined to its immediate context, which does include some of the open land within the western field. The proposed development would abut the south-western boundary of the dwellings in the malthouse. Nevertheless, given the altered context for this listed building, I consider that the proposed development would have only a slight effect on the setting of the former malthouse and the overall significance of this heritage asset.

32. The converted barn at Hill House is now sited within the residential curtilage of the property. However, its western façade facing towards the appeal site retains many features of its original agricultural design and function. Notwithstanding the intervening domestic paraphernalia, including a swimming pool, the barn retains a visual association with the agricultural land that comprises the eastern field of the appeal site. This link with adjoining open rural land is important even though there is no evidence to suggest that the appeal site was farmed by the owners/users of the barn. The barn does derive some of its significance from its setting, which includes part of the eastern field within the appeal site.
33. There would be some scope within the design of the proposed residential development to set back development from this eastern boundary of the appeal site and to retain an open area in the vicinity of the barn. But I am not convinced, even if a significant open area could be so retained whilst achieving up to 97 dwellings on site, that the proposed development would not still result in harm to the setting of the barn. Open space as part of a residential scheme would be significantly different in terms of its character and appearance from an agricultural/rural context for the barn. I find that the proposal would be likely to have an adverse impact on the setting of the listed barn and that this would affect its historic significance. In the absence of a detailed scheme showing siting and design for this part of the proposed development, I consider that the proposal would have an adverse impact of moderate significance on this heritage asset. The appellant's assessment of a very minor effect on the significance of the listed barn understates the likely harm.
34. On the evidence submitted, I am satisfied that archaeological considerations could be dealt with by the imposition of appropriate planning conditions. For each of the nearby listed buildings I have found that the harm would, for the purposes of applying the *Framework*, be less than substantial to the significance of the designated heritage assets, and so should be weighed against the public benefits of the proposal. The *Framework* also provides that great weight should be given to the conservation of designated heritage assets, and that any harm to their significance should require clear and convincing justification.

#### *Supply of housing*

35. The parties disagree about the housing requirement to be applied in assessing whether a five-year Housing Land Supply (5YHLS) can be demonstrated. With an agreed 5% buffer, the appellant considers that there is a five-year requirement of 5,701 based on the standard method, whereas CBC considers that the five-year requirement against the objectively assessed need is 4,830. Further work on the Joint Strategic Plan is progressing, but the examining Inspector has provisionally endorsed an annual requirement of 920 dwellings as representing the objectively-assessed housing need (OAHN) for Colchester.<sup>11</sup>
36. CBC argues that the circumstances here, where its OAHN has secured the agreement of the examining Inspector, are truly exceptional. However, CBC acknowledges that the examining Inspector will need to consider the extent to which projections and other evidence published since his agreement should, or should not, alter the OAHN for the Borough. New projections do not

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<sup>11</sup> ID7a.

automatically mean that previous housing assessments are rendered outdated, but the issue will not be resolved until resumption of the examination. This appeal falls to be determined on the basis of the circumstances that currently apply. The adopted housing requirement was adopted in 2008 and so is more than five years old. The *Framework* states that where strategic policies are more than five years old the 5YHLS should be assessed against local housing need, which footnote 37 specifies should be calculated using the standard method set out in national planning guidance. I find no grounds here for an exception to paragraph 73 of the *Framework* and agree with the appellant that the standard method should apply.

37. In terms of housing supply at 1 April 2019, CBC found at the Inquiry that it was 6,035 dwellings; whereas the appellant found 4,613. With a five-year requirement against the standard method CBC considered that there was a surplus of 334 dwellings (5.3 years supply), and the appellant considered that there was a shortfall of 1,088 dwellings (4.05 years supply). The difference derived from interpretation of the threshold for inclusion of a site within the 5YHLS, the nature of the evidence required to demonstrate that sites fall within this threshold, and the categories of sites that may do so.
38. The glossary to the *Framework* defines 'deliverable' sites for housing. Sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. The definition adds that: In particular: (a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years; (b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.
39. There was a dispute at the Inquiry about whether (a) and (b) above are closed lists. Appeal decisions were submitted which appear to take different approaches to this question, possibly because they reflected the policy and guidance that applied at that time. The judgment in *St Modwen* supports in principle the inclusion within 5YHLS of sites without the benefit of planning permission in accordance with the former version of the *Framework*. Whether such sites, including emerging allocations, should be included was considered to be fact-sensitive. The appellant argues that it would be misguided now to rely on *St Modwen* given more recent changes to the *Framework* and *Guidance*.
40. The July 2019 revisions to the *Guidance* do not change the provisions of the *Framework*, but it seems to me that the revisions clarify that the list (a) sites are considered to be deliverable in principle, whereas list (b) sites require further evidence. The *Guidance* now states that the evidence to demonstrate deliverability may include; current planning status, firm progress towards the submission of an application or with site assessment work, or clear relevant information about site viability, ownership constraints or infrastructure provision.
41. I concur with the agreed position of the parties that where planning permission is granted after the base date for a site not already included in the deliverable supply it cannot subsequently be added until the next Annual Position

Statement is published.<sup>12</sup> The appellant is concerned that reliance on sites without planning permission would involve the pre-determination of applications. However, a finding for the purposes of a 5YHLS assessment that a site was available now, offered a suitable location for development now, and with a realistic prospect that housing will be delivered on the site within five years, would in no way fetter the local planning authority's discretion in determining an application on its merits.

42. With these observations in mind, I turn next to consider the sites where policy compliance was disputed by the parties, which were discussed at a round-table session of the Inquiry.<sup>13</sup>
43. For Avon Way House (CBC 152 units/appellant 62 units) each unit would have an en suite bathroom and kitchenette, with a large kitchen on each floor shared by 12 units. A large communal kitchen would not be necessary if the units provided all the facilities that would be required by students. The available evidence does not demonstrate that the units would fully function as an independent dwelling. I prefer the appellant's evidence and find that this site should only contribute 62 units towards the 5YHLS assessment.
44. The Land north of Magdalen Street site (60/0) is the subject of an application to increase the number of dwellings from that permitted by the extant hybrid permission. There does not appear to be any infrastructure or ownership constraints. I am satisfied that CBC has submitted clear evidence that the site is available, in a suitable location, and achievable within five years. There is also sufficient evidence to demonstrate that the site at Land east of Hawkins Road (113/0) meets the *Framework* definition of 'deliverable'.
45. There is evidence that the development of the University of Essex site (500/0) will be achievable with a realistic prospect that dwellings that make a contribution to the supply will be delivered on the site within five years. But it is not clear what the appropriate conversion rate would be for student accommodation. In the absence of more details it is not possible to determine the likely precise contribution from this development. For the purposes of this 5YHLS assessment I have therefore applied a range from 0-500 units.
46. On the evidence adduced, I do not consider that the following sites satisfy the *Framework* definition of 'deliverable'; Wyvern Farm Phase 2 (100/0), Garrison Development K1 (26/0), Military Road (12/0), Creffield Road (10/0), Chitts Hill (100/0), Mill Road/Northern Gateway (150/0), Gosbecks Phase 2 (150/0) and Eight Ash Green (100/0). The appellant has some reservations about CBC's windfall allowance, but on the available evidence I am satisfied that this is a reasonable estimate.
47. It is not possible to be precise about the likely shortfall, but from the information currently available it would appear to be between 400 and 900 dwellings, depending upon the contribution from the University of Essex site. Taking all the above into account, I find that CBC cannot demonstrate a five-year supply of deliverable housing sites, and that the shortfall is significant. The appeal scheme would make an important contribution to boosting housing supply in the Borough, and provision of 30% affordable housing would be particularly beneficial where there is a demonstrated need.<sup>14</sup>

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<sup>12</sup> ID7a paragraph 4.12.

<sup>13</sup> ID10 and ID12.

<sup>14</sup> CS Policy H4 seeks to secure 20% affordable housing. The 30% provision proposed would accord with the requirement in the eLP.

*Other matters*

48. There is local concern about the likely traffic impact of the proposal. However, I am satisfied that the technical evidence submitted indicates that with the imposition of appropriate planning conditions the scheme would not have an unacceptable adverse effect on highway safety.
49. I have taken into account the Transport Assessment and Travel Plan. Given the local services and facilities available in the village, and subject to the provision of appropriate pedestrian and cycle links, I do not consider that the proposed development would be an unsustainable location for up to 97 dwellings. The scheme would not result in an unacceptable reliance on the private car.
50. The construction of up to 97 dwellings would provide employment and so benefit the economy.<sup>15</sup> Future residents would also make a significant contribution to the local economy of the village.
51. The scheme would provide 1.35 ha of on-site open space, which would be beneficial for the village. The parties agree, and I concur, that in combination with other projects and plans, the appeal scheme could result in a likely significant effect upon a designated European site, but subject to on-site mitigation and a Natura 2000 financial contribution, I am satisfied that the proposal would not have an adverse effect on the integrity of any European site.<sup>16</sup>
52. The appellant considers that the proposal would provide an opportunity to secure a net gain in biodiversity. However, on-site provision for nature conservation would be primarily necessary mitigation, and at this outline stage it is not possible to quantify any net gain.<sup>17</sup> In the absence of measures which would secure nature conservation benefits, I find that the planning balance here should record that the development would, overall, have a neutral or marginal effect on biodiversity.
53. I have taken into account all other matters raised in evidence, but have found nothing to outweigh the main considerations that lead to my conclusion.

*Planning balance and policy*

54. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The appellant accepts that the proposed development does not accord with the development plan. However, the weight to be given to this conflict is affected by the consistency of relevant policies with the *Framework*.
55. Policy SD1 of the CS contains some provisions which are generally consistent with the *Framework*, but the housing requirement, which forms the basis for the housing delivery strategy, is outdated. CS Policy ENV1 is a dominant policy here because it deals with unallocated land outside the settlement boundary. Its provisions concerning the protection and enhancement of the countryside and strict control of development go beyond the balanced approach set out in the *Framework*. This balance requires decisions to contribute to and enhance

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<sup>15</sup> The appellant states that construction spend of £9.5 million would produce 82 FTE over a three-year build period and an additional 87 FTE in indirect jobs.

<sup>16</sup> SoCG2.

<sup>17</sup> SoCG1 states that new planting could assist in delivering an overall enhancement in the arboricultural resource of the site, and that wooded belts and an off-site stream would be retained and protected, with some compensatory and additional planting proposed to provide a net gain of their habitats.

- the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, but in the overall context of the *Framework*, which includes the importance of a sufficient amount and variety of housing land coming forward where it is needed. Policy DP14 is also inconsistent with the *Framework's* provisions for balancing harm to heritage assets against benefits. I find that relevant policies here are out of date.
56. *Framework* paragraph 11(d) is engaged here by virtue of both the absence of a demonstrated 5YHLS and because the policies which are most important for determining the appeal are out-of-date. CBC argues that the proper application of *Framework* policies protecting designated heritage assets provides a clear reason for refusal in accordance with paragraph 11(d)i. I have given considerable importance and weight to the likely harm to the nearby listed buildings. However, in my judgement, the public benefits of the proposed development in terms of its contribution to housing provision, especially affordable housing, and to the local economy, along with a minor benefit in terms of open space provision, would be sufficient to outweigh the harm I have identified to heritage assets. The application of *Framework* policies concerning designated heritage assets does not, therefore, provide a clear reason for refusing the development proposed.
57. *Framework* paragraph 11(d)ii. applies here. This requires all the adverse impacts, including the harm to heritage assets, to be weighed against all the benefits of the proposal in a tilted balance. Given the size of the housing shortfall the contribution of up to 97 dwellings would be a significant benefit to local housing provision. The provision of 30% affordable housing in accordance with the eLP would be especially beneficial given the need. In this case these housing benefits attract significant weight. To this must be added the contribution of the scheme to the local economy and the minor benefit from additional open space available to the village. Any nature conservation enhancement on-site would be primarily required mitigation for the overall effects of the proposal on biodiversity and is at this stage unquantified. Potential wildlife benefits cannot be given much weight in the planning balance.
58. The appellant has understated the adverse impact to the character and appearance of the area, especially so regarding the harm that would result from increasing the sense of coalescence between West Bergholt village and Braiswick. The scheme would, for the reasons set out above, significantly reduce the apparent separation between these two settlements, impairing their separate identities and resulting in substantial harm to the local landscape. This is a consideration which weighs heavily against the proposal. Considerable importance and weight should be given to the harm I have identified to heritage assets in this balancing exercise. Taking all these considerations into account, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole.
59. The emerging WBNP is a material consideration in this case, although it cannot at this stage be given full weight. The proposal would be at odds with the aims of the WBNP concerning protection of the separate identity of the settlement. Furthermore, I have no reason to doubt that the allocated housing sites in the WBNP would be likely to come forward for development, and so the further addition of up to 97 dwellings from the appeal scheme would far exceed the minimum 120 dwellings set out in the WBNP as indicative of the appropriate scale of growth here. The WBNP has been examined and is to be the subject of

a referendum in the near future. Permitting a scheme that would be in direct conflict with what are key elements of the strategy underlying the emerging WBNP would undermine confidence in the planning process. This also weighs against the proposal and tips the balance even further against allowing the appeal.

60. The eLP cannot be regarded to be at an advanced stage given the issues involved in the further work to be undertaken before the resumption of the examination.<sup>18</sup> I find no justification for dismissing the appeal on the grounds of prematurity in respect of the eLP.

### **Conditions**

61. This is an outline application with all details except for access reserved. I have taken into account the suggested planning conditions and the obligations. However, I am not satisfied that if outline planning permission were to be granted there would be a reasonable prospect of designing a policy-compliant scheme for up to 97 dwellings on the appeal site.

### **Conclusion**

62. The proposal would conflict with the development plan. The planning balance which applies here falls significantly and demonstrably against the proposal. There are no material considerations which indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed, and outline planning permission refused.

*John Woolcock*  
Inspector

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<sup>18</sup> CD9.10.



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Pickles  
of counsel

Instructed by Karen Syrett  
Place and Housing Manager CBC

He called

Catherine Bailey BSc (Hons) MPhil  
MA CMLI

Planning Policy Officer CBC

Simon Cairns BSc (Hons) Dip TP  
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Development Manager CBC

Karen Syrett BA (Hons) TP MRTPI

Planning and Housing Manager CBC

Sandra Scott BSc (Hons) TP  
MRTPI

Place Strategy Manager CBC

### FOR THE APPELLANT:

John Barrett  
of counsel

Instructed by Christopher Ball

He called

Silke Gruner BHons Landscape  
Architecture CMLI

Associate Landscape Architect and Urban  
Designer CSA Environmental

Gail Stoten BA (Hons) MCIfA FSA

Heritage Director Pegasus Planning Group

Neil Tiley Assoc RTPI

Director Pegasus Group

Christopher Ball BSc (Joint Hons)  
MURP MTP MRTPI

Planning Director Gladman Developments Ltd

### INTERESTED PERSONS:

Bob Tyrell  
Brian Butcher

West Bergholt Parish Council  
West Bergholt Parish Council

### DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1	<i>St Modwen Developments Ltd and SSCLG Case</i> No:C1/2016/2001
Document 2	Opening on behalf of the appellant
Document 3	Notes for opening on behalf of CBC
Document 4	Unilateral planning obligation dated 17 June 2019
Document 5	Statement by West Bergholt Parish Council including Appendices A-D
Document 6	Petition for the rejection of Gladman Homes Appeal
Document 7a	Statement of Common Ground on Housing Land Supply dated 14 May 2019
	7b Floor plans student accommodation Avon Way
Document 8	<i>Jones and Howe v North Warwickshire BC</i> [2001] EWCA Civ 315
Document 9a	West Bergholt Parish Council's view 'Where the village starts'
	9b Views from Truman's Brewery into appeal site
	9c Letters from owners of WBNP sites A and B

Document	10	CBC's position on sites 1-13 and windfalls not agreed with attachments for Avon Way Magdalen Street Garrison K1 Creffield Road Military Road Wyvern Farm University of Essex Great Wigborough Northern Gateway/Mill Road Gosbecks Chitts Hill
Document	11a	Draft text for consultation National Planning Policy Framework
	11b	Government response July 2018
Document	12	Schedule on Deliverable Sites with attachments 1-8
Document	13	Revisions to the NPPG 09/05/19 – Neighbourhood Planning Guidance
Document	14	Email dated 14 May 2019 concerning time estimates for Creffield Rd and Military Rd sites
Document	15	Plan showing University site
Document	16	Colchester Northern Gateway Master Plan Vision Review
Document	17	CBC 2019 Housing Land Supply Annual Position Statement
Document	18	Note on Heritage and Archaeology assessments of the Neighbourhood Plan sites proposed for allocation
Document	19	Report for revised application for conversion of part of former Maltings to 13 flats
Document	20a	Appeal form APP/A1530/W/18/3209603
	20b	Appeal form APP/A1530/W/18/3211685
Document	21a	CIL Compliance Schedule
	21b	Email dated 17 May 2019 from Essex CC confirming education contribution
Document	22	Note from CBC about permitted development and windfalls
Document	23	Officer Report for application for 26 dwellings adjacent to Armoury Road
Document	24	Note on University of Essex 1250 bed spaces of student accommodation with email dated 9 May 2019 concerning pre-application request and preparation of a Transport Statement
Document	25	Note from Mr Tiley in response to additional evidence on pd rights
Document	26	Drawing 1879-F05 Proposed access arrangement with loss of current hedgerow illustrated
Document	27	Suggested planning conditions
Document	28a	Closing statement of West Bergholt Parish Council
	28b	Proposed amendments by WBPC to suggested conditions
Document	29	Closing submissions on behalf of CBC
Document	30	Closing on behalf of the appellant
Document	31	SoCG in relation to frontage hedgerow along Colchester Road dated 21 May 2019
Document	32a	West Bergholt Parish Council comment on ID31
	32b	West Bergholt Parish Council comment on section 106 obligation
	32c	West Bergholt Parish Council note on error on access Drawing 1879-F05
Document	33	Examination Report West Bergholt Neighbourhood Plan dated 26 May 2019
Document	34a	Frinton-on-Sea appeal decision APP/P1560/W/18/3196412
	34b	Comment on Frinton-on-Sea appeal by appellant dated 24 June 2019
Document	35	West Bergholt Parish Council comment on WBNP Examiner's Report

Document	36	CBC submissions on the implications of the WBNP Examiner's Report including Decision Statement
Document	37	Appellant's comments on WBNP Examiner's Report
Document	38	Note on revisions to NPPG July 2019 CBC submitted 8 August and 15 August email
Document	39a	Update note to reflect revisions to the PPG on the historic environment by appellant
	39b	Update note to reflect the revisions to the PPG by appellant

## PLANS

Plan	A	Site Location Plan Drawing Ref CSA/3447/107
Plan	B	Proposed Site Access Junction with Ghost Island Right Turn Lane Arrangement Drawing Ref 1879-F01
Plan	C	Proposed Access Arrangement Drawing Ref 1879-F04 Rev A

## CORE DOCUMENTS

CD1	Application Documents	
	1.01	Application Covering Letter, Application Form and Certificates
	1.02	Location Plan
	1.03	Development Framework Plan
	1.04	Planning Statement
	1.05	Design and Access Statement
	1.06	Landscape and Visual Impact Assessment
	1.07	Transport Assessment
	1.08	Travel Plan
	1.09	Ecological Impact Assessment
	1.10	Arboricultural Assessment
	1.11	Flood Risk Assessment
	1.12	Phase 1 Environmental Report
	1.13	Air Quality Assessment
	1.14	Noise Assessment
	1.15	Heritage and Archaeological Statement
	1.16	Foul Drainage Analysis
	1.17	Utilities Appraisal
	1.18	Socio-Economic Sustainability Statement
	1.19	Statement of Community Involvement (SCI)
	1.20	Topographical Survey
	1.21	Health Impact Assessment
	1.22	Affordable Housing Statement
CD2	Additional & amended Reports submitted after validation	
	2.01	CSA Environmental's Landscape Rebuttal (25/01/2018)
	2.02	Geophysical Survey Report (01/03/2018)
	2.03	Zone of Theoretical Visibility Study (16/05/2018)
CD3	Correspondence with Local Planning Authority	
	3.01	GDL Chasing update on application

	3.02	Extension of Time
	3.03	GDL Update letter (27/6/18)
	3.04	SuD's email chain
	3.05	ZTV email chain
	3.06	GDL Update
	3.07	GDL requested update meeting to discuss Braiswick decision
	3.08	Education email chain
	3.09	GDL respond to Landscape officer's comments
	3.10	GDL confirmation of Noise mitigation
	3.11	CBC confirmation Trail Trenching to take place post determination
	3.12	Application Receipt: Form 5 Collect proposal PP-06552009v1
	3.13	Pre App correspondence
	3.14	Pre App - Case Officer comments
	3.15	Pre App - Landscape comments
	3.16	Pre App - Archaeology comments
	3.17	Pre App - Spatial policy comments
	3.18	GDL forward Public consultation leaflet to CBC
CD4	Consultation Responses	
	4.01	Contamination Land Officer - 5.12.17
	4.02	CBC Archaeologist - 7.12.17
	4.03	Natural England - 7.12.17
	4.04	Environment Agency - 8.12.17
	4.05	Environmental Protection: Air Quality & Noise - 18.12.17
	4.06	Anglian Water - 8.1.18
	4.07	Essex CC (Education) - 30.1.18
	4.08	West Bergholt PC - 31.1.18
	4.09	Essex CC (Education) Update - 1.5.18
	4.10	Essex CC SuDs - 14.5.18
	4.11	Landscape - 22.5.18
	4.12	CBC Policy - 24.5.18
	4.13	Archaeology - 16.3.18
CD5	Validation, Committee Report and Decision Notice	
	5.1	Validation Letter
CD6	Additional Consultation Responses	
CD7	Post Appeal Correspondence	
CD8	Development Plan	
	8.01	Colchester Core Strategy 2008, updated 2014
	8.02	Development Policies DPD 2010, updated 2014
	8.03	Site Allocations DPD 2010
	8.04	West Bergholt Inset Map (2010)
	8.05	Colchester Core Strategy 2008 - Inspector's Report (October 2008)

	8.06	Colchester Core Strategy 2008 - Focussed Review Inspector's Report (May 2014)
CD9	Emerging Development Plan	
	9.01	Publication Draft of the Colchester Borough Local Plan 2017-2033
	9.02	Emerging Policies Map - West Bergholt
	9.03	Inspector's Section 1 Supplementary Post Hearing Letter to NEAs (8th June 2018)
	9.04	Inspector's Section 1 Housing Requirement Letter to NEAs (27 June 2018)
	9.05	NEAs Letter to Inspector (19 October 2018)
	9.06	Inspector's Section 1 Response to NEAs (21 November 2018)
	9.07	NEAs Clarification & Timetable letter to Inspector (30 November 2018)
	9.08	Inspector's response to NEAs - Pausing the Examination (10 December 2018)
	9.09	Emerging Colchester Local Plan - Draft West Bergholt Inset Map
	9.10	Inspector's letter to the NEAs on 2 August 2018 clarifying his interpretation of the three Options
	9.11	West Bergholt Neighbourhood Plan Final Submission Draft Dec 18 (Regulation 16)
	9.12	West Bergholt Neighbourhood Plan Consultation Statement V2
	9.13	Appendix 1 Map PP13/1 Settlement Boundary
	9.14	Appendix 1 Map PP13/2 Proposed Development Allocations
	9.15	Appendix 1 Map PP22 Coalescence
	9.16	Appendix 2 Consultation Report on Surveys carried out at key stages of WBNP
	9.17	Appendix 2 West Bergholt Village Design Statement 2011
	9.18	Summary and response to WBNP Regulation 16 Consultation
	9.19	West Bergholt Neighbourhood Plan Basic Conditions Statement December 2018
	9.20	Representation Received to DM16 publication draft Colchester Local Plan 2017-2033
CD10	Evidence Base	
	10.01	CBC Landscape Character Assessment
	10.02	Colchester Historic Characterisation Report 2009
	10.03	Landscape Capacity of Settlement Fringes (Report and Figures)
	10.04	Review of Countryside Conservation Areas Final Report and Figs 2005
	10.05	CBC Five-Year Housing Land Supply Statement (July 2018)
CD11	Relevant Appeal Decisions	

	11.01	Land on east side of Green Road, Woolpit, Suffolk
	11.02	Land at Pulley Lane, Newland Road and Primslan Way
	11.03	Land south of Greenhill Road, Coalville
	11.04	Land off Bakers Lane, Braiswick
	11.05	Land to the south of Bromley Road, Ardleigh
	11.06	Land between Iron Acton Way and North Road, Engine Common
	11.07	Land south of Filands, Malmesbury
	11.08	Entech House, London Road, Woolmer Green
	11.09	Land off Langaller Lane, Creech St Michael
	11.10	Land to the rear of the Old Red Lion, High Street, Great Missenden
	11.11	Land off Luton Road, Offley, Hitchin
	11.12	Land at Melton Road, Rearsby, Leicestershire
	11.13	Land off Colchester Road, Bures
	11.14	Virley Cottage, Colchester Road, Wakes Colne
CD12	Relevant Judgments	
	12.01	Wainhomes (South West) Holdings Limited vs the Secretary of State [2013] EWHC 597 (Admin)
	12.02	East Northamptonshire District Council v SSCLG (2015) EWCA Civ 137
	12.03	Jones v Mordue Anor (2015) EWCA Civ 1243
	12.04	Catesby Estates Ltd v. Steer, EWCA Civ 1697, 2018
	12.05	EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council
	12.06	South Lakeland District Council Appellants v Secretary of State for the Environment and Another Respondents, [1992] 2 A.C. 14
	12.07	EWHC 1895, R (Forge Field Society, Barraud and Rees) v. Sevenoaks DC, West Kent Housing Association and Viscount De L'Isle
	12.08	Crane v SSCLG [2015] EWHC 425 (Admin)
	12.09	Whitby v Secretaries of State for Transport and Communities
	12.10	Local Government and Network Rail Infrastructure Limited [2016] EWCA Civ 444
CD13	Other	
	13.01	Pre-application advice received from Colchester BC (15/11/2017)
	13.02	Appellant's letter to Case Officer (27/06/2018)
	13.03	Appellant's submission to the West Bergholt Neighbourhood Plan Reg 14 consultation
	13.04	PPG 'Conserving and enhancing the historic environment'
	13.05	Historic England, 2015, Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment.

	13.06	Historic England, 2017, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets
	13.07	English Heritage 2008 Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment
	13.08	Appellant's submission to the West Bergholt Neighbourhood Plan Reg 16 consultation
	13.09	BLANK
	13.10	Appellant email response to the Case Officer (11/07/2018)
	13.11	Appellant letter to the Case Officer (24/07/2018)
	13.12	Essex CC Highways - Email (14 August 2018)
	13.13	Essex CC Highways - Consultee response (17 September 2018)
	13.14	BLANK
	13.15	Appellant's representations on Regulation 19 version of the emerging Colchester Local Plan



## Appeal Decision

Inquiry Held on 27-30 April, 4-7, 11 and 12 May 2021

Site visit made on 10 May 2021

**by Harold Stephens BA MPhil Dip TP MRTPI FRSA**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

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**Appeal Ref: APP/Q3115/W/20/3265861**

**Little Sparrows, Sonning Common, Oxfordshire RG4 9NY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Senior Living (Sonning Common) Limited and Investfront Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P19/S4576/O, dated 12 December 2019, was refused by notice dated 30 June 2020.
  - The development proposed is a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas.
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### Decision

1. The appeal is allowed and planning permission is granted for a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas at Little Sparrows, Sonning Common, in accordance with the terms of the application, Ref P19/S4576/O, dated 12 December 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matters

2. At the Inquiry an application for a partial award of costs was made by South Oxfordshire District Council (the Council) against the Appellant. This is the subject of a separate Decision.
3. The appeal follows the refusal of the Council to grant planning permission to a hybrid planning application for development at Blounts Court Road, Sonning Common. The planning application was determined under delegated powers



on 30 June 2020 and there were seven reasons for refusal (RfR) set out in the decision notice.<sup>1</sup>

4. The application was supported by a number of plans, reports, and technical information. A full list of the plans on which the appeal is to be determined is set out at Appendix 4 of SoCG 4 Planning<sup>2</sup> which was agreed by the main parties. A full list of all documents forming part of the consideration of this appeal is set out at Appendix 3 of SoCG 4 which was agreed by the parties.<sup>3</sup>
5. I held a Case Management Conference (CMC) on 4 March 2021. At the CMC the main issues were identified, how the evidence would be dealt with at the Inquiry and timings. In the weeks following the CMC the main parties continued discussions on the appeal to ensure that matters of dispute were clear and that all matters of agreement were documented in either Statements of Common Ground or in draft Planning Conditions such that time on these matters was minimised at the Inquiry. The following Statements of Common Ground were submitted: SoCG 1 Landscape; SoCG 2 Transport; SoCG 3 Viability; SoCG 4 Planning and SoCG 5 Five Year Land Supply.
6. At the Inquiry a Planning Obligation was submitted.<sup>4</sup> The Planning Obligation is made by an Agreement between Investfront Limited, Lloyds Bank PLC, Senior Living (Sonning Common) Limited, South Oxfordshire District Council and Oxfordshire County Council under s106 of the TCPA 1990. The Planning Obligation secures, amongst other matters, an off-site financial contribution in lieu of on-site affordable housing provision of £7,510,350. The s106 Agreement is signed and dated 26 May 2021 and is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement<sup>5</sup> and an Addendum to the CIL Statement<sup>6</sup> were also submitted in support of the Planning Obligation. I return to the Planning Obligation later in this decision.
7. In relation to RfR7 (affordable housing), following discussions on viability, the Appellant reached agreement with the Council on the payment of an off-site financial contribution towards affordable housing that is secured through a s106 Agreement. Therefore, it is agreed that having regard to development viability, the appeal proposal would provide an adequate level of affordable housing provision and this matter is no longer in dispute.
8. The application was screened for Environmental Impact Assessment (EIA) prior to submission of the application and the Council determined that EIA was not required on 6 November 2019. I agree with the negative screening that was undertaken by the Council.

## **Main Issues**

9. In the light of the above I consider the main issues are:

(i) *Whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;*

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<sup>1</sup> See Appendix A in CD H.1

<sup>2</sup> CD H.5

<sup>3</sup> Ibid

<sup>4</sup> INQ APP11

<sup>5</sup> INQ LPA7

<sup>6</sup> INQ LPA8

- (ii) *The impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common;*
- (iii) *The effect of the design of the proposed development on the character and appearance of the village;*
- (iv) *Whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.*
- (v) *Whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB.*

## **Reasons**

### *Planning Policy context*

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this appeal, the development plan comprises the following documents:
  - The South Oxfordshire Local Plan 2035 (Adopted 2020) (SOLP); and
  - The Sonning Common Neighbourhood Plan (2016) (SCNP).
11. The determination of the planning application, the subject of this appeal, took place against the background of a different development plan framework to that now in place. Although the SOLP has been subsequently adopted, the SCNP was based upon the Core Strategy which has been withdrawn, including the out of date housing requirements derived from the old Regional Strategy, significantly reducing the weight that can be afforded to it.
12. The development plan policies that are relevant to this appeal are agreed by the main parties and are set out in SoCG 4<sup>7</sup> and INQ LPA6 provides an agreed schedule of the replacement policies for those cited in the decision notice.
13. The SCNP is currently under review. An initial public consultation was held between 29 February - 23 March 2020 but the Plan has not at this stage progressed further and there is as yet no agreed timetable. No weight can be given to that review.
14. SoCG 4 sets out the sections of the NPPF which are relevant in this case.<sup>8</sup> It also sets out a list of Supplementary Planning Documents and Guidance<sup>9</sup> which should be considered in this appeal and specific parts of the National Planning Practice Guidance (PPG)<sup>10</sup> which are considered relevant.
15. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). The Chilterns AONB is a 'valued landscape' in respect of paragraph 170 of the NPPF. AONBs, along with National Parks and the Broads, benefit from the highest status of protection in relation to conserving and

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<sup>7</sup> Paragraph 3.3

<sup>8</sup> Paragraph 3.5

<sup>9</sup> Paragraph 3.6

<sup>10</sup> Paragraph 3.7

enhancing landscape and scenic beauty. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) places a duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB. Paragraph 172 of the NPPF requires “great weight” to be given to those matters in decision making. It is common ground that the appeal proposal involves major development within the AONB and as such should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

16. Paragraph 172 of the NPPF requires particular consideration to be given to:  
(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and (c) any detrimental effects on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. I deal with these matters under the main issues but at the outset it is important to address whether or not the Council has a five year supply of housing.

#### *Five Year Housing Land Supply*

17. Paragraph 73 of the NPPF sets the requirement for Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old.
18. Since 2018, Oxfordshire only needed to demonstrate a three-year supply of housing. However, on 25 March 2021 the Minister of State for Housing confirmed that a five-year housing land supply was again required. The Council produced a Housing Land Supply Interim Statement (IHLS)<sup>11</sup> setting out their initial position for the period 1 April 2020 to the 1 April 2025 which asserts a 5.35-year supply. However, at the Inquiry, the Council conceded that the supply had fallen on its own case to 5.08 years. The five-year supply requirement is a minimum requirement and it needs to be deliverable. The definition of deliverable is contained in Annex 2 to the NPPF.
19. The most up-to-date position as regards the difference between the main parties is summarised in the agreed SoCG 5. There is no disagreement as to the housing need (900 dpa) or the time period for the assessment (2020/21 to 2024/25). The five-year requirement including an agreed shortfall of 922 dwellings and 5% buffer is 5,693. The difference between the main parties comes down to the Council’s position that there is a 5.08 year supply of deliverable housing sites and the Appellant’s assertion that it is instead a 4.21-year supply. Table 3 of SoCG 5 contains a schedule of 15 disputed sites. I have assessed these disputed sites in the context of the test of deliverability set out in Annex 2 of the NPPF. This specific guidance indicates which sites should be included within the five-year supply.
20. I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on

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<sup>11</sup> CD: K.32 South Oxfordshire Local Plan Housing Land Supply Interim Statement 2021

‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

*"In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions."*

This advice indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.
22. It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position. For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years.
23. Overall, I consider that the Appellant’s assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant’s approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times.
24. My conclusion on housing land supply is that there are a number of sites that together significantly reduce the Council’s five-year housing land supply. Many of the sites that the Council includes within the supply cannot be justified applying the current definition of deliverable. Following discussions between the main parties, deductions from the IHLS figure of 6,093 dwellings, have been identified and summarised at Table 1 of SoCG 5 and the impact which this has on the five year housing land supply is summarised at Table 2.

25. I consider that the Council's supply figure should be reduced to reflect the Appellant's position set out in Table 2 of SoCG 5. The Council's supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to **4.21** years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.

***First Issue - whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;***

*The Need for Extra Care*

26. The Council argues that the appeal proposal would be contrary to Policies H1 and H13 of the SOLP and due to its location in the AONB, outside but next to Sonning Common, brings into play Policies ENV1 and Policy H4 of the SOLP, and Policies ENV1, ENV2, H1, H2 and H2a of the SCNP. It is also claimed that the provision of 133 units of specialist housing for the elderly would be inconsistent with the proportionate growth in general housing planned for Sonning Common at both levels of the development plan.
27. Clearly the need for specialist accommodation for older people is recognised in the SOLP, which promotes the identification of suitable sites in the neighbourhood planning process and the inclusion of specialist accommodation on strategic sites,<sup>12</sup> and favours specialist housing for the elderly over conventional housing on unallocated sites.<sup>13</sup> Although extra care housing is referred to in the supporting text,<sup>14</sup> the SOLP does not prescribe particular levels of provision by type of accommodation, which allows flexibility in provision, adapting to what is an evolving sector. I note that no attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. No quantum for extra care accommodation is set out in the SOLP. Although Table 4f of the SOLP shows an outstanding requirement for 96 units over the plan period for Sonning Common it makes no reference to the needs arising from within existing households arising from their ageing.
28. Quantification of the need for open market extra care housing is not straightforward, in part because whether an owner-occupier moves to extra care housing is ultimately a matter of choice, in part because there is no prescribed or generally accepted methodology. The Government very clearly supports the identification and provision of extra care accommodation as a recognised form of specialist accommodation for the elderly.<sup>15</sup> Moreover, it is important to bear in mind that the NPPF definition<sup>16</sup> of 'older people' does not

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<sup>12</sup> See CD: C.4 Policy H13(2), (3)

<sup>13</sup> See CD: C.4 Policy H1(3)(ii)

<sup>14</sup> See CD: C.4 paragraph 4.70

<sup>15</sup> See paragraphs 59 and 61 of the NPPF

<sup>16</sup> See Annex 2

exclusively mean the very frail elderly rather it embraces a wide range of people in that category both in terms of a very wide age range and significant variation in issues surrounding matters like mobility and general health.

29. Within the PPG on 'Housing for older and disabled people' it states that:<sup>17</sup>

*"The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking"*

30. The Government plainly recognises that the need is 'critical' and the importance of 'choice' and addressing 'changing needs'. Offering greater choice means a greater range of options being offered to people in later life and that the range of options should at the very least include the categories the Government recognises in its guidance. This includes extra care. The PPG also advises what 'range of needs should be addressed'. It recognises the diverse range of needs that exists and states that:<sup>18</sup>

*"For plan-making purposes, strategic policy-making authorities will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people".*

31. Plainly, when compared with Government guidance, the development plan is left wanting in terms of addressing a need for extra care. There is no reference in Policy STRAT 1 to the PPG insofar as assessing the needs of older people. There is no reference in Policy STRAT 2 to the accommodation needs of those local residents who will make up more than a quarter of the total population of South Oxfordshire by 2035. Policy H13 in the SOLP expressly deals with specialist housing for older people. It covers all forms of specialist housing for older people, but it is completely generic as to provision. No attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. The needs of all older people are simply lumped together. Nor is there any engagement with the market constraints and viability considerations relating to specialist accommodation for older people evidenced by Mr Garside during the Inquiry.
32. Paragraph 3 of Policy H13 suggests that provision be made within strategic allocations. The strategic sites are mostly focused around Oxford or in the more northern part of the District. Only one such strategic site has planning permission – Wheatley Campus but no extra care is proposed. The Council want to see it on Ladygrove East. That is not a strategic allocation in the SOLP. But in any event the Council is seeking affordable extra care there and the developer (Bloor Homes) is resisting it. The Council conceded that the strategic sites do not really feature at all in its five-year housing land supply calculations. The Council also accepted that landowners and developers would achieve a better return if they build market houses.

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<sup>17</sup> See paragraph 001 Reference ID: 63-001-20190626

<sup>18</sup> See paragraph 003 Reference ID: 63-003-20190626

33. Reference is made to encouraging provision through the neighbourhood planning process.<sup>19</sup> However, without a more definitive district wide requirement it would be difficult for neighbourhood plan groups to assess the levels of provision required, which will vary; and neighbourhood plan groups generally lack the expertise to fully appreciate the requirements and the different housing models available and their viability and practicality.<sup>20</sup>
34. The Appellant's primary evidence on need is given by Mr Appleton, the principal author of two key publications in this area: *More Choice: Greater Voice (2008)*<sup>21</sup> and *Housing in Later Life (2012)*.<sup>22</sup> Both of these publications seek to address how best to quantify the need for specialist housing for the elderly. They advocate a method which is based on the population and other nationally available data to look at the characteristics of an LPA area.
35. The PPG highlights the need to begin with the age profile of the population. I note that the proportions of people aged 65 and over within South Oxfordshire District currently sits above the national average.<sup>23</sup> Furthermore, there is presently a population of 15,000 in South Oxfordshire District, who are aged 75 years or older which is forecast to increase to 21,100 by 2035.<sup>24</sup>
36. In terms of care needs, 4,019 people in this population have difficulty managing at least one mobility activity on their own at present, set to rise to 6,046 by 2035.<sup>25</sup> They are overwhelmingly owner occupiers, with 81.23% of people aged 75-84 and 75.25% aged 85 and over owning their own home compared with 13.74% and 17.42% respectively Council or social rented.<sup>26</sup> Importantly, South Oxfordshire sits significantly above the national trend toward owner occupation as the dominant tenure for older people.
37. For the Appellant it is argued that there is a significant under-supply of retirement housing for leasehold sale to respond to the levels of owner-occupation among older people in the District.<sup>27</sup> There is a total of approximately 1,641 units of specialist accommodation for older people. However, there is a very marked disparity in the availability of specialised housing for older homeowners compared with the supply available to older people in other tenures.<sup>28</sup> The current rate of provision favours those in tenures other than home ownership with nearly four times as many units available to them in sheltered, retirement and extra care housing than are currently available for their peers who are homeowners.<sup>29</sup> At present, it is submitted that there are 120 units of affordable extra care housing and 113 units of market extra care housing.<sup>30</sup>
38. Mr Appleton sets out a provision rate for private extra care of 30 per 1,000 of the 75 and over population in the District based on a total provision of 45 extra care units per 1,000 (4.5%) across both the affordable and private sectors, but split on a ratio of one third for social rented and two thirds for

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<sup>19</sup> See CD: C.4 Policy H13 paragraph 2

<sup>20</sup> POE of Simon James paragraph 5.1.11

<sup>21</sup> CD: K.44

<sup>22</sup> CD: K.45

<sup>23</sup> See APP 2.3 Nigel Appleton Section 6

<sup>24</sup> See APP 2.3 Nigel Appleton Table One

<sup>25</sup> See APP 2.3 Nigel Appleton Table Five

<sup>26</sup> See APP 2.3 Nigel Appleton Table Twelve

<sup>27</sup> See APP 2.3 Nigel Appleton paragraph 9.2

<sup>28</sup> See APP 2.3 Nigel Appleton Table Fourteen

<sup>29</sup> See APP 2.3 Nigel Appleton paragraphs 9.7-9.9

<sup>30</sup> See APP 2.3 Nigel Appleton Table Fourteen

sale. This takes into consideration the research in "*More Choice: Greater Voice*" and revisions in "*Housing in Later Life*". I note that the 45 units per 1,000 is to be divided as suggested in order to bring supply into closer alignment with tenure choice among older people.<sup>31</sup> That is 450 units now. Projecting forward, an indicative provision of 633 units of market extra care would be required by 2035.<sup>32</sup> The Council refers to the Oxfordshire's Market Position Statement<sup>33</sup> which assumes a lower need figure for extra care housing but the focus there appears to be on social rented extra care housing. The Council also suggests that the SHMA<sup>34</sup> evidence is to be preferred. However, I note that it does not identify figures for extra care, nor does it relate to the present PPG.<sup>35</sup> In my view, Mr Appleton's provision rate is preferred and the need for more private extra care is overwhelming.

39. At present even a very modest level of provision of 30 units per 1,000 in the 75 and over population seems unlikely in South Oxfordshire District, especially as the SOLP now requires affordable housing to be provided, when previously it was not required. No other extra care market proposals are coming forward. The Rectory Homes proposal at Thame, refused on appeal for not providing an affordable contribution has been resubmitted but the s106 Agreement is not signed. Nor is Rectory Homes Ltd a provider of care.
40. In my view, there is a strong case that Mr Appleton's 45 per 1,000 overall, with 30 per 1,000 to market extra care, should be far more ambitious given not only the true tenure split in the District but also what it could mean for the ability to contribute towards addressing the housing crisis. Mrs Smith conceded that the figure of 30 per 1,000 was hardly ambitious and, if anything, was underplaying the scale of the potential need.
41. Turning to supply, with only 113 units of market extra care units of extra care housing existing in South Oxfordshire and a current need of 450 units this leaves a shortfall of 337. As to the existing pipeline, Mr Appleton analysed the same at Figure Two of his Needs Report, which was updated at INQ APP12. The total 'pipeline' supply of extra care not already included in Mr Appleton's tabulation of current supply are the proposed 110 units in Didcot and Wallingford, and the 65 units proposed at Lower Shiplake. This gives a total gain of 175 units. However, both Wallingford and Didcot sites have been confirmed as affordable extra care. The Council did not dispute the 175 figure and Mrs Smith accepted that she did not know if the 110 units in Didcot and Wallingford would be affordable or market. I consider that only 65 units can reasonably be considered as pipeline.
42. The pipeline needs to be set against the current shortfall of 337 which still leaves 162 units even if Didcot and Wallingford are included and 272 if they are not. That is a substantial unmet need now which will only further climb and in respect of which there is nothing in the pipeline and no prospect of any strategic allocated site delivering in the five year housing land supply.
43. There is plainly a very limited supply of extra care housing for market sale (leasehold) in South Oxfordshire. Adding further concern, it is of note that

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<sup>31</sup> See APP 2.3 Nigel Appleton paragraph 11.6

<sup>32</sup> See APP 2.3 Nigel Appleton Table Seventeen

<sup>33</sup> See CD: K.27 Market Position Statement for Oxfordshire in relation to Care Provision and Extra Care Housing Supplement assumes a need for 25 units of extra care housing for every 1,000 of the population aged 75+ page 9

<sup>34</sup> See CD: 14 HOUS5 Oxfordshire Strategic Housing Market Assessment April 2014

<sup>35</sup> Ibid



from 2012 to date just 133 units have been delivered despite there being in the same period permissions for a net gain of 447 additional Care Home beds. This runs completely contrary to the policy set out in the Market Position Statement of reducing reliance on Care Home beds and increasing capacity in extra care. The case for more market extra care provision now is very clear. Furthermore, the need is set only to grow.

44. The Council sought to undermine the Appellant's need case with reference to earlier data from Housing LIN and the @SHOP tool. This on-line tool is highlighted in the PPG as a basis for calculating need. But the fact is it only provides a figure based on existing prevalence and then seeks to project that forward with a proportion increase based on the increase in the 75+ age group in the District. This is not a measure of need.
45. The Council provided a list of specialist accommodation for older people<sup>36</sup> most of which is not market extra care, but mostly affordable extra care. Oxfordshire County Council has two sites with market extra care, but those schemes are in Banbury and Witney and not in the District.<sup>37</sup> In short, the pipeline adds up to very little. I consider there is hardly any market extra care housing in the District. The stark fact is that choice is largely unavailable.

#### *Policy Compliance*

46. Plainly the proposed development would make a substantial contribution toward the provision of a more adequate level of provision for older homeowners looking for an environment in which their changing needs could be met. The fact that the need is proposed to be met at Sonning Common seems entirely appropriate. Sonning Common is one of just 12 larger villages where a need for extra care provision has been identified in the SCNP, and where there is the oldest 65 and over population in the County. The SCNP expresses support for a small scale development of extra care housing in Policy H2a but no site is allocated for such use. The Sonning Common Parish Council (SCPC) accepted that SCNP policies referred to in the RfR are out of date due to a lack of five year housing land supply. That includes Policies ENV1, ENV2 and H1, which is only expressed as a minimum.
47. Policy H13 (1) in the SOLP gives support to extra care on unallocated sites. This adds to the weight that can be given to the need case. Policy H13 is the key policy in respect of specialist accommodation for older people. Though the appeal site is not a strategic site, nor allocated in the SCNP, Policy H13 does not itself require it to be. I have already discussed the difficulties associated with any of the strategic sites coming forward with market extra care either within the five year housing land supply period or at all.
48. Policy H13 (1) is clear that encouragement will be given to developments in locations "with good access to public transport and local facilities." The Council accepted that public transport for staff on the site would be more likely to take the form of bus services and they would perhaps have no difficulty walking. For residents there is a choice and it depends on their mobility. I saw that most of the site is flat. It does have a gradual gradient to the west then a steeper gradient close to Widmore Lane. The presence of a hairpin in the proposed design is to deal with the gradient which requires a

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<sup>36</sup> See Nicola Smith's Appendix 1

<sup>37</sup> CD: K.27 page 5

longer path to accommodate people with disabilities. I note that a minibus service is proposed which would take residents to the local supermarket. With regard to other trips, for example to the post office or to other facilities, residents could walk or take the minibus. Importantly, the core building has all facilities centrally. Residents could cook in their premises and meals would be provided on site. There would also be a small convenience shop on site and staff would be on hand to not only care for but also to assist people. Garden maintenance would be provided and there would be a wellbeing centre to help people's health and fitness. Overall, the facilities would take care of a considerable amount of day-to-day needs. In my view all of this would comprise "good access to public transport and local facilities."

49. With regard to matters of principle I accept that Policies ENV1 and STRAT 1 (ix) of the SOLP affords protection to the AONB and in the case of major development, it will only be permitted in exceptional circumstances and where it can be demonstrated to be in the public interest. I give these matters detailed consideration in other issues. The proposal fully accords with Policy H1 3ii) of the SOLP. With regard to Policy H4 of the SOLP, although the timeframe for review of the SCNP does not run out until December 2021 that does not bring the SCNP back into date. Whilst the review of the SCNP has commenced, it is at its earliest stage and no weight can be given to it. I conclude on the first issue that the appeal proposal would conflict with some but would comply with other elements of the Council's strategy for the delivery of older persons accommodation throughout the district.

***Second issue - the impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common***

50. SoCG 1 Landscape has been agreed between the parties and addresses landscape and visual matters. The appeal site is within the Chilterns AONB which is a 'valued landscape' in respect of paragraph 170 of the NPPF. The Chilterns AONB Management Plan 2019-2024<sup>38</sup> defines the 'special qualities' of the AONB and the most relevant to the appeal site and its context are summarised at paragraph 3.5 of SoCG 1.
51. In essence, the Council, supported by the SCPC, the Chilterns Conservation Board and others, consider that the proposed development would create a prominent and incongruous intrusion into Sonning Common's valued rural setting, relate poorly to the village, and cause material harm to the landscape character of the AONB. It is also claimed that the proposal would not conserve or enhance the landscape and scenic beauty of the AONB and would fail to protect its special qualities.<sup>39</sup> The policy context at the time of the decision notice referenced policies in the South Oxfordshire Local Plan 2011 which is now superseded by the adopted policies in the SOLP.<sup>40</sup> Policies ENV1 and ENV2 of the SCNP are also relevant. I note the illustrative Masterplan,<sup>41</sup> the LVIA and the Landscape Appendix<sup>42</sup> submitted by the Appellant.

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<sup>38</sup> CD: F4 pages 10 and 11

<sup>39</sup> See RfR 2

<sup>40</sup> See LPA INQ6 which sets out the relevant SOLP policies including STRAT1 (ix), ENV1 and ENV5 and Design policies DES1, DES2, DES3 and DES5

<sup>41</sup> See Appendix 4.3.1 of James Atkin Drawing reference 1618\_L\_01\_01 Rev3

<sup>42</sup> CD: A.9 and CD A.10 Landscape and Visual Impact Assessment and Landscape Appendix

52. To address these points, it is necessary to understand what the special qualities of the Chilterns AONB are and the extent to which those special qualities relate to the appeal site and its context. From the evidence that is before me and from my site visit, I do not consider the appeal site or its local landscape context to be representative of the special qualities as set out in the Chilterns AONB Management Plan. Where the appeal site does exhibit some such qualities, they are generic. In all other respects, they are entirely absent.
53. Planning policy and statute give equal protection to all parts of the AONB. However, it would be unrealistic to expect the appeal site and its immediate context to share all or even most of these special qualities. It is important to have a balanced interpretation of how such special qualities relate. To that end, Mr Atkin's Table 1<sup>43</sup> summarises that relationship, drawing together judgements on the landscape and the extent to which the appeal site is characteristic, or otherwise, of the AONB. In summary, Mr Atkin's analysis demonstrates that the appeal site does not reflect the majority of the special qualities and, where there is a connection, the association is limited. It seems to me that the appeal site is more typical of an agricultural landscape that is commonplace around many settlement fringes. Plainly the appeal site and its local landscape context is less sensitive than other parts of the AONB.
54. The core characteristic of the appeal site and its context, and the most relevant of the special qualities to it, is the extensive mosaic of farmland with tree and woodland cover. However, this is probably the broadest and most generic of the special qualities acting as a 'catch all' for the extensive areas of farmland across the area. Other parts of the AONB are more distinct. The ancient woodland of Slade's Wood is located off site, outside of the AONB designation, though it does form part of its setting. As to extensive common land, this is not representative of the appeal site. In its local landscape context, Widmore Pond is designated as common land but is not an 'extensive' area contrasting with other parts of the AONB.
55. At my site visit I saw that the appeal site, being directly adjacent to the relatively modern settlement fringe of Sonning Common, detracts from any potential tranquillity. This is particularly so due to the neighbouring JMTC complex and associated car parking. It is common ground that the JMTC is 'institutional in scale'. In terms of ancient routes, there is no formal access to the appeal site. In the local landscape context, the closest rights of way are the public footpaths to the north-west and east both of which give access to the wider landscape to the north and east of Sonning Common where the characteristics of the AONB are more readily apparent.
56. The Council agreed that new development can be accommodated in the AONB and as a matter of principle can be an integral component. Indeed, the SCNP allocates development within its boundaries. I saw that the AONB in this location already contains a significant amount of built development. That contrasts significantly with the deep, rural area of countryside within the AONB some of which is located to the north east of the appeal site where the road turns east down the valley bottom heading to Henley-on-Thames. There, there is no settlement or village, no industrial buildings or surface car parks

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<sup>43</sup> See James Atkin's Appendix 4.1 pages 18-20

with 100 plus spaces. It is simply deep countryside with very limited urban development and is very attractive. That cannot be said about the appeal site.

57. Having considered how the special qualities of the AONB relate to the appeal site, I now consider the landscape character of it. The appeal site is partly located on an area of plateau between two valleys, within a landscape identified in the South Oxfordshire Landscape Character Assessment (2017)<sup>44</sup> as semi-enclosed dip slope, which in turn forms part of the broader Chilterns Plateau with Valleys Landscape Character Area (LCA10). The eastern part of the site is located above the 95m contour on the plateau area.<sup>45</sup> The southern and western parts of the site fall towards a shallow valley which contains neighbouring parts of Sonning Common. At a further distance to the north is a deeper valley which separates Sonning Common from Rotherfield Peppard.

58. The Landscape Assessment for the Local Plan 2033 for the semi enclosed dip slope LCT states:

*"...this part of the Chilterns dip slope has a surprisingly uniform character, despite its irregular pattern of plateaux and valleys and its mosaic of farmland and woodland. This complexity is a consistent and distinctive feature of the area, and the most obvious differences in landscape character are between the very intimate, enclosed wooded landscapes and those which have a more open structure and character."*

It is clear to me that there is a difference between the parts of the AONB in the dry valley and those on the plateaus.

59. What is distinctive about this part of the landscape and relevant to the landscape of the appeal site and its context is the uniformity across a larger scale area of the landscape characterised by a complex mosaic of farmland and woodland. It is this complex mosaic at the larger scale which is more closely aligned with the special qualities of the Chilterns AONB and not the appeal site itself. It isn't the loss of a part of this mosaic that is important, which in the case of the appeal site would be a relatively small agricultural piece of the mosaic; rather, it is the implications for the wider mosaic and whether that would be disrupted in terms of a reduction of its scale, or would result in the creation of a disbalance between particular parts of the mosaic.

60. SCPC referred to the Sonning Common Character Assessment and Design Statement 2013.<sup>46</sup> I accept that this formed part of the evidence base to the SCNP, but it appears to still be in draft form only many years later. Its main purpose was to provide comparative comment on sites identified for potential future development limited to only the shortlisted sites. It does not address the wider appeal site. I have also taken into account the Oxfordshire Historic Landscape Characterisation Project<sup>47</sup> and the various landscape capacity assessments cited by Mr Jeffcock that have looked at the appeal site.

61. As I perceive it, Sonning Common is very much part of the local landscape context, just as much as the adjacent agricultural land and the wider mosaic of the AONB. The appeal site performs a role of a brief transition and gateway between the suburban and rural environments. In its local context, the settlement fringes of Sonning Common, including the residential areas across the valley and on the plateau to the west and south are influential in terms of

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<sup>44</sup> CD: D.23, section 15.

<sup>45</sup> See John Jeffcock's Appendix 1, Figs 2, 7, 8

<sup>46</sup> CD: C.7

<sup>47</sup> CD: I.5

the local landscape character, as is the prominent built form of the JMTC to the north. Adjacent to the appeal site is the JMTC car park which further erodes the sense of more 'remote' or rural countryside. To the south the settlement extends some distance along Peppard Road and there is a clear experience of entering the suburban character of the village, long before the appeal site is perceptible. There are specific locations where the settlement edge is less apparent notably along Blounts Court Road from the east and in this direction the more rural aspect of the site is more dominant.

62. The Council's LCA draws a very clear distinction between the character of development on the plateau and the character found in the dry valleys.<sup>48</sup> The landscape strategy set out there suggests that development on the plateau is in keeping whereas into the valley is a negative thing. It seems clear to me that Sonning Common has grown up developmentally on two plateaus either side of the dry valley.
63. It is common ground that, like any development anywhere, physical impacts on the landscape fabric will be limited to those which occur within the appeal site itself. However, landscape character impacts and the consequent effects would not be limited to the appeal site. It is agreed that there are not likely to be significant effects on the wider landscape or visual effects further afield than a localised area set out in the SoCG 1.<sup>49</sup>
64. Although there would be localised losses of vegetation due to the access off Blounts Court Road and the proposed pedestrian connection to Widmore Lane, the proposed development would largely involve the loss of open agricultural land and the construction in its place the built development of the appeal proposals. On the most elevated part of the site, there would be a substantial, cruciform core building, 2.5 storeys (about 11.2m)<sup>50</sup> in height, with a footprint of approximately 3,900m<sup>2</sup>, and four apartment blocks with ridge heights of between 10.3m and 11.2m, the largest two of which would have footprints of about 550m<sup>2</sup> each. However, the recent application submitted for the JMTC shows that the present buildings making up the complex are between 8.7m and 10.6m depending on ground levels with block 4 up to nearly 11m in height. I accept that there would be a physical loss to the mosaic, but in character terms, the appeal site is not essential to its character and the built elements of the scheme would be consistent with the settlement fringe.
65. There would be potential impacts arising from the 15m woodland belt along the southern and eastern edges of the appeal site. This would be beneficial in terms of moderating the effect of the development. It would also provide a green infrastructure link between Slade's Wood and the green infrastructure network in the surrounding landscape. This would have a positive impact on the 'wooded' aspects of the mosaic. The woodland belt would create a further 'layer' in the landscape which would physically and visually contain the site.
66. The overall consequence of this is that there will be a highly localised impact on the 'mosaic' in terms of agricultural land use, but not to a point where, given the scale of what makes this distinct, the mosaic is disrupted or undermined. At a local and wider scale, this would not constitute 'harm' to the Chilterns AONB. Only a small part of the mosaic would be impacted, and this

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<sup>48</sup> CD: D18 page 572 which deals with Sonning Common at 9.10

<sup>49</sup> CD: H.02 SoCG 1 Landscape paragraphs 3.21-3.22

<sup>50</sup> See John Jeffcock's POE paragraph 4.3.3.

would not alter the overall character of the wider mosaic or the LCT. Plainly such limited impacts would not cause 'material harm' to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. The appeal site would, in being development on a plateau, be in keeping with the landscape character.

67. I accept that the appeal site and the immediate landscape context within the Chilterns AONB form part of a valued landscape<sup>51</sup> this is primarily on the basis of the landscape designation and related less to the demonstrable physical attributes of the appeal site.<sup>52</sup> Although the Appellant's LVIA determines landscape value to be 'high' with some localised variations, I consider that the appeal site in its local landscape context is of 'medium to high' value taking into consideration that it is in the AONB but also the site's own merits. There is, frankly, a considerable difference between this area and more typical, characteristic parts of the AONB.
68. As to landscape susceptibility, this can be appropriately described as 'low to medium' in the appeal site's local landscape. This is a medium scale enclosure that has capacity to accommodate some form of development across the majority of the site. The settlement of Sonning Common provides some reference and context for development and the presence of the JMTC in this part of the AONB reduces landscape susceptibility to new development. The landscape sensitivity is appropriately judged as 'medium' with the AONB designation having a high sensitivity. Mr Jeffcock considers that the appeal site has a high landscape value and high sensitivity to change. However, his assessment is overstated. In my view the appeal site has a medium to high value, and low to medium susceptibility with medium sensitivity overall.
69. The appeal site is located on the very fringe of the AONB, and Sonning Common is excluded from it. This is not a core part of the Chilterns AONB and its special qualities are largely absent. Of relevance is the mosaic of wooded farmland that characterises much of the plateau and dip slope. The appeal proposals would result in a change to this characteristic at a very localised level, with the loss of an open agricultural field to built development but balanced with the introduction of further woodland and green infrastructure. This would not disrupt, or unduly influence, the mosaic. I agree that the 'slight to moderate adverse' effect on landscape character would not represent a significant impact in respect of the Chilterns AONB.<sup>53</sup>
70. As for visual effects, these would differ depending on the viewer and the viewpoint. The landscape witnesses provided a number of example viewpoints and I carried out an extensive site visit with the parties to see these and other views for myself. I have also taken into account the ZTV<sup>54</sup> and LVIA information provided by the Appellant.
71. SoCG 1 Landscape records that the physical impacts of the proposed development would be limited to the appeal site, and that consequent impacts on landscape character would be limited to a relatively small number of areas including viewpoints to the south (the route of the B481 Peppard Road); to the south west (Sonning Common village e.g. Grove Road); to the north

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<sup>51</sup> Within the meaning of paragraph 170(a) of the NPPF

<sup>52</sup> See James Atkin's Table 2 POE pages 27-28

<sup>53</sup> See James Atkin's POE page 33 paragraph 6.48

<sup>54</sup> Zone of theoretical visibility

(footpath 331/16/20) close to the southern edge of Rotherfield Peppard); to the west (the settlement edge of Sonning Common) and to the east and north east (the routes of public right of way 350/11/20 and 350/10/10). Outside of these areas it was agreed there would not likely be any significant effects on the wider landscape or on visual receptors further afield.<sup>55</sup>

72. In terms of visual amenity, the evidence demonstrates that potential views of the appeal proposals would be limited to a small envelope, largely related to the immediate context of the appeal site and not extending further into the Chilterns AONB landscape. This limited visibility reduces the perception of change to landscape character. The ZTV demonstrates that, aside from some locations very close to, or immediately adjacent to the appeal site, potential visibility from the wider landscape (and AONB) is limited. In my view this accords with the landscape character guidance which refers to the 'semi-enclosed dip slope' as having a 'strong structure of woods and hedgerows' which provide 'visual containment and results in moderate to low intervisibility'. This strong structure of woods and hedgerows provides containment in the landscape.
73. What is clear, is that only a small number of nearby locations would have direct views of the appeal proposals. This includes a very short section of Peppard Road, short sections of public footpaths to the east (350/11/20 and 350/11/40) and the approach to the settlement along Blounts Court Road. In each of these instances, impacts could be moderated by appropriate landscape works and particularly the inclusion of the woodland belt. The contained nature of the appeal site and the limited extent of landscape effects mean that the overall character of the semi-enclosed dip slope LCT would not be fundamentally altered and the effects on landscape character at this scale would not be significant. Plainly, the appeal proposals would not give rise to significant visual effects overall; either in the local landscape context of Sonning Common or in respect of the scenic quality of the Chilterns AONB.
74. The most relevant assessment is that of 'Year 15' once the tree planting proposals have had the opportunity to thrive. Those proposals are a specific and positive part of the proposed development which would deliver additional environmental functions to that of visual screening. It is common ground that the planting would be significant. It is reasonable to expect that the growth of native species would reach good heights in the medium term and mature heights that are comparable to the existing trees and woodland in the area. There would be glimpses of the built development through the perimeter planting. However, it would provide a substantial screen in the long term and help to integrate the appeal proposals into the landscape particularly when viewed from the east and from the south.
75. For the above reasons I conclude on this issue that the proposed development would have some localised landscape and visual effects, but these would not result in unacceptable impacts on the AONB or the landscape setting of Sonning Common. As such, in respect of this issue I consider the appeal proposal would conflict with Policies STRAT 1 (ix) and ENV1 of the SOLP together with Policy ENV1 of the SCNP. However, for the reasons set out above those adverse effects would be limited. I shall consider this further in the planning balance.

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<sup>55</sup> CD: H.2 SoCG 1 Landscape paragraphs 3.21-3.22

***Third Issue - the effect of the design of the proposed development on the character and appearance of the village***

76. The Council's concerns about the design of the proposed development are based on RfR4 and are supported by the SCPC. In summary these are: (i) the development would not integrate with the village by reason of scale, massing, layout and character; (ii) it would result in a dominant and intrusive form of development having a significant urbanising effect on the settlement edge; and (iii) the layout and design would result in poor amenity for residents by virtue of the lack of access to private amenity space and publicly accessible green space, an overdominance of car parking and limited space for tree planting. I address each of these concerns in turn.
77. The main parties agreed a section on design within SoCG 4 Planning.<sup>56</sup> Amongst other matters it is agreed that: the detailed layout (Phase 1) is the proposed layout for that part of the site; the proposed masterplan is provided to demonstrate how the development could be laid out to respond to the physical and technical constraints and opportunities of the site; the layout for Phase 2 will be subject to future reserved matters (appearance, landscaping, layout and scale) and remain in the Council's control; the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed; and the extent of existing tree retention and the selection of proposed plant species, grass, hedge and shrub planting is agreed.
78. It is also noteworthy that policies within RfR4 relate in the main to the previous South Oxfordshire Core Strategy 2012 and South Oxfordshire Local Plan 2011. The corresponding policies are set out at INQ LPA6. Policy D1 of the SCNP 2016, the South Oxfordshire Design Guide<sup>57</sup> and the NPPF (in particular paragraphs 127, 130 and 131) also apply.
79. I turn first to integration with the village in terms of scale, massing, layout and character. The Council and the SCPC are concerned that the scale and layout of the proposed development are being driven by operational requirements and the business model of the Appellant. Reference is made to the large apartment blocks and the village core which it is claimed are at odds with the more modest scale of development in Sonning Common. However, I consider it is important at the outset to understand the existing context and character of Sonning Common. At my site visit I saw that Sonning Common is not the archetypal Chilterns Village, and it clearly lies outside the AONB. It was developed in a more planned manner with the character being 'plotlands' and later infill housing termed 'estates'.
80. The local vernacular consists of a mix of building types, but the immediate neighbouring existing development is comprised of the estates typology - Churchill Crescent, Pond End Road and the northern edge of Widmore Lane. The existing context has a range of design components that help create its character. In particular, I note that Sonning Common: is primarily 2 storeys but with elements of 2.5 storeys; is primarily domestic in scale; has predominantly traditional architecture; is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape; and has occasional larger built form such as the school or JMTC. Furthermore,

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<sup>56</sup> CD: H.5 SoCG 4 Planning Section 6

<sup>57</sup> CD: C.8



Sonning Common has: brick walls; painted rendering on walls; clay roof tiles; chimneys; and a mix of gables, hipped roofs and porches.

81. The Design and Access Statement (DAS)<sup>58</sup> describes the appeal proposals as domestic in scale and character. I accept that the scheme is largely domestic in form and with detailing consistent with residential houses in the area.
82. In terms of *height*, the proposed buildings would reflect the heights of buildings within Sonning Common. Both plotlands and estate buildings include two storey buildings and two storey buildings with roof rooms. The proposed apartment buildings would be two storeys with the Village Core rising to two and a half storeys in places. The Village Core has accommodation in the roof space to keep the overall ridge height low. The height to the ridgeline from ground level of the Village Core Centre building is up to 2.5 storeys dropping to single storey on the eastern side. This must be seen in the context of the height of the adjacent JMTC, typically equivalent to 3 storeys, and groups of 2.5 storey dwellings on the northern side of Blounts Court Road to the west of the site. Most of the proposed development would be two storeys in height as is the overwhelming majority of built development in Sonning Common.
83. As to *massing*, the initial indicative sketch elevation demonstrates that the apartments and the Village Core would have the appearance of semi-detached buildings or groups of buildings combined into short terraces with a varying roofline which are reflective of the existing residential buildings in Sonning Common.<sup>59</sup> The massing of the apartments is derived from a variety of footprint depths which, when formed into larger blocks, allows for the scale and mass to be broken down into roof elements with simple breaks in the roofline. Appropriate equal roof pitches would give each apartment building an elegant scale. There would be elements of hipped roofs, and chimneys incorporated into the roof plane. The apartment buildings would have balconies, single and double gables further breaking down the overall mass. The Village Core would have accommodation in the roof space and the roof planes would be broken down with larger single gables, smaller double gables with a central gutter and small dormer windows.
84. In my view the *layout* of the proposed development would reflect the way existing 'plotlands' and 'estates' buildings in Sonning Common are orientated, with the arrangement of buildings fronting the main vehicular route with active frontages. A number of apartments would be arranged around the Village Core. Buildings fronting Blounts Court Road would be positioned so that they would replicate the linear street scenes typical of development within Sonning Common.<sup>60</sup> I note that the proposed building line would be setback some 15m-20m from the road edge to retain an element of openness along the streetscape allowing boundaries to be defined by planting and hard landscaping. This would reflect the layout of the 'plotlands' buildings within Sonning Common. Buildings along the main access route and internal streets would similarly front the street with setbacks from 6m-15m allowing boundaries to be defined by planting and hard landscaping. The setback for 'estate' residential buildings ranges from about 4m-14m. In my view, the proposals would be in a similar range.

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<sup>58</sup> CD: A.31

<sup>59</sup> See Mr Carr's Appendix UD4

<sup>60</sup> See CD: C7 Sonning Common Character Assessment and Design Statement

85. The Council and SCPC argued that the appeal proposal could be smaller in scale. However, it was accepted that greater economies in scale could be achieved with larger retirement village developments with extensive communal facilities. It is noteworthy that the Appellant is proposing a development which is half the size of the optimum.<sup>61</sup>
86. With regard to *character* it is clear that the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed, as recorded in the SoCG 4. In any event, the proposed development would accord with the local vernacular which consists of a mix of building types found within the key character areas. In summary, Sonning Common has predominantly traditional architecture and the proposed development would have traditional architectural detailing; it is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape and the proposed development would have similarly substantial planting in the streetscape as well as proposed and existing large scale tree planting creating a tree lined backdrop. Sonning Common has also occasional larger built form such as the school or JMTC and the proposed development has a Village Core.
87. It is fair to say that Sonning Common has an eclectic architecture which is quite conventionally suburban. There is a significant amount of 1970s housing. It has a fairly bland architecture, evidenced by the images in the Sonning Common Character Assessment and Design Statement.<sup>62</sup> Given that the site is within the Chilterns AONB, the design should not just duplicate Sonning Common, but use materials such as flint panels and dark stained boarding and design components that respond to the AONB setting.
88. In my view, the architecture would reflect a varied composition with gables, projections and porches. The proposed elevations would respect the traditional patterns, style and scale of buildings and the fenestration would be inspired by traditional Chiltern building with a solid wall area balanced with the window and door openings, relatively pitched roofs with a ridgeline, use of 'L' and 'T' building shapes, chimneys and prominent flint panels.
89. It is clear to me that the proposed new buildings would plainly add to the sense of place and local character and would 'belong' to the Chilterns. The proposed development would also create a soft edge to the countryside<sup>63</sup> and would not 'turn its back' on it; particularly given the lack of any rear garden fences defining the edge of the settlement.
90. I recognise that this is a hybrid application and there is therefore an outline element to the proposals. However, to demonstrate their commitment to provide the same level of detailing and materials as presently indicated, the Appellant has produced a Design Commitment Statement.<sup>64</sup> Importantly, this could be conditioned to provide reassurance and an additional way of ensuring that the future reserved matters keep to the quality required in this setting.
91. The Council contended that the proposal would be a dominant and intrusive form of development and it would have an urbanising effect on the settlement edge. I disagree. The apartments and cottages proposed as part of the appeal scheme would be largely consistent with a domestic form and would be very

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<sup>61</sup> See INQ LPA 2 page 13.

<sup>62</sup> See CD: C7 page 16

<sup>63</sup> See CD: K4 Chilterns Building Design Guide principle item 3.16 page 25

<sup>64</sup> See Mr Carr's Appendix UD7

similar in size and form to houses in Sonning Common and the wider AONB. It is logical to site the Village Core building where it is, on a predominately level area, avoiding any large man-made cuttings and embankments to facilitate it. Plainly having the core building on a level area is appropriate for residents in their later years of life who would want facilities to be very easy to access.

92. The NPPF emphasises the importance of making efficient use of land.<sup>65</sup> Clearly where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. I accept that it is imperative that sites such as the appeal site are optimised when developed. However, optimising does not mean fitting in as much as you can regardless, but it does mean using land efficiently. As this would be an apartment based development then I accept that it would have a greater density than a conventional residential scheme.
93. The Council argued that the proposal would have an urbanising effect. However, the proposed development would be very different to an urban character. There would be a significant landscape setting breaking up the built form and the countryside edge, when read in the context of the proposed planting, would be assimilated in townscape terms. Much has been made of the AONB designation in which the appeal site falls; but this does not mean preservation without any change. The proposed development would in many ways be read as part of the evolution of the area's character.<sup>66</sup> In my view the proposed development would create an appropriate designed edge to the settlement and an appropriate robust transition with a managed landscape that is a better edge than the back gardens adjoining the settlement boundary that can be found at the settlement edge around parts of Sonning Common.
94. I turn now to the Council's concerns that the layout and design would result in poor amenity for residents by virtue of a lack of access to private amenity space. It is common ground that in policy terms, there is no private amenity requirement prescribed for a retirement community care village. Nonetheless, the proposed development would provide a total of 1,300 msq of private amenity space<sup>67</sup> comprising: private balconies totalling 0.03 hectare; and directly accessible private landscape and terraces totalling 0.1 hectare.
95. Over and above the private amenity space there would be an extensive amount of publicly accessible green space provided. Again, I note that there is no policy requirement for a retirement community care village yet there would be: landscaped space amongst and between the built form (including foot and cycleways) totalling 1.7 hectares; and a native tree belt and woodland buffer totalling 1 hectare. Combined with the private amenity space there would be 2.83 hectares of amenity land which would be ample given that the site totals 4.5 hectares. That is 62.8% of the appeal site and equivalent to 212.78 msq for each of the 133 units.
96. All of the above is in the context of extra care developments being very different to general housing. I accept that residents do not want the work of managing their own garden. In my view, the layout of the development would

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<sup>65</sup> NPPF paragraph 123.

<sup>66</sup> See Michael Carr's POE paragraph 7.20

<sup>67</sup> See Appendix UD5 of Michael Carr's POE

be safe, attractive and inclusive with plenty of natural surveillance of the landscaped spaces which is important given the age restriction of the development and why people would choose to live there.

97. The appeal proposals include access to landscaped spaces and woodland opening up an area that would otherwise be inaccessible private land. This maximises the public benefit of the scheme and would positively contribute to the health and well-being of both residents and the community, to which weight is given in the NPPF as part of the social objective. The Council agreed that there may well be community integration and intergenerational activity through the facilities on site.
98. With regard to car parking, the appeal proposals have been designed to avoid what would otherwise be unplanned 'ad hoc' parking through a formal provision. This is not in one place, rather the design would disperse the necessary parking across the proposed development in a series of clusters. These would be set back and visibly screened from the main routes through the development and would avoid harsh urban parking courts. The proposed 15m woodland belt is a relevant consideration. The proposed planting would buffer and screen views of parked cars and both soften and integrate the parking areas so that they are read as designed landscaped courts. The Council raised concerns about the space available for tree planting. However, in my view there would be ample space on site to accommodate the tree planting the final details of which would be under the Council's control.
99. Overall, I consider the proposal would be in broad accordance with the SOLP policies including DES1, DES2, DES3, DES4 and DES5, SCNP policies D1 and D1a and other design guidance and the NPPF. I conclude on the third issue there would be no reason to dismiss the appeal due to the effect of the design of the proposed development on the character and appearance of the village.

***Fourth Issue - whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development***

100. This issue relates to the absence of a completed s106 Agreement to secure infrastructure to meet the needs of the development. At the time of the decision, agreement could not be reached with the Council on the requirements for a planning obligation. Since then, agreement has been reached and a s106 Agreement was submitted at the Inquiry. I have considered the s106 Agreement in the light of the CIL Regulations 2010, as amended, the advice in the NPPF and the PPG.
101. The NPPF indicates that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.<sup>68</sup> Regulation 122 of the CIL Regulations, as amended by the 2011 and 2019 Regulations, and paragraph 56 of the NPPF make clear that Planning Obligations should only be sought where they meet all of the following three tests: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development.

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<sup>68</sup> NPPF paragraph 54

102. The Council's need for additional infrastructure and services is set out in relevant SOLP policies which include H9 Affordable housing; INF1 Infrastructure; DES 1 Delivering High Quality Development; TRANS2 Promoting Sustainable Transport and Accessibility; TRANS4: Transport Assessments, Transport Statements and Travel Plans; and TRANS5: Consideration of Development Proposals. The Council's SPD (2016) is also relevant. Based on the SPD and the relevant policies, the appeal proposal should provide: (i) a financial contribution towards local primary health care (£73,735); (ii) a recycling and waste contribution (£24,738); (iii) a street naming contribution (£2,977); (iv) a District S106 monitoring fee (£2,686); (v) an affordable housing contribution (£7,510,350); (vi) a public transport services contribution (£117,000); (vii) a travel plan monitoring contribution (£2,040); and (viii) a County S106 monitoring fee (£1,500).
103. The primary care contribution is directly related to the development because it results from the additional pressure on local health services as a result of the future residents. It is fair and reasonable as the amount has been calculated based on the number of future residents. The recycling and waste contribution is necessary for the development to be served by waste infrastructure and the calculation is directly related to the bins needed for this development. It is necessary for the development to be served by street naming plates and the calculation is directly related to the name plates needed for this development. The completion of a planning obligation requires the Council to administer and monitor those obligations. The monitoring fee contribution is necessary to cover the Council's costs and is directly related to the nature of the obligation.
104. The proposal will deliver affordable housing which is required under Policy H9 of the SOLP. It will do so via a contribution in lieu of on-site provision. The s106 Agreement secures the payment of £7,510,350 to be paid by the owners. A financial contribution towards off-site affordable housing is necessary to equate with a 40% affordable housing provision under Policy H9. It is directly related to the development and fairly and reasonably related in scale and kind. The financial contribution has been calculated based on the open market value of a unit to be delivered on the site.<sup>69</sup> The s106 Agreement requires the total affordable housing contribution to be used towards the provision of off-site affordable housing within the District.
105. The relevant policies which support the transport contributions are set out in the CIL Compliance Statement.<sup>70</sup> A contribution is required to provide an improved bus service (service 25) for residents, visitors and staff associated with the proposed development as an appropriate and viable alternative to the use of private cars and to promote travel by public transport. The contribution required would be used towards increasing the frequency of the existing service operating between Sonning Common and Reading to every 30 minutes between 0600 - 2030, Monday to Saturday and an hourly service in the evenings (up to 2300) and on Sundays (0800-1800). The contribution is directly related to the number of residential units but excludes the proposed 16 high care units, as these residents are unlikely to use public transport. A

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<sup>69</sup> INQ LPA7 provides the methodology for the calculation of the commuted sums based on the open market value of a unit to be delivered on the site.

<sup>70</sup> INQ LPA7 NPPF paragraphs 102, 103, 108 and 111; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 1 Policy and Overall Strategy Updated 2016 Policy 3 and Policy 34; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 2 Bus & Rapid Transit Strategy (2016) paragraphs 91, 93-95.

travel plan monitoring fee is required to monitor the implementation of the travel plan and an administration and monitoring fee is required to monitor the planning obligation.

106. In my view, all of the obligations in the Planning Obligation are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision. I conclude on the fourth issue that the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.

***Fifth Issue - whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB***

107. There is no dispute that the appeal scheme would be a major development in the AONB. The tests relating to allowing such development are set out clearly in paragraph 172 of the NPPF. The relevant factors which must be considered are then listed in paragraph 172 a) to c) but it is not an exhaustive list. Great weight must be given to conserving and enhancing landscape and scenic beauty in AONBs and planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

*The need for the development and the impact on the local economy*

108. I have already discussed the need for the development in detail under the first issue. That discussion is not repeated in detail here, but it is plainly relevant to paragraph 172 a) of the NPPF. There is an immediate unmet need for extra care market housing. This arises not from some ambitious target for extra care. The target for need suggested by Mr Appleton is in fact very modest. It is just 4.5% of the District's population of people 75 years of age and over. It arises because there is hardly any of it available. There are only two schemes which have been built offering 113 units. The only future supply which is available is the market extra care that would be provided at Lower Shiplake for 65 units. Retirement Villages has now sold that site and want a larger site. Whether the Lower Shiplake scheme gets built is therefore uncertain. But even with it the supply of extra care that is available is only 178 units.
109. This against a need, based on a modest aspiration of 4.5% - that is 450 units across the whole District for an overall population of 15,000 in this age category, gives rise to an immediate shortfall of 272. The figure is 337 if the Lower Shiplake proposal is excluded. The stark fact is there is hardly any choice or to put it another way choice is largely unavailable.
110. I am in no doubt that the development of 133 units is needed. Firstly, it is needed to address the immediate shortfall in the five year housing land supply in the District which is only equivalent to some 4.21 years. Secondly, it is needed in this District where at present a population of 15,000 who are aged 75 years or older is forecast to increase to 21,100 by 2035. The demographic evidence indicates a 'critical' need for extra care housing in the District. In this case, the proposed development should be of sufficient size to support the communal facilities that are necessary to ensure an effective operation.

111. Thirdly, it is important to recognise the fact that extra care accommodation, together with all other forms of specialist housing for older people can assist in `freeing up' existing family and other housing by allowing them to `right size' by moving to more appropriate accommodation. This type of specialist housing could significantly contribute towards the easing of the present housing crisis in this District where under occupancy amongst older households is greater than for England as a whole. The sale of the 133 units in the appeal proposals would release 133 family houses of three bedrooms or more.<sup>71</sup> The appeal scheme would be likely to free up 39 family dwellings locally but it could be as high as 64.<sup>72</sup> Significant weight can be given to this.
112. Fourthly, the health and well-being benefits of the appeal proposal should also be recognised and given significant weight. Such benefits to elderly people are entirely obvious. I accept that such health and care benefits apply and also that they are separate from housing delivery. The benefits specialist housing for older people can bring include addressing concerns about suitable supervision, frailty, care, assistance, recreation, loneliness and isolation.
113. I do not consider the impact of refusing the proposed development would be seriously damaging to the local economy, there is no clear evidence to that effect. There is no requirement that has to be demonstrated. However, I do accept that the proposal would deliver economic benefits to the local economy and jobs as well.<sup>73</sup> The Appellant has also proposed a local employment and procurement condition which I accept is plainly relevant.<sup>74</sup> I am satisfied that there is a need for the development and that it is in the public interest.

*The cost and scope of developing elsewhere or meeting the need in another way*

114. With regard to paragraph 172 b) of the NPPF, the Council's case is that with Policy H1 and H13 the need for specialised housing for the elderly can be met outside of the AONB. The Council refers to the Oxford County Council's Market Position Statement Extra Care Housing Supplement 2019-2022 and to the SHMA. However, the Council does not quantify a need for extra care, albeit the SHMA does recognize it as a category of need and distinguishes between market and affordable extra care housing.<sup>75</sup> The Council also suggests that the need can be met in people's homes and that needs can be met by 2035. In my view, there is a specific need for extra care provision and market extra care housing. The needs which have been identified are modest and the idea that they be met at home is misplaced. The most relevant need is the immediate need and Mr Appleton's evidence demonstrates what this is.
115. I note that at both the application and appeal stages the Appellant relied upon a sequential assessment of alternative sites to show a lack of suitable sites. The Council questioned this assessment but never really suggested any alternative sites. At the Inquiry reference was made to 8 extra care sites in Mrs Smith's Appendix 1. However, all of those sites have been addressed by Mr Appleton and that information was updated during the Inquiry to reveal that there were no sites with planning permission in the pipeline other than

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<sup>71</sup> Paragraph 6.24 of Roland Bolton's POE

<sup>72</sup> Paragraph 6.27 of Roland Bolton's POE

<sup>73</sup> See CD: A.6 Economic Benefits Assessment Report, it is calculated that operation of the site would provide up to circa 70 jobs (FTE). This does not include construction jobs, which are assessed to be of the order of 108 over a period of 4 years, although in practice this maybe higher dependent upon individual project needs.

<sup>74</sup> See *Verdin v SSCLG* [2016] EWHC

<sup>75</sup> See CD: D.14 Table 6 page 25

Lower Shiplake which is now uncertain. Therefore, it seems to me that the Council's own evidence supports the Appellant on the lack of alternatives.

116. Moreover, when the Appellant persuaded the landowner to agree to pay the full affordable housing contribution, that significantly strengthened the Appellant's case in respect of paragraph 172 b). That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP now requires for C2 uses. Mrs Smith accepted that there are no other sites in the District with planning permission for extra care market housing. The problem is a combination of land economics and SOLP Policy H9 which requires affordable housing on extra care housing schemes. Given this context the appeal proposal does connote rarity and uniqueness.
117. Extra care housing undoubtedly operates in a very different market. Mr Garside provided detailed evidence to the Inquiry how the market for land operates to the detriment of extra care operators. Extra care housing providers cannot compete with house builders or with other providers of specialist housing for older people because of the build costs, the level of the communal facilities and the additional sale costs including vacant property costs. The communal facilities must be provided before any units can be sold and sales tend to be slower.<sup>76</sup> However, I accept that extra care schemes can charge a premium for the specialist accommodation provided and also benefit from an income from deferred management fees.
118. It seems to me that these factors, all mean that age restricted developments and in particular extra care communities are less viable than traditional housing schemes. Ultimately, age restricted developers are less able to pay the same price for land as residential developers and it is much harder for age restricted developers, and in particular those seeking to deliver extra care, to secure sites for development and meet the housing needs they aim to supply.<sup>77</sup> Viability is clearly a relevant factor which supports the case under paragraph 172 b) of the NPPF. There is also a strong case for the appeal scheme given the lack of alternative sites in the light of Policy H9 of the SOLP.
119. I note that the SOLP does not allocate any sites for extra care housing, unlike for example in Central Bedfordshire. I also note that the need for extra care housing is recognised in the SCNP, which supports, as was agreed, extra care housing on unallocated sites due to Policy H2a. I am satisfied that the Appellant's need could not be met elsewhere or in any other way and that it would be in the public interest for this to happen on the appeal site.

*Detrimental effect on Environmental, Landscape and Recreation opportunities, and the extent to which they could be moderated.*

120. This factor has been considered in the second issue above. That discussion is not repeated here but it is plainly relevant to paragraph 172 c). Suffice it to say that I have concluded that there would only be localised landscape and visual effects on the AONB. These limited impacts would not cause material harm to the landscape character of the AONB, nor would they conflict with the aims of protecting its special qualities. I have concluded there would be localised landscape and visual effects on the AONB that could be moderated.

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<sup>76</sup> See section 4 of Richard Garside's POE

<sup>77</sup> See paragraph 4.65 of Richard Garside's POE



### *Other Benefits*

121. The scheme would deliver other benefits. In my view, these can also form part of the exceptional circumstances and public interest. It is the collective benefits and harms which are relevant to paragraph 172 of the NPPF. Both Mr James and Mr Garnett gave evidence as to numerous other significant benefits, individually and cumulatively, which should be weighed in favour of the proposals. These include contributing to the overall supply of housing which is under five-years; savings in public expenditure (NHS and adult care);<sup>78</sup> creating new employment and other economic investment (construction and operation);<sup>79</sup> providing new facilities and services further reinforcing the role and function of Sonning Common; and additional net revenues from Council tax and new homes bonus receipt. Mrs Smith accepted the economic benefits and that bringing facilities to the area, particularly for the older population would be a benefit. It was also accepted that there could be benefits in supporting existing facilities in that residents of Inspired Village sites having the option to support those businesses if they wanted to. No good reason was provided by the Council for discounting the benefits evidence by Mr James or Mr Garnett. The social and economic benefits are matters to which I attribute significant weight. There is a very strong case on exceptional circumstances and public benefits here.

### *Conclusion*

122. Section 85 of the CROW Act 2000 seeks to conserve and enhance the natural beauty of an AONB and paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB. This is not the same as requiring that every development proposal engenders enhancement. Indeed, if that were the case it is difficult to see how major development in an AONB could ever be permitted. It is clearly a matter of balance, but in undertaking that exercise the NPPF makes clear that conserving and enhancing the designated resource is a matter of great weight. In this case I have given great weight to conserving and enhancing landscape and natural beauty of the AONB. The need for the development and the conclusion that there are presently no alternatives outside the designated area are also matters of substantial importance in the public interest. The social and economic benefits attract significant weight. Overall, the benefits would outweigh the localised landscape and visual effects to the AONB. For these reasons I conclude on this issue that exceptional circumstances are demonstrated and that the development would be in the public interest.

### **Other Matters**

123. I have taken into account all other matters raised including the concerns raised by the SCPC, the Rotherfield Peppard Parish Council, the representations made by interested persons including those who gave evidence at the Inquiry and those who provided written submissions. I have already dealt with many of the points raised in the main issues.

124. The SCPC and others objected to the proposed development in the context of the neighbourhood planning process. However, the review of the SCNP has

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<sup>78</sup> See paragraphs 6.16 to 6.33, PoE of Stuart Garnett. See also CD: K7, CD: K8 (Appendix 1 at page 20 onwards), CD: K12 (pages 2-3), and CD: K30 (pages 6, 12, 13, 20 and 24-26 in particular).

<sup>79</sup> See paragraphs 6.10 to 6.15, PoE of Stuart Garnett

been ongoing since around 2018 but there are no concrete proposals. It is suggested that the proposal is not small scale. However, site SON2 is in fact 3.3 hectares and broadly of the same scale.<sup>80</sup> The SCNP expressly supports extra care housing at Policy H2a albeit no site is allocated. The SCNP policies are now out of date because of the lack of a five year housing land supply to which I attach significant weight. The concerns about the neighbouring planning process are not sufficient to warrant dismissing this appeal.

125. A number of interested persons cited concerns over impacts on local services in particular the doctor's surgery and parking capacity within the centre of Sonning Common. With respect to impacts on local health services, Mr Garnett's evidence provides details of both operational efficiencies and associated social benefits of extra care, which includes the financial benefits arising from savings to the NHS and social care. I consider that extra care housing benefits elderly people in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to assume that these factors would likely result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the NHS. This is borne out in the research submitted to the Inquiry.
126. A number of objectors raised concerns over parking capacity within the centre of Sonning Common. However, the appeal site lies within an acceptable walking distance of a number of the facilities within the village centre. Trip generation associated with the proposals would not have a materially negative impact on the road network. I note also that a Travel Plan has been submitted in relation to the proposals.<sup>81</sup> I consider that this matter is capable of being secured by means of an appropriately worded planning condition. In addition to the 'supported transport provision' that would be provided for residents, it would be reasonable to expect that a number of residents would use the existing footpath links to access the village centre.
127. A number of objectors also raised concerns over transport safety and the sufficiency of parking on the appeal site. I note that a number of matters are agreed between the Council and the highway authority in SoCG2 Transport. A new vehicular access would be constructed to the east of the existing access on Blounts Court Road. The proposed scheme would provide for off-site highway improvements comprising works associated with the proposed site access, proposed works to pedestrian facilities along the site frontage either side of the site access, widening of the carriageway and a gateway feature along Blounts Court Road, and provision of a zebra crossing on Widmore Lane. Provision would also be made within the scheme for 93 car and 58 cycle parking spaces (12 visitor, 10 staff and 36 resident) that would be provided in relation to the full aspect of the development. Notwithstanding the original RfR5 the highway authority raises no objection to the proposal subject to the agreed conditions and the contributions contained within the s106 Agreement. In my view the concerns raised about transport issues would not provide a reason for rejection of this appeal.
128. A number of objections relate to the impact on local ecology. The appeal site contains habitats of a lower biodiversity value, which are common and

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<sup>80</sup> See CD: K.18 page 580

<sup>81</sup> See CD: A.8

widespread throughout the District. The appeal scheme provides for a net increase in biodiversity across the site, specifically an increase of 51% for the detailed element. The Ecological Impact Assessment<sup>82</sup> was accepted by the Council as demonstrating net benefit<sup>83</sup> and I attach significant weight to this.

129. At the Inquiry reference was made to numerous appeal decisions. I have taken these into account as appropriate in coming to my decision in this case.

### **Planning Balance**

130. I have concluded that the appeal proposals would be a major development in the AONB where exceptional circumstances apply, and which would be in the public interest. I have given great weight to conserving and enhancing landscape and scenic beauty in the AONB. In terms of paragraph 172 a) of the NPPF I am in no doubt that there is a need this development of 133 units to address the immediate shortfall in the five year housing land supply; to address the critical need for extra care housing in the District; to assist in the freeing up of family housing within South Oxfordshire and to provide the health and well-being benefits to elderly people.

131. The Council argued that with Policy H1 and Policy H13 the need for specialist housing for older people could be met outside the AONB; could be met in people's homes and that needs could be met by 2035. However, I have concluded that there is a specific and immediate need for extra care provision and market extra care housing. From the up-to-date evidence provided at the Inquiry it is clear to me that there are no sites with planning permission in the pipeline other than the Lower Shiplake site which is now uncertain. The case under paragraph 172 b) has been met. That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP Policy H9 now requires for C2 uses. In my view extra care housing cannot compete with housebuilders or even other forms of specialist housing for older people because of the build cost, the level of communal facilities and additional sale costs including vacant property costs.

132. In terms of paragraph 172 c) I have concluded there would be localised landscape and visual effects, but these would be relatively small. Only a limited part of the mosaic would be impacted, and this would not alter the overall character of the wider mosaic of the LCT. Plainly such limited impacts would not cause material harm to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. In terms of visual impact, only a small number of nearby locations would have direct views of the appeal proposals where glimpses of the development would be filtered and moderated by perimeter planting and particularly by the woodland belt. Overall, I have concluded under paragraph 172 of the NPPF that the circumstances in this case are exceptional and that the grant of planning permission would be in the public interest.

133. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case where the test in paragraph 172 of the NPPF

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<sup>82</sup> See CD: A32

<sup>83</sup> See PoE of Simon James Appendix 11

has been met it is difficult to see how a decision maker could nonetheless refuse to grant planning permission applying paragraph 11 of the NPPF. However, in terms of the development plan I accept that the proposal conflicts with some elements of the development plan, but it also complies with others. Policies in the SOLP are up-to-date and can be given full weight. The appeal proposal conflicts in part with the SOLP, in particular in terms of the overall strategy (STRAT1) and with relevant policies relating to the AONB (ENV1) However, there is partial accord with Policy H13 and full accordance with Policies H1 3ii, H4, H9, H11, DES1, DES2, DES3, DES4 and DES5.

134. With regard to the SCNP, this was made in 2016, against a different housing requirement albeit it is still within the grace period allowed by Policy H4(2) of the SOLP. The SCNP policies can only be given limited weight in the context of the NPPF as it was based on a Core Strategy which is now withdrawn, and it is out of date for that reason. Its policies reliant on the AONB are also out of date given the lack of a five year housing land supply. The proposal would conflict with Policy H1 in so far as the limitation of development is concerned but the policy is expressed as a minimum and the base target has been increased through the SOLP quantum of housing so the appeal scheme would contribute to that. There would be conflict with Policy ENV1 which aims to protect the AONB but there are exceptional circumstances here. There would be broad accordance with Policy H2a, D1 and D1a and ENV2 albeit that three storey development is an exception and must be justified. I conclude that the appeal proposal is in overall accordance with the development plan and there are no material considerations which indicate otherwise.
135. Even if I had decided that the proposal was in overall conflict with the development plan this is a case where there is no five year housing land supply and therefore the most important policies for determining the appeal are out of date.<sup>84</sup> As to which policies are out of date, it is agreed that the most important for determining the appeal are set out in the RfR. Thus, the tilted balance would be triggered by way of footnote 7 of the NPPF unless paragraph 11 d) i. is satisfied. In this case under paragraph 11 d) i. the adverse effects would not provide a clear reason for refusing the proposed development. It follows therefore that even if the appeal proposal was contrary to the development plan and the tilted balance under paragraph 11 d) ii. of the NPPF applied then the many and varied benefits of the proposals set out above would significantly and demonstrably outweigh any adverse effects. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed.

## **Planning Conditions**

136. The Council submitted a list of conditions which I have considered in the light of the advice in paragraphs 54 and 55 of the NPPF and the Government's PPG on the Use of Planning Conditions. The Appellant has agreed to all of the suggested conditions except for Condition 27 which relates to a Procurement and Employment Strategy. The Appellant has also given consent in writing that Conditions 7-27 may be applied as pre-commencement conditions.<sup>85</sup> Conditions 1, 4 and 5 relate to required time limits and Conditions 2 and 3 are necessary to determine the scope of the application and for the avoidance of

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<sup>84</sup> NPPF paragraph 11 d) footnote 7

<sup>85</sup> See INQ APP14

- doubt. Conditions 6, 7 and 29 are necessary to secure net gains for biodiversity and Condition 8 is required to minimise the impacts of the development on biodiversity. Condition 9 is necessary to limit the local impact of construction work and Condition 10 is required to ensure that electric vehicle charging is provided. Condition 11 is required in the interests of highway safety and Condition 12 is necessary to ensure adequate car parking.
137. Condition 13 is required in the interests of sustainability and to encourage the use of cycling. Condition 14 on sample materials and Condition 15 on ground levels are required in the interests of visual amenity. Condition 16 is required to ensure adequate provision for the management of waste. Condition 17 is necessary to ensure high standards of sustainable design and construction. Condition 18 is necessary to protect the appearance of the area, the environment and wildlife from light pollution. Conditions 19 and 20 are necessary to ensure that the development is assimilated into its surroundings. Condition 21 is necessary to safeguard the trees which are visually important on the site. Condition 22 is required to safeguard heritage assets of archaeological interest. Condition 23 is necessary to prevent pollution and flooding. Condition 24 is required to ensure the proper provision of foul water drainage. Condition 25 is required to prevent pollution and flooding. Condition 26 is necessary to ensure that the development is not unneighbourly.
138. Condition 27 relates to a procurement and employment strategy. The Council considers that the condition would fail the test of necessity as there is no policy support for this requirement and there would be problems about enforcement. However, it seems to me that a local employment and procurement condition is plainly relevant following the Verdin judgment.<sup>86</sup> Employing local people and using local produce, to save miles travelled seems to epitomize the principle of sustainable development. Moreover, the strategy would put in place arrangements to ensure that the information was regularly provided to the Council to demonstrate the performance and effectiveness of the initiatives. The condition would not impose unreasonable or unjustified demands on the Council. The condition would meet the tests in the NPPF.
139. Condition 28 is required to ensure the provision of adequate pedestrian and cycle access to the site in the interests of highway safety. Condition 30 is necessary to ensure that sustainable transport modes are taken up. Condition 31 is necessary to avoid sewage flooding and potential pollution incidents. Condition 32 is necessary to ensure that the development is not unneighbourly or detrimental to highway safety. Condition 33 is required to protect the occupants of nearby residential properties from noise disturbance. Condition 34 is required to mitigate any impacts on air pollution.

### **Overall conclusion**

140. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

*Harold Stephens*

INSPECTOR

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<sup>86</sup> See INQ APP15 Verdin v SSCLG [2016] EWHC

## **SCHEDULE OF PLANNING CONDITIONS (1-34)**

### Time limit and approved plans relating to the full planning permission

#### **Commencement – Full**

- 1) The development subject to full planning permission, comprising the areas shown as shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] must be begun not later than the expiration of three years beginning with the date of this permission.

#### **Approved Plans**

- 2) That the element of the development hereby approved full planning permission, as shown within the areas shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] shall be carried out in accordance with the details shown on the following approved plans, except as controlled or modified by conditions of this permission:

URB SC [08] 00 01 Rev D02 (Site Location Plan)  
URB SC [08] 00 03 Rev D04 (Proposed Block Plan)  
02 Rev 03 (Landscape Plan)  
03 Rev 03 (Hard Landscaping)  
04 Rev 03 (Soft Landscaping)  
URB VC [08] 70 01 Rev D02 (Village Core Elevations)  
URB VC [08] 70 02 Rev D01 (Village Core Elevations)  
URB VC [08] 70 03 Rev D01 (Village Core Elevations)  
URB VC [08] 70 04 Rev D01 (Village Core Elevations)  
URB VC [08] 00 01 Rev D02 (Village Core Ground Floor Plan)  
URB B01 [08] 70 01 Rev D01 (Block 1 Elevations)  
URB B02 [08] 70 01 Rev D01 (Block 2 Elevations)  
URB B03 [08] 70 01 Rev D01 (Block 3 Elevations)  
URB B04 [08] 70 01 Rev D01 (Block 4 Elevations)  
URB B01 [08] 00 01 Rev D00 (Block 1 Floor Plans)  
URB B01 [08] 20 01 Rev D00 (Block 1 Roof Plan)  
URB B02 [08] 00 01 Rev D00 (Block 2 Floor Plans and Roof Plan)  
URB B03 [08] 10 01 Rev D00 (Block 3 Floor Plan)  
URB B03 [08] 00 01 Rev D00 (Block 3 Floor Plan)  
URB B03 [08] 20 01 Rev D00 (Block 3 Roof Plan)  
URB B04 [08] 00 01 Rev D00 (block 4 Floor Plans)  
URB B04 [08] 20 01 Rev D00 (block 4 Roof Plan)  
URB SS [08] 00 01 Rev D00 (Substation)  
OX5025-11PD-004 Rev H – Road Carriageway Widening  
OX5025-16PD-006 Rev A - Cross Sections of Proposed Widening along Blounts Court Road  
OX5025-16PD-004 Rev C - Proposed Off-Site Improvements  
OX5025-16PD-002 Rev C - Proposed Site Access Arrangements  
OX5025-16PD-003 Rev D - Proposed Internal Layout  
OX5025-11PD-007 Rev F - Review of Revised Masterplan (6 Metres Internal Carriageway)  
OX5025-11PD-009 Rev F Proposed Zebra Crossing at Widmore Lane

## **Outline Plans**

- 3) That the element of the development hereby approved outline planning permission, as shown within the areas shaded blue on Drawing No. URB SC [08] 00 01 D02 (Site Location Plan) shall be carried out in general accordance with the details shown on the following documents:

Illustrative Masterplan PW.1618.L.01 Rev 03  
Design and Access Statement May 2020  
Design Commitment Statement URB-SC A3 90 02-D00 April 21

### Reserved matters and time limit relating to the outline planning permission

## **Reserved Matters**

- 4) Within a period of three years from the date of this permission all of the reserved matters shall have been submitted for approval in writing by the Local Planning Authority. The reserved matters shall comprise: details of the layout, scale, appearance and landscaping of the development. All reserved matters for any one phase shall be submitted concurrently. No development shall commence within any one phase until there is written approval of all of the reserved matters for that phase and the development shall be carried out in accordance with all of the approved reserved matters.

## **Commencement – Outline**

- 5) The site subject to outline planning permission, comprising the area shown as shaded blue on Drawing No. URB SC [08]00 01 D02 (Site Location Plan) [Phase 2], shall be begun not later than whichever is the later of the following dates:
- (i) 3 years from the date of this permission: or
  - (ii) 2 years from the approval of the final reserved matters application.

## **Biodiversity Enhancement Plan – Outline**

- 6) Concurrent with the submission of any reserved matters application related to this outline planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the outline details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
  - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.

- (d) Selection of specific techniques and practices for establishing vegetation.
- (e) Sources of habitat materials (e.g. plant stock) or species individuals.
- (f) Method statement for site preparation and establishment of target features.
- (g) Extent and location of proposed works.
- (h) Details of a biodiversity metric assessment

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

#### Pre-commencement conditions

#### **Biodiversity Enhancement Plan – Full**

- 7) Prior to the commencement of the development subject of full planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
  - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.
  - (d) Selection of specific techniques and practices for establishing vegetation.
  - (e) Sources of habitat materials (e.g. plant stock) or species individuals.
  - (f) Method statement for site preparation and establishment of target features.
  - (g) Extent and location of proposed works.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

#### **Construction Environmental Management Plan for Biodiversity**

- 8) Prior to the commencement of any development (including vegetation clearance) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- (a) Update ecological surveys for relevant habitats and species, update surveys shall follow national good practice guidelines (badgers surveys shall be no older than 6 months).
  - (b) Risk assessment of potentially damaging construction activities.



- (c) Identification of biodiversity protection zones.
- (d) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction.
- (e) The location and timing of sensitive works to avoid harm to biodiversity features.
- (f) The times during construction when specialist ecologists need to be present on site to oversee works.
- (g) Responsible persons and lines of communication.
- (h) Use of protective fences, exclusion barriers and warning signs.

Thereafter the approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

### **Phasing**

- 9) Prior to the commencement of any development subject to full planning permission or submission of the first Reserved Matters for the development subject to outline planning permission, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved phasing plan.

### **Electric Vehicle Charging**

- 10) Prior to the commencement of each phase of development a scheme to provide that phase with Electric Vehicle Charging Points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Electric Vehicle Charging Points shall be implemented prior to the first occupation of that phase.

### **Estate Roads and Footpaths**

- 11) Prior to the commencement of each phase of development, details of the estate roads and footpaths within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, before first occupation of any unit within that phase, the whole of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained.

### **Car Parking Plan**

- 12) Prior to the commencement of the reserved matters phase of the development plans showing car parking within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed car parking provision shall be provided before first occupation of that part of the site and be retained as such thereafter.

### **Cycle Parking**

- 13) Prior to the commencement of each phase of development, details of cycle storage, for that phase shall be submitted to and approved in writing by the

Local Planning Authority. The agreed cycle parking shall be provided before first occupation of that part of the site and be retained as such thereafter.

### **Materials**

- 14) Prior to the commencement of each phase of development, details of all materials, including samples where required, to be used in the external construction and finishes of the development within that phase shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved details.

### **Site Levels**

- 15) Prior to the commencement of any development, detailed plans showing the existing and proposed ground levels of that phase, together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

### **Refuse and Recycling**

- 16) Prior to the commencement of each phase of development, details of refuse and recycling storage for that phase shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be implemented in accordance with the approved details prior to the occupation of the development in each phase and retained thereafter.

### **Energy Statement**

- 17) Prior to the commencement of each phase of development, an Energy Statement demonstrating how the development within that phase will achieve at least a 40% reduction in carbon emissions compared with code 2013 Building Regulations, and details of how this will be monitored, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

### **External Lighting**

- 18) Prior to the commencement of each phase of the development approved in full, and accompanying the first Reserved Matters application for the development approved in outline, a detailed lighting scheme (including street and pathway lighting) for that phase, including a programme for its delivery, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

### **Landscaping**

- 19) Prior to the commencement of each phase of development, a scheme for the landscaping of that phase including the planting of trees and shrubs, the

treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.

The details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme.

The scheme shall be implemented prior to the first occupation or use of that phase of development and thereafter be maintained in accordance with the approved scheme.

In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

### **Landscape Management Plan**

- 20) Prior to the commencement of the first phase of development, a maintenance schedule and a long term management plan for the soft landscaping works for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include those areas of the site which are to be available for communal use as open space. The schedule and plan shall be implemented in accordance with the agreed programme.

### **Tree Protection**

- 21) Prior to the commencement of any site works or operations (including the removal of any vegetation or trees) required in relation with the full or outline planning permission, an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The matters to be encompassed within the arboricultural method statement shall include the following:
- (a) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities.
  - (b) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection.
  - (c) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage.
  - (d) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby.

- (e) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees.
- (f) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels.
- (g) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage.
- (h) Provision for the supervision of any works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.
- (i) The details of the materials and method of construction of the pedestrian and cycle access to Widmore Lane, which is to in part be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of surface required in relation to its usage.
- (j) A specification of the foundation design for the pedestrian and cycle access to Widmore Lane demonstrating absolute minimal soil excavation, soil compaction or soil contamination within the root protection area of the adjacent trees.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

### **Implementation of Archaeological work**

- 22) Prior to any earth works forming part of the development or the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

### **Ground Investigation**

- 23) Prior to the commencement of each phase of development the results of an intrusive ground investigation, analysing the potential for dissolution features and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The results shall then be implemented in accordance

with the approved programme and used to inform the surface water drainage design.

### **Foul Drainage**

- 24) Prior to the commencement of each phase of development, a detailed foul water drainage scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the foul water drainage works to serve that phase have been completed.

### **Surface Water Drainage**

- 25) Prior to the commencement of each phase of development, a detailed surface water drainage scheme relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. This should be based on the principles contained within Flood Risk Assessment and Drainage Strategy reference 3424 Dec 2019 by Scott Hughes Design, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

The scheme shall include:

- (a) Discharge rates.
- (b) Discharge volumes.
- (c) Catchment plans.
- (d) Maintenance and management of SUDS features.
- (e) Sizing of features – attenuation volume.
- (f) Site wide infiltration tests to be undertaken in accordance with BRE365.
- (g) Ground Investigation Report.
- (h) Detailed drainage layout with pipe/chamber/soakaway numbers & sizes.
- (i) Proposed site levels, floor levels and an exceedance plan.
- (j) Detailed network calculations to include the worst case 1:100 + 40% event.
- (k) SUDS features and sections.
- (l) Details of proposed Primary, Secondary and Tertiary treatment stages to ensure sufficient treatment of surface water prior to discharge.
- (m) Drainage construction details.
- (n) A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire."
- (o) A range of SuDS techniques throughout the site to manage water quantity and maintain water quality.

The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the surface water drainage works to serve that phase have been completed.

## **Construction Method Statement**

- 26) No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- (a) the parking of vehicles of site operatives and visitors;
  - (b) loading and unloading of plant and materials;
  - (c) storage of plant and materials used in constructing the development;
  - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (e) wheel washing facilities;
  - (f) measures to control the emission of dust and dirt during construction;
  - (g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - (h) details of measures for the control of noise during construction works;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction methods.

## **Procurement and Employment Strategy**

- 27) Prior to the commencement of development, a Local Employment and Procurement Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The Strategy shall include:
- (i) Details of recruitment within the development to achieve a minimum of 25% of village staff from within a 5 mile radius of Sonning Common;
  - (ii) Details of the use of local businesses, including purchase of food, beverage and other items to achieve a minimum of 50% of fresh produce (meat, bakery, dairy, fruit and vegetables) from within a 5 mile radius of Sonning Common;
  - (iii) The timing and arrangements for the implementation of these initiatives; and
  - (iv) Suitable mechanisms for monitoring the effectiveness of these initiatives.

All parts of the approved Local Employment and Procurement Strategy shall be implemented in full and retained thereafter.

### Pre-occupancy conditions

## **Pedestrian and Cycle Access**

- 28) Prior to occupation of any development subject to full or outline planning permission, details of the pedestrian/cycle access to the site from Widmore Lane, including a 3.5m wide combined pedestrian/cycle path through the site, associated street lighting facilities and a zebra crossing along Widmore Lane shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on those shown on plan OX5025-11PD-009 Rev F, subject to the tree protection measure shown in condition 21. The works shall

be carried out and completed in accordance with the approved details before occupation of any part of the site, and permanently retained as such thereafter.

### **Landscape and Ecology Management Plan**

29) Prior to the first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) for the whole site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- (a) Description and evaluation of features to be managed.
- (b) Ecological trends and constraints on site that might influence management.
- (c) Proposals for ecological enhancements for habitats and species as agreed in the Biodiversity Enhancement Plan.
- (d) Aims and objectives of management.
- (e) Appropriate management options for achieving aims and objectives.
- (f) Prescriptions for management actions.
- (g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- (h) Details of the body or organization responsible for implementation of the plan.
- (i) Ongoing monitoring and remedial measures.

The LEMP shall include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The development shall be implemented in accordance with the approved details and management prescriptions implemented across the site for a timeframe to be agreed within the LEMP.

### **Green Travel Plans**

30) Prior to the occupation of the first phase of the development hereby approved a full and detailed Travel Plan and Travel Information Packs shall be submitted to and approved in writing by the Local Planning Authority. These documents will be updated upon the submission of subsequent phases of the development. Thereafter, that part of the development shall be implemented in accordance with the approved documents and the associated Travel Information Packs issued to each resident upon first occupation.

### **Wastewater**

31) No properties shall be occupied in any phase until confirmation has been provided that either:

- (i) All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or-
- (ii) A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

### **Service and Delivery Management Plan**

- 32) No building shall be occupied until details of a comprehensive servicing and delivery management plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Deliveries and service areas shall be managed in accordance with the agreed scheme.

### Compliance conditions

#### **Construction Hours**

- 33) The hours of operation for construction and demolition works shall be restricted to 08:00-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written permission of the Local Planning Authority.

#### **Air Quality**

- 34) The air quality mitigation measures outlined in the Air Quality Assessment (Ref REP-10111755A-20191212) shall be carried out in accordance with the recommendations and specifications in the report and implemented prior to occupation of each unit. Thereafter, the mitigation measures shall be retained as approved and in accordance with manufacturer's instructions.



## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Robin Green of Counsel

Instructed by the Solicitor to South  
Oxfordshire District Council

*He called:*

Mr John Jeffcock  
BA (Hons) MA CMLI NZILA

Associate of Michelle Bolger Expert  
Landscape Consultancy

Mr Julian Kashdan-Brown  
B Arch (Hons) Dip Arch MSc MA RIBA

Architect and Urban Designer

Mrs Nicola Smith BSc (Hons) MSc

Principal Major Applications Officer

Mrs Emma Bowerman BA (Hons) MSc

Principal Major Applications Officer

### **FOR THE APPELLANT:**

Mr Christopher Young QC  
Ms Leanne Buckley Thompson of Counsel

Both instructed by the Appellant

*They called*

Mr Nigel Appleton MA (Cantab)

Executive Chairman of Contact  
Consulting (Oxford) Ltd

Mr Stuart Garnett BSc Dip TP MRTPI

Planning Director Inspired Villages

Mr James Atkin BSc (Hons) Dip LM CMLI

Director (Landscape) Pegasus Group

Mr Michael Carr BA (Hons) Dip LA Dip UD  
RUDP

Director (Design and Master  
Planning) Pegasus Group

Mr Roland Bolton BSc (Hons) MRTPI

Senior Director, DLP Planning Ltd

Mr Richard Garside RICS

Director and Head of Development  
Consultancy at Newsteer

Mr Simon James BA Dip TP MRTPI MIEMA

Managing Director DLP Planning Ltd

### **FOR SONNING COMMON PARISH COUNCIL:**

Mr Ben Du Feu of Counsel

Instructed by the Parish Council

*He called*

Mrs Emily Temple BSc (Hons) MSc MRTPI

Director ET Planning Ltd

**FOR OXFORDSHIRE COUNTY COUNCIL:**

Mr Dave Harrison BSc (Hons) MSc CMILT      Senior Public Transport Planner  
M Inst TA

Ms Judith Coats LLB      Infrastructure Funding Team  
Leader

**Interested Persons**

Mr Tom Fort      Chairman of Sonning Common  
Parish Council

Ms Julia Whitelaw      Local Resident

Dr Kim Emmerson      General Practitioner

Ms Georgina Forbes      Local Resident

Mr Jonathan Berger      Acting Chair of the Rotherfield  
Peppard Parish Council

Mrs Joanne Shanagher      Local Resident

Dr Michael Stubbs PhD MSc MRICS MRTPI      Planning Adviser, The Chilterns  
Conservation Board

**DOCUMENTS SUBMITTED AT THE INQUIRY:**

**Local Planning Authority Documents**

INQ LPA1    Opening Statement  
INQ LPA2    Factsheet 6 Design Principles for Extra Care Housing (3<sup>rd</sup> edition)  
INQ LPA3    Proof of evidence Erratum sheet, Nicola Smith  
INQ LPA4    Appendix 1 update, Nicola Smith  
INQ LPA5    Five-year Housing Land Supply Erratum, Nicola Smith  
INQ LPA6    Replacement Policies Schedule  
INQ LPA7    CIL Compliance Statement  
INQ LPA8    CIL Compliance Statement Addendum  
INQ LPA9    Costs application  
INQ LPA10    Conditions  
INQ LPA11    Closing Submissions

**Appellant Documents**

INQ APP1    Opening Statement  
INQ APP2    Summary and comparison of landscape and visual effects  
INQ APP3    Correction sheet to JWA06  
INQ APP4    Open letter to Boris Johnson  
INQ APP5    Briefing Note Errata to Contextual Study of James Atkin  
INQ APP6    Service Charges Note of Stuart Garnett  
INQ APP7    References to height Johnson Matthey Planning Statement

INQ APP8 NPPF consultation document  
INQ APP9 Mr Doyle email  
INQ APP10 Extracts from Village News by Tom Fort  
INQ APP11 s106 Agreement  
INQ APP12 Nigel Appleton's Note  
INQ APP13 Central Bedfordshire Policy H3 Main Modifications  
INQ APP14 Pre commencement note  
INQ APP15 Verdin Judgment  
INQ APP16 Closing Submissions  
INQ APP17 Appellant's response to the Costs application

### **R6 Party Documents**

INQ PC1 Opening Statement  
INQ PC2 Closing Submissions

### **Interested Persons Documents**

IP1 Statement by Mr Tom Fort  
IP2 Statement by Ms Julia Whitelaw  
IP3 Statement by Dr Kim Emmerson  
IP4 Statement by Ms Georgina Forbes  
IP5 Statement by Mr Jonathan Berger  
IP6 Statement by Mrs Joanne Shanagher  
IP7 Statement by Dr Michael Stubbs



## Appeal Decision

Inquiry held on 6, 7, 8 and 9 February 2024

Site visit made on 6 February 2024

**by J P Longmuir BA(Hons) DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> April 2024

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**Appeal Ref: APP/M1710/W/23/3329928**

**Mount Royal, 46 Lymington Bottom, Four Marks, Alton, Hampshire GU34 5AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Ltd against East Hampshire District Council.
  - The application Ref 56082/004 is dated 24 March 2023.
  - The development proposed is outline planning application for demolition of 46 Lymington Bottom, Four Marks and the erection of up to 60 dwellings with vehicular access point, public open space, landscaping and sustainable drainage systems (SuDS). All matters reserved except for means.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of 46 Lymington Bottom, Four Marks and the erection of up to 60 dwellings with vehicular access point, public open space, landscaping and sustainable drainage systems (SuDS) in accordance with the terms of the application, Ref 56082/004, dated 24 March 2023, subject to the conditions in the conditions annexe.

### Preliminary Matters

2. The Council did not determine the application and gave putative reasons in their Statement of Case (SoC). The first reason foresees that the proposal due to its density, layout and siting would lead to a discordant form of development which would be harmful to the character of the area.
3. The second reason was the likelihood of the intended residents being car dependent for access to services and facilities. Subsequent to the SoC a Connectivity Study, Transport Note and Framework Travel Plan were submitted. The Council accepted that these demonstrated the site's accessibility to facilities and the potential for a safe access. I consider these issues latterly.
4. The lack of information on ecology was another concern of the Council. Subsequent to the SoC a revised and updated ecological survey was submitted to the Council, which addressed this concern. I consider this also latterly.

5. The lack of a submitted Section 106 agreement was the subject of the Council's final putative reason, which they suggested would jeopardise delivery of affordable housing, management of open space and highway/accessibility measures. Subsequently a legal agreement dated 29 February 2024 was submitted on 4 March 2024 covering affordable housing, sustainable travel, highway works, management of open space, an on-site play area, a contribution towards off site recreation and monitoring. The Council confirmed at the Inquiry that this would satisfy their objections in this respect.
6. The application was submitted in outline except for details of the access. A Framework Plan was submitted which shows the extent of open space and the potential development area. An indicative Master Plan was submitted, and I have only considered it as titled, illustrating one possible layout.
7. The December 2023 revisions to the National Planning Policy Framework (the Framework) were duly considered by both parties in their written evidence to the Inquiry. In addition, Planning Practice Guidance on Housing supply and delivery (Housing supply Ppg) was revised on 5 February 2024 and considered by all parties at the Inquiry.

### **Main Issue**

8. The single remaining concern from the Council's SoC is the effect of the proposal on the character and appearance of the area. I consider this is the main issue.

### **Reasons**

#### *The effect of the proposal on the character and appearance of the area*

9. Policy CP10 of The East Hampshire District Local Plan: Joint Core Strategy (CP), provides the spatial strategy for new housing. It allows for development within settlement policy boundaries where development maintains and enhances character and quality of life. The policy also allocates a minimum of 175 dwellings at Four Marks/South Medstead<sup>1</sup>.
10. In March 2023 the Council adopted the Housing Outside Settlement Boundaries SPD. This provides an elaboration of saved policies including CP10 on the existing spatial strategy for growth. Acceptable development outside settlement boundaries will depend upon a community need, reinforcement of settlement role and function, inability to accommodate within the settlement and has local support.
11. The appeal site, with the exception of the access, is outside the identified settlement policy boundary, where CP19 applies in the countryside and restricts development to that needed for farming, forestry and rural enterprises.
12. Policy CP20 seeks to conserve and enhance local distinctiveness, sense of place and tranquillity of the landscape.
13. Policy CP29 requires exemplary and high standard of design. All development is required to respect character, identity, and context. Relatedly the layout and design are required to contribute to local distinctiveness and sense of place.

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<sup>1</sup> The neighbouring area to the north of Four Marks

14. Policy CP28 requires new development to maintain, manage and enhance the network of new and existing Green Infrastructure (GI). New GI should be provided on site or via financial contributions.
15. The Medstead and Four Marks Neighbourhood Plan (NP) Policy 1 is similar to CP10 as development within the Settlement Policy Boundary is supported in principle. Policy 9 also supports the provision of GI.
16. The Local Plan is being reviewed and both parties suggested the emerging plan warrants only very limited weight<sup>2</sup> and no party made reference to it in evidence.
17. The appeal site is approximately 1.5km west of the South Downs National Park, but no party raised any concern about the impact of the proposal on its setting and I similarly find no harm in this respect.
18. The appeal site is within the southeastern part of the 'Hampshire Downs' national character area, whereby the settlement pattern is along lower river valleys or as dense string of nucleated villages on higher slopes.
19. The site is within 'the clay plateau' in the East Hampshire District landscape character assessment, where the countryside is gently elevated, and enclosure varies according to woodland cover and allows some open views. The settlement pattern is nucleated villages. The sub area 'Four Marks Clay Plateau' has undulating countryside, rolling landform to north, blocks of woodland and intact hedgerow network. Four Marks is noted as having a higher density than other settlements within the Clay Plateau.
20. The East Hampshire District Council Landscape Capacity study aims to retain tree cover, restore field boundaries, management of woodland blocks, and conserve the rural character of lanes. Capacity is suggested to be constrained by the rural and generally tranquil character, distinctive field patterns and rural setting of settlements. The site and environs are within a broad area shown as medium capacity to accommodate new development providing it has regard to the setting and form of the settlement.
21. The site is not within any of the identified Four Marks character areas within the Council's 'Neighbourhood Character Study' (NCA). The Council suggest it is akin to 'Telegraph Lane'. However, Telegraph Lane is a very elevated area, being on one of the highest points of the village, with significant tree cover and a sense of openness on one side (the east) towards the National Park. The Inquiry was not presented with clear evidence to demonstrate similarities with the appeal site environs. Moreover, as the appeal site is not identified as within any NCA area, I find the Study of limited benefit in this case, and consider it is more meaningful to focus on the site itself and its surroundings.
22. The appeal site is on the southern edge of Four Marks and behind residential frontages on two sides: Brislands Lane and Lymington Bottom. The existing houses on both are prominent as their front gardens are largely open with limited screening vegetation. The houses themselves obscure much of the appeal site so that it is only visible in glimpses through gaps in the building lines. Consequently, the proposed houses, confirmed as two storey, would not be prominent and in any event would be experienced in a residential setting.

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<sup>2</sup> Statement of Common Ground paragraph 2.3.3

23. The other two sides of the appeal site border open fields, which are publicly experienced in the distance as evident in the uncontested viewpoints within the LVIA. Consequently, the houses would be a very small component of these views and so would not be harmful.
24. The proposal would lead to development in depth behind two frontages, which the Council suggested would be incongruous. Whilst there is some discernible frontage/linearity to Brislands Lane, in the vicinity of the appeal site there is an adjacent area of development in depth, at Lapwing Way. Whilst Lymington Bottom has some linearity there was no evidence before the Inquiry to demonstrate why this has cultural or historic significance. Indeed, the Village Design Statement comments on the extent of twentieth century housing, which is also echoed in the subsequent NP in 2016, and I find that the shape of the village has been largely derived from twentieth century development. Moreover, the East Hampshire District landscape character assessment characterises the village as a nucleated settlement.
25. The new housing would be sited on a hillside whereas Lymington Bottom is flat as is Brislands Road in part. However, that is not reflective of much of the village and the NP comments on Four Marks being in an elevated position in the landscape<sup>3</sup>. Additionally, the site is within the Hampshire Downs national character area, whereby the settlement pattern is characterised as a dense string of nucleated villages on higher slopes. Consequently, I do not find that this hillside siting of development would be inappropriate.
26. The density<sup>4</sup> of the development across the appeal site has been agreed as 20.7 dwellings/hectare. Mr Griffiths on behalf of the Council argued this would be harmful and suggested it should be akin to Telegraph Lane in the NCA. However, as I have found above this is not a comparable character. Indeed, Lapwing Way is the nearest new significant development to the appeal site and a similar context which has a density of 25.5 dwellings/hectare<sup>5</sup>. I find the density of the proposal would be low.
27. The indicative master plan illustrates the potential to accommodate the scale of development. The Development Framework Plan shows the provision of 1.19ha<sup>6</sup> open space, concentrated around the boundaries of the site, which would soften the new houses. This space could be landscaped so that trees would attract attention and assert a rural character. Similarly, the submitted plans demonstrate tree lined avenues would be feasible which would soften the access road and the passing vehicles.
28. The proposal would lead to a new access into the site whereby potentially such movement and noise of vehicles could potentially reduce tranquillity. However, this would be slight as the proposal at most would only be likely to generate approximately 30 vehicle movements at the a.m. peak hour<sup>7</sup>, and Lymington Bottom and Brislands Lane attract considerably more flows of through traffic. The tree lined avenues above would also help the perception of tranquillity.
29. Concern is raised by local residents about the extent of recent development and the threat to the village character. The effects aside from connectivity,

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<sup>3</sup> Paragraph 1.7

<sup>4</sup> Mr Griffiths Rebuttal Proof of Evidence paragraph 7.3

<sup>5</sup> Appendix 7 Ms Gruner Proof of Evidence

<sup>6</sup> Appellant closing paragraph 48

<sup>7</sup> Paragraph 5.8 Transport Assessment

social cohesion and facilities, will largely depend upon the particular characteristics of the site, the proposal and the nature of the surroundings, which have influenced my conclusion below.

30. In conclusion there are few publicly clear views of the site, and the development would be likely to be experienced in glimpsed views amongst other houses on two sides. However, the proposal would lead to the loss of a grass field which would harm the countryside setting of the village. I therefore find that the proposal would lead to limited harm at the outset but after the new landscaping has become established and flourishing after 15 years, that harm would become very limited.
31. The proposal being development outside a settlement policy boundary and in the countryside would be contrary to Policy CP10 (and the Council's Housing Outside Settlement Boundaries SPD), CP19 and similarly NP Policy 1. It would be contrary to CP20 due to landscape harm.
32. The proposal would provide significant public open space thereby contributing to the GI in the area in accordance with Policy CP28 and empathise with the GI network shown in the Neighbourhood Plan and its Policy 9.
33. Policy CP29 requires exemplary standard of design and highly appealing visual appearance, creating a sense of place and local distinctiveness. The proposal includes open space, potentially tree lined avenues and retention of boundary vegetation, which meets these policy criteria. The Policy also requires sympathetic height and density which again are met by the proposal. However, CP29 also requires the respect of character, and in this regard the proposal would be in conflict as limited/very limited harm would arise; overall, the proposal would conflict with Policy CP29.

### **Other matters**

34. Local residents expressed concern about the potential of surface water run-off flooding nearby houses as the site is elevated. However, the proposal has a strategy agreed by the Lead Local Flood Authority, which involves capture and containment of water on site using a pond at the lower end and accompanying ditches. Additionally permeable surfaces are also envisaged to slow run off and help water quality by filtration. The precise details of the scheme including maintenance could be controlled by their submission and approval in a condition, whereas currently there is no surface water retention on site and run-off is unabated. I therefore find that suitable drainage to address the impact of this development can be provided.
35. Local residents also expressed concern about the road safety implications from the additional traffic resulting from the development and the effect on the nearby school. During my site visit I saw the school road frontages at the end of the school day and, whilst there was extensive on street parking, a diligent highway official stopped and controlled traffic at appropriate moments to allow safe crossing, which I was advised is an everyday operation. The surveyed speeds are generally around 35mph<sup>8</sup> and the proposal provides funding for traffic calming and pedestrian measures in the Section 106 agreement towards a County Council scheme. The access from the appeal site would have visibility to meet accepted national standards and has been positively assessed in a road

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<sup>8</sup> Paragraph 3.4 Transport Response Note



safety audit. The highway authority had no objection on safety grounds, and I concur.

36. Comments were made that the residents would be reliant upon car use for their everyday needs. However, on my site visit I observed primary school children walking or using scooters up to and beyond the appeal site. The nearest shops, which are wide ranging, are on the A31 and I walked along both connecting routes: Merlin Road/Blackberry Lane and along Lymington Bottom. Both routes have roadside pavements which are safely overlooked and, although there is an uphill element, the steepness would not be overly discouraging for many. I therefore find that walking would be feasible for most residents. There are also bus stops along the A31 with widespread services to surrounding towns. The well-kept recreation ground is also close by. Comments were made about the lack of employment in Four Marks but the nature of employment, and its associated travel if undertaken, is complex. In any event, the village has had recent development and indeed Lapwing Way is larger than this proposal, so 60 houses would not be inappropriate.
37. Concern was expressed about the potential impact on ecology. The submitted survey showed presence of bats, largely around the vegetation which is on the site boundaries. The submitted Framework Plan shows that the hedges and trees would be retained, and potential dark corridors can be maintained. The ecologist's report did not show any other protected species or habitat on the site. The proposal includes a significantly sized open space and tree lined avenues are envisaged, which together with the SUDs drainage would offer opportunities to diversify the habitat on the site: a potential biodiversity net gain has been demonstrated. The Council had no objection on ecological grounds at the Inquiry and I similarly concur.
38. Concern is made about whether the access for emergency services would be constrained by the adjacent houses. However, the development would have its own access, constructed to adoptable set standards, where sufficient width and manoeuvrability would be expected to be provided.
39. There is also concern about the possible impact on the living conditions of the occupants in the neighbouring homes. On my site visit I noted the relative heights of the neighbouring dwellings and the nature of the boundaries to their gardens. However, this is an outline proposal, and the precise details of the intended dwellings would have to be considered in the reserved matters. Moreover, there is scope for a detailed scheme to allow sufficient distance, orientation, siting, elevations and boundary screening to maintain the living conditions of the nearby residents.

### **Planning Obligations**

40. The 2010 CIL Community Infrastructure Levy Regulations (CIL) and paragraph 57 of the Framework provide the legal and policy tests for obligations. These tests require that planning obligations should only be sought where they are: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. This is also confirmed in the Planning practice guidance on Planning obligations (obligations Ppg).
41. The Council have provided evidence in a CIL compliance statement to show that the obligations include measures to mitigate the impacts of development

- and meet the costs of associated infrastructure. NP Policy 5 supports community facilities within the village.
42. The provision of 40% of the housing as affordable is necessary to ensure that the development provides for the needs of the community as a whole. This accords with Policies CP11 and CP13 and is an important consideration in the planning balance.
  43. Provision is made for a contribution towards the pavilion at the recreation ground, where the new residents would be readily able to enjoy recreation opportunities. The contribution is based on the number of houses and bedrooms so reasonably relates to need. Provision of an equipped play area on site is also needed for younger residents and is the subject of an obligation. Both of these measures would ensure that the new residents have the facilities to support their health and well-being as well as encouraging community mixing, in accordance with Policy CP18 and NP Policy 5 which specifically seeks improvements to the recreation ground.
  44. The agreement also makes provision for the submission of works to form the open space and provide for its management. This is necessary for the character and appearance of the area in accordance with CP28.
  45. A contribution of £228,500 is intended towards a new gateway feature to calm vehicle speeds, build outs along Lymington Bottom road and an informal crossing point, a linking footway to connect Lymington Bottom with adjacent roads to improve access to the primary school, a wayfinding strategy, and a new public right of way along Brislands Road towards the recreation facilities. Similarly, a £750 per dwelling contribution would be made towards a Travel Plan. Both of these obligations would support the promotion of non-private vehicular transport in the interests of limiting new traffic and the environmental implications, which accords with Policy CP31.
  46. The agreement also requires implementation of the site access works to ensure that safe access is provided without delay, which also accords with Policy CP31. Public access into the appeal site is also subject of an obligation to allow for the wide benefit of the open space and potential onward footpath connections in accordance with Policy CP28.
  47. Both County and District Councils requested monitoring fees, based on their own calculations for their particular responsibilities in each obligation within the agreement as outlined in their respective obligations guidance. The obligations Ppg<sup>9</sup> allows for monitoring costs if proportionate and reasonable. The obligations would have to be checked by the Council staff throughout the progress of the development and payments would need to be requested, received, and actioned. Both Councils have particular responsibilities for overseeing the obligations and the funding. I therefore find that the monitoring fees are necessary and reasonably related to the proposal.
  48. The above obligations are intended to mitigate the needs and impact of the intended occupants of up to 60 additional houses, to avoid placing undue pressure on the existing community facilities. The requirements were based on calculating the resulting new residents and the likely need for the particular facilities.

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<sup>9</sup> Paragraph 36

49. The CIL Compliance evidence sets out how each obligation would meet the tests in the CIL Regulations and the Framework. I am satisfied that each obligation above would meet the tests in that they are all necessary to make the development acceptable, directly related and fairly and reasonably related in kind and scale. Provision is also necessary to accord with the above Development Plan Policies.
50. I therefore confirm that the obligations contained in the section 106 agreement would be necessary and reasonable.

### **Housing Land Supply**

51. The yearly requirement of 464 dwellings is agreed by both parties. This is calculated using the standard method as the Local Plan is more than 5 years old. The Council has 112% in the latest Housing Delivery Test as at 2022 and therefore no additional buffer is required. Following publication of the December 2023 revisions to the Framework and 5 February 2024 revisions to the Housing supply Ppg both parties agree that the Council is required to provide 4 years supply as measured over the 5 year period. The parties also agree that the base date for the land supply calculation is 1 April 2023.
52. The disagreement between the parties is centred on the supply. The Council considers there is 4.74 years whereas the Appellant finds 3.59 years.
53. Both parties acknowledge that the NPPF glossary provides the definition of deliverable housing sites; this refers to the need for clear evidence.
54. Land east of Horndean has only outline planning permission. The Appellant advised that the Council's Environmental Health Officers are concerned about ventilation, their Policy team have concerns about the design of the scheme and the Highway Authority have objected as well as the Parish Council. A reserved matters scheme has been submitted but is undetermined. Therefore, the submitted evidence does not clearly show this is deliverable in the time period and 200 dwellings should be deleted from the supply.
55. The Mill Chase Academy site is allocated for development, whilst a permission was granted there are various conditions including pre-commencement, which have yet to be discharged. The Council suggest that this should be completed within 5 years, with a rate of 50 dwellings per year, however this is not clearly substantiated. Moreover, it does not compare with other large sites, where the build rate is typically 30 dwellings per year which appears realistic. Therefore 57 dwellings should be deleted from the supply.
56. The Alton Neighbourhood Plan allocates a site by the Manor House for 15 dwellings. Whilst this was granted permission on appeal in June 2023, at the agreed base date of 1 April 2023 this did not have permission and so would be erroneous to include: a firm base date is needed as permissions will contribute to supply and so can be added but equally completions will need to be accounted at the same time which lead to the supply being diminished. As a result, 15 dwellings should be deleted from the Council's supply.
57. Development on the Molson Coors site for flats has commenced but the precise stage of construction and future work was not presented to gauge its deliverability within the 5 year housing land delivery trajectory. There are also other variations in the trajectories, including Treloar Hospital which changed from 20 dwellings a year to 40.

58. The Council at the Inquiry suggested that 1,096 dwellings from large sites with detailed planning permission will contribute to land supply, the Appellant considers 892<sup>10</sup>. The difference is due to the assumption of build rates which is based on the estimated trajectory for each site.
59. The 892 dwellings delivery is based on the Council's position statement Appendix E. This states that 'a realistic phasing schedule has been maintained to ensure accuracy'. It is additionally stated that there has been 'regular contact' with representatives of those developments along with development management officers of the Council and that 'there is clear evidence for all sites counted'.
60. The Council at the Inquiry stated that the trajectory in their Appendix E was erroneous as it showed large sites being phased incorrectly to include only sites under construction rather not what was expected from them. Whilst the Council suggest that the 1,096 figure is valid, they confirmed at the Inquiry that at the present time no 'pro-forma' questions are sent to the particular house builders or any other written communications with developers, rather it is derived from officers opinion. There was no written evidence to support the trajectories. Moreover, the District Council do not do their own monitoring rather it is undertaken by the County Council which further distances their officers from understanding the sites constraints and the County Council did not submit evidence to the Inquiry on this matter.
61. Whilst the District Council offered reassurance about the genuine assumptions to the trajectories, there was no evidence from the housebuilders themselves, which is particularly important as they are in clear positions to understand their own site and its particular constraints. The Framework glossary refers to the need for clear evidence to demonstrate the deliverability, and accordingly I cannot conclusively conclude that any more than 892 dwellings are deliverable, and so 204 dwellings should be deleted from the supply.
62. The Ppg also states a windfall allowance may be justified. Paragraph 72 of the Framework confirms the need for compelling evidence and any allowance should be realistic having regard to strategic land availability assessment, historic windfall and expected future trends. The Council include 112 dwellings as a foreseen windfall allowance. However, this is in addition to small sites with planning permission. In the two years 2026/27 and 2027/28 this would indicate 102 dwellings which far surpasses the windfall completions to date which the Appellant quantifies at 58 dwellings per year<sup>11</sup>. I therefore find that there is not compelling evidence to assume greater than historic delivery and therefore 53 dwellings should be deleted from the supply.
63. The Council suggest total supply is 2,198 dwellings, whereas the Appellant suggests 1,664 thereby leading to the respective positions of 4.74 and 3.59 years supply. Taking the above deletions into account, I therefore find that the supply at 1 April 2023 is 3.59 years based on the particular evidence before this Inquiry.
64. The Local Plan review suggests the potential for improving supply in the future although at this particular stage it is not guaranteed when suitable and deliverable sites will be found. In addition, the Council will have to make

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<sup>10</sup> Paragraph 2.4 Statement of Common Ground on Housing Land Supply

<sup>11</sup> Mr Pycroft Proof of Evidence paragraphs 6.35 -6.37

further provision to contribute to the needs of the National Park. Moreover, since 2011 there has been a near consistent under delivery of housing completions in East Hampshire against the adopted housing requirement<sup>12</sup>. I therefore find that the future prospects are uncertain.

65. The Appellant advocated that meeting supply will entail making up the difference between 4 and 5 years supply sometime in the future, although the Council argued that as the supply is a rolling figure, completions (loss of supply) will be replaced by new permissions (additions to supply). The Ppg refers to an allowance to maintain a 4 year target for up to 2 years, but in any event, this will have to be assessed in the Local Plan review including its examination.

### **Development Plan and Planning Balance**

66. The proposal being development on a site largely outside the settlement policy boundary would conflict with Policies CP10 and CP19 of the Core Strategy and similarly would be contrary to NP Policy 1. As above I also have found conflict with CP20 in that the proposal would result in limited/very limited landscape harm.
67. I have also found that overall, there would be conflict with CP29: whilst the proposal has several notable design attributes it would cause limited/very limited harm to the countryside setting of the village.
68. The proposal would provide a significant area for public open space which would accord with Policy CP28 and NP Policy 9.
69. Considering the above collectively there is some accordance but also some conflict with the Development Plan policies. When taken as a whole, I find that the proposal would be contrary to the Development Plan.
70. As I found above the Local Planning Authority cannot demonstrate a four year housing land supply and in such circumstances paragraph 11(d) of the Framework is triggered. Paragraph 11(d) criterion ii requires consideration of whether any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
71. Paragraph 7 of the Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. In order to achieve this paragraph 8 of the Framework provides three overarching objectives: economic, social and environmental.
72. In terms of the economic objective the proposal would provide up to 60 houses which would have benefits from their construction: £7 million<sup>13</sup> cost is quoted by the Appellant and uncontested. The housing land supply shortfall is significant with uncertain prospects for improvement and paragraph 60 of the Framework confirms the Government's objective of significantly boosting the supply of homes.
73. The Appellant suggests the proposed dwellings would be completed in 1.7<sup>14</sup> years. I find this would appear to be marginally optimistic but not wholly

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<sup>12</sup> Mr Pycroft Proof of Evidence table 3

<sup>13</sup> Paragraph 9.4.7 Ms Fitzgerald Proof of Evidence

<sup>14</sup> Paragraph 9.4.7 Ms Fitzgerald Proof of Evidence

unrealistic bearing in mind the typical 30 dwellings a year build rate on other sites, as raised earlier. Indeed, the site is largely greenfield, and construction would not be expected to be constrained. Whilst demolition of the existing dwelling would be required at the outset, there is space to do such work. Additionally, it was explained at the Inquiry that marketing would be undertaken by a specialist team with contacts in hand and it is not the practice of the Appellant to withhold implementation of development sites. The reserved matters would have to be timely, and I conclude a good number of the dwellings would be likely to contribute to the housing land supply.

74. In terms of the social objective, the Framework refers to the need to provide sufficient number and range of homes to meet the needs for present and future generations. Bearing in mind the housing land supply shortfall there is a pressing need to increase supply from deliverable sites. The proposal would provide a range of new homes, in terms of size, form and tenure.
75. The affordable housing would also contribute to the social objective, particularly as 40% of the dwellings would be affordable which is a very significant proportion. Notably, the average cost of a home in East Hampshire in 2022 was 12.5 times the area average salary compared with 5.17 in 1997<sup>15</sup>. The Inspector's report examining the Local Plan in 2013 identifies an acute need for affordable housing and thereafter since 2019 the number of people on the housing register<sup>16</sup> has increased whilst affordable housing delivery has substantially fallen. The Council's HEDNA<sup>17</sup> records in 2022/23 a shortfall of 502 affordable homes in that year alone.
76. The affordable housing would contribute to the local need and support the community as a whole helping to retain villagers and the Parish Council submissions remark on the scarcity of 20-40 year olds. The proposal would provide an accepted standard of everyday living for those currently waiting for suitable homes. I therefore find that the housing provision would have substantial economic and social benefits.
77. The Section 106 obligations for funding towards the recreation ground pavilion would benefit existing as well as new residents which would contribute to the social objective. In addition, over £700,000 in CIL would be generated of which 25% would go to the Parish Council which would also benefit the area.
78. In terms of the environmental objective the proposal would lead to limited landscape harm becoming very limited over time. Conversely, the occupants of the dwellings would be close to facilities without reliance upon car use, thereby helping towards low carbon living as advocated within this criterion of paragraph 8. Also, the proposal would promote the sustainable access to facilities and provide traffic calming. Additionally, the proposal has been demonstrated to potentially improve biodiversity, which would be a benefit.
79. In the light of the above I therefore conclude that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development. The benefits of the proposed development and presumption in favour of

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<sup>15</sup> Paragraph 8.1.9 Ms Fitzgerald Proof of Evidence

<sup>16</sup> Figure 1 page 43 Ms Fitzgerald Proof of Evidence

<sup>17</sup> Housing and Economic Development Needs Assessment

sustainable development in the context of the paragraph 11(d) balance therefore lead me to conclude that the appeal should be approved not in accordance with the development plan as material considerations indicate a decision otherwise is appropriate.

### **Conditions**

80. Paragraph 56 of the Framework and the Planning practice guidance, Use of planning conditions (PPG), provide the tests for the imposition of conditions. There was considerable agreement on the wording of conditions. However, the Framework is clear that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning, and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the suggested conditions accordingly.
81. A condition is needed to confirm which details are the subject of reserved matters. Similarly, the conditions on timing and approved plans help provide clarity and certainty. Similarly, a condition is warranted to confirm the maximum number of dwellings as density has been a consideration.
82. Rather than the standard 3 years for the submission of application(s) for reserved matters, it was discussed at the Inquiry whether this should be reduced to 2 years. Whilst the Appellant indicated this may not be necessary it was acknowledged that it might help demonstrate the site's deliverability. I find this would encourage the proposal's implementation and support its contribution to the 5-year housing land supply requirement, in accordance with paragraph 77 of the Framework.
83. The two conditions on construction management are combined due to overlap in their requirements. The provisions are needed to safeguard the reasonable living conditions of local residents and highway safety. It is worded as pre-commencement to ensure that the required measures are in place from the outset.
84. A condition is needed to ensure that the visibility splays to the sides of the access are kept clear in the interests of safety. A condition requiring details of levels, drainage and lighting strategy of the new roads to be included in reserved matters would ensure that the roads can be considered comprehensively.
85. A condition to investigate and potentially remediate land contamination is suggested. The field has been used for agriculture in the past and it is possible that some chemicals may have been used. This is warranted as a precaution to ensure the health of the new residents.
86. The landscaping details are a reserved matter, but a condition is needed on the timing of planting and any replacement of lost specimens. A condition is also needed to ensure that tree works, and their protection, are undertaken to conserve important specimens. In addition, a condition is needed to promote biodiversity on the site and ensure a net gain.
87. A condition on approval of a detailed surface water drainage scheme is necessary so that additional water run-off from the new hard surfaces is accommodated on site to avoid exacerbating flooding. The condition requires submission of details in compliance with the strategy submitted as part of this

proposal. Similarly, conditions are warranted on maintenance of the above and use of porous surfaces.

88. The archaeological conditions would ensure that any significant remains are properly recorded. One is worded as pre-commencement out of necessity.

### **Conclusion**

89. I therefore conclude that the appeal should be allowed, subject to the conditions in the conditions annexe below and the Section 106 agreement.

*John Longmuir*

INSPECTOR

### **Appearances**

#### For the Council

Mr Scott Stemp Counsel, No 5 Chambers,

Mr Carl Griffiths BA(Hons) MPlan Planning Manager Capita

Mr Adam Harvey BA(Hons) MA MRTPI Planning Policy Manager East Hampshire

Ms Holly Drury BSc(Hons) MSc MCIHT Principal Transport Planner Hampshire CC

#### For the Appellant

Mr Christian Hawley, Counsel, No 5 Chambers,

Mr Clive Burbridge BSc(Hons) MSc MRTPI FCIHT FIHE CMILT, Director of Transportation, Icen Projects

Mr Colin Whittingham BSc(Hons) MSc MCIWEM C.WEM PIEMA, Director, RSK

Mr Ben Pycroft BA(Hons) Dip TP MRTPI, Director, Emery Planning

Ms Silke Gruner (BHons) CMLI, Director (Landscape), Icen Projects

Ms Kathryn Fitzgerald BA(Hons) MPlan MRTPI, Planning Manager, Gladman Developments Ltd

#### Interested parties

Mr Paul McAllister Four Marks Parish Council

Dr Arthur Barlow Chairman Fight for Four Marks

Dr David Aston Local resident

Mr Brian Timms Local resident

Mr Frank Mallony Local resident



### **Documents submitted during the Inquiry**

INQ1 Opening statement from the Appellant

INQ2 Opening statement from the Council

INQ3 East Hampshire Five Year Housing Land Supply Position Statement

INQ4 Addendum to above

INQ5 Hampshire County Council note on highway obligations

INQ6 Appellant: Note on flood risk

INQ7 Appellant: Transport Response Note to Residents Concerns

INQ8 Suggested conditions

INQ9 Draft legal agreement

INQ9 Council closing

INQ10 Appellant closing

### **Conditions annexe**

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission and the development shall be begun either before the expiration of two years from the date of this permission or before the expiration of two years from the date of approval of the last reserved matters to be approved whichever is the latter.
2. No development shall start on site until plans and particulars showing details relating to appearance, landscaping, layout, and scale of the development shall be submitted to, and approved by the Local Planning Authority. These details shall comprise the 'reserved matters' and shall be submitted within the time constraints referred to in Condition 1 above before any development is commenced.
3. The development shall be carried in accordance with the following approved plans: Location Plan: CSA/3402/117 Rev A, Site Access Drawing: 22-T082-01 Rev F and Framework Plan.
4. No more than 60 dwellings (Use class C3) shall be constructed on the site.
5. No development shall start on site until a construction method statement has been submitted to and approved in writing by the Planning Authority, which shall include:
  - a) A programme of and phasing of demolition and construction work;
  - b) The provision of long-term parking for all site operatives and visitors;
  - c) The arrangements for deliveries associated with all construction works;
  - d) Methods and phasing of construction works;
  - e) Access and egress for plant and machinery;
  - f) Protection of pedestrian routes during construction;
  - g) Location of temporary site buildings, compounds, construction material, and

plant storage areas;

h) Location of temporary site buildings, compounds, construction material, and storage areas;

i) Details of the methodology for ensuring dirt is not transferred onto the highway from the site (wheel washing), and onwards mitigation should this fail, such as the employment of mechanical road sweepers, and the subsequent refresh of street lining (as and when required) should this be damaged during the process;

j) A public communication strategy, including a complaints procedure;

k) Loading and unloading of plant and materials;

l) Storage of plant and materials used in constructing the development;

m) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

n) Measures to control the emission of dust and dirt during construction to include a site specific dust management plan; and

o) Measures to control noise and vibration during construction.

6. The approved lines of site splays as shown on drawing 22-T082-01 Rev F and 22-T082-07 shall be kept free of any obstruction exceeding 0.6m in height above the adjacent carriageway.

7. The details submitted in relation to the reserved matters stage shall include details to demonstrate an appropriate street design. These details shall include:

a) Street Lighting Strategy;

b) Drainage Strategy and Design details in relation to the site and any new street and footpath;

c) Final ground levels plan; and

d) Final materials plan;

The above matters should be implemented in accordance with the approved plans.

8. No above ground development shall commence until the reserved matters for landscaping details together with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority. All landscaping shall be carried in accordance with the approved scheme and the approved implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9. Prior to commencement of development activities, an ecological mitigation and management strategy (to include but not be restricted to: details of protection measures for retained habitat; details; details such as timings, locations and ongoing maintenance of mitigation, compensation and enhancement measures for ecological features) shall be submitted to, and agreed in writing by, the Local Planning Authority. Such details shall be in accordance with the mitigation, compensation and enhancement measures detailed within the Ecological Impact Assessment (EcIA) and Biodiversity Net Gain (BNG) Assessment (CSA, November 2023). Any such measures shall thereafter be implemented in strict accordance with the agreed details.

10. No development shall begin until a detailed surface water drainage scheme for the site, based on the principles within the Flood Risk Assessment, has been submitted and approved in writing by the Local Planning Authority. The submitted details shall include:

- a. A technical summary highlighting any changes to the design from that within the approved Flood Risk Assessment; and
- b. Winter groundwater monitoring and infiltration test results undertaken in accordance with BRE365 and providing a representative assessment of those locations where infiltration features are proposed
- c. Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
- d. Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
- e. Evidence that urban creep has been included within the calculations.
- f. Confirmation that sufficient water quality measures have been included to satisfy the methodology in the Ciria SuDS Manual C753.
- g. Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.

11. Details for the long term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings. The submitted details shall include:

- a. Maintenance schedules for each drainage feature type and ownership; and
- b. Details of protection measures.

12. The proposed hard surfaces shall either be made of porous materials or provision shall be made to direct run-off water from the hard surfaces to a permeable or porous surface within the site.

13. No development shall start on site, including demolition, until an Arboricultural Method Statement and Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

14. No development shall commence until the applicant has submitted, and the Local Planning Authority has approved in writing, a written scheme for the programme of archaeological evaluation within that Development Phase area. The programme of archaeological evaluation shall then be implemented in accordance with the agreed scheme.

15. No development shall commence until the applicant has submitted, and the Local Planning Authority has approved in writing a Written Scheme for recording all historic assets within that Development Phase area. The recording of all historic assets shall then be implemented in accordance with the agreed scheme.

16. Following completion of archaeological fieldwork within the Development site a report shall be produced in accordance with an approved programme including where appropriate post-excavation assessment, specialist analysis and reports,

publication and public engagement related to that Development Phase area and submitted to the Local Planning Authority.

17. No development shall commence on site until the following details have been submitted to and approved in writing by the Local Planning Authority:

- (a) a scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site;
- (b) a written report of the findings which includes, a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the Local Planning Authority and identified as unnecessary in the written report, an appraisal of remediation options and proposal of the preferred option(s) identified as appropriate for the type of contamination found on site;
- (c) and a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages. Site works and details submitted shall be in accordance with the approved scheme and undertaken by a competent person.

The above reports and site works should be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

18. Before any part of the development is first occupied or brought into use a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming the approved remediation scheme has been implemented in full shall both have been submitted to and approved in writing by the Local Planning Authority.

The verification report and completion certificate shall be submitted in accordance with the approved scheme and undertaken by a competent person in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

19. All development on a Development Phase shall be stopped immediately in the event that contamination not previously identified is found to be present on that Development Phase, and details of the contamination shall be reported immediately in writing to the Local Planning Authority. Development on that Development Phase shall not re-start until the following details have been submitted to and approved in writing by the Local Planning Authority, in consultation with the Environment Agency:

- (a) scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site.

(b) a written report of the findings which includes, a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the Local Planning Authority and identified as unnecessary in the written report, an appraisal of remediation options and proposal of the preferred option(s) identified as appropriate for the type of contamination found on site.

(c) a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages;

and before any part of the relevant Development Phase is occupied or used (unless otherwise first agreed in writing by the Local Planning Authority) a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming that the approved remediation scheme has been implemented in full in that Development Phase shall both have been submitted to and approved in writing by the Local Planning Authority.

The above site works, details and certification submitted shall be in accordance with the approved scheme and undertaken by a competent person in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

This condition shall apply to individual phases of development

*End of conditions*

## planningpolicy

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**From:** David Nash [REDACTED]  
**Sent:** 06 December 2022 12:59  
**To:** Karen Barnes; Debbie Turner  
**Cc:** Simon Packer  
**Subject:** RE: Land East of New Road, West Parley

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Karen and Debbie,

Bellway's latest projected annual completion details below – assumes legal completions (sales) start from December 23 with two sales outlets 24/25-27/28.

Kind regards

David

David Nash  
**Planning Manager**

[REDACTED]  
**Bellway Homes Limited (Wessex)**  
Embankment Way  
Castleman Business Centre  
Ringwood  
Hampshire  
BH24 1EU  
www.bellway.co.uk



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**From:** Karen Barnes [REDACTED]  
**Sent:** 24 November 2022 14:22  
**To:** David Nash [REDACTED]  
**Cc:** Simon Packer [REDACTED]  
**Subject:** FW: Land East of New Road, West Parley

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**ALERT:** This message originated outside of Bellway's network. **BE CAUTIOUS** before clicking any link or attachment.

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Hi David,

See the below request from Dorset for housing delivery updates for West Parley – are you able to complete please?

Thanks.

**Karen Barnes**  
Senior Planner

**Turley**

Mobile: [REDACTED]  
Office: [REDACTED]

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We support blended flexible working which means that co-owners will respond to you during their working hours and we appreciate that you will respond during

Our co-owners are contactable in the usual ways and we suggest using mobile numbers in the first instance.



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**From:** Debbie Turner [REDACTED]  
**Sent:** 24 November 2022 14:13  
**To:** Karen Barnes [REDACTED]  
**Subject:** RE: Land East of New Road, West Parley

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Dear Ms Hingley

I'm currently updating Dorset Council's housing land trajectory. With regard to Land East of New Road, West Parley, would you be able to update us on your anticipated timeframe for delivery?

I'm particularly interested in the next five financial years (2022/23 to 2026/27) but any further information relevant to delivery of the site would also be helpful. If possible, please could you fill in the table below.

	2022/23	2023/24	2024/25	2025/26	2026/27
Anticipated delivery of homes		14	82	80	80

If you have any questions regarding this matter, please let me know.

Kind regards

**Debbie Turner**  
**Senior Planning Policy Officer**  
**Economic Growth and Infrastructure**  
**Dorset Council**

[REDACTED]  
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# Planning application: 3/19/0019/RM

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<input type="checkbox"/>					
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<input type="checkbox"/>	<a href="#">27/12/2018 - SUPERSEDED Plans and Elevations Plot 22-23</a> (unknown size)				
<input type="checkbox"/>	<a href="#">27/12/2018 - SUPERSEDED Site Plan South Section</a> (unknown size)				
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<input type="checkbox"/>	<a href="#">27/12/2018 - Application Form - Without Personal Data</a> (unknown size)				
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<input type="checkbox"/>	<a href="#">27/12/2018 - Plans and elevations Plot 13</a> (unknown size)				
<input type="checkbox"/>	<a href="#">27/12/2018 - Plans and elevations Plot 29</a> (unknown size)				
<input type="checkbox"/>	<a href="#">27/12/2018 - SUPERSEDED Site Sections Indicating Retaining Walls and raised patios</a> (unknown size)				



**Documents**

- [27/12/2018 - Pland and Elevations Plot 8](#) (unknown size)
- [27/12/2018 - Plans and Elevations Plot 15-16](#) (unknown size)
- [27/12/2018 - Plans and Elevations Plot 24-25](#) (unknown size)
- [27/12/2018 - Plans and Elevations Plot 26-27](#) (unknown size)
- [27/12/2018 - Block and Location Plan](#) (unknown size)
- [27/12/2018 - Drainage documentation](#) (unknown size)
- [27/12/2018 - Drainage documentation](#) (unknown size)
- [27/12/2018 - Drainage documentation](#) (unknown size)
- [27/12/2018 - Construction Method Statement](#) (unknown size)
- [27/12/2018 - Sustainability appraisal](#) (unknown size)
- [27/12/2018 - Landscaping details](#) (unknown size)
- [27/12/2018 - SUPERSEDED Landscaping details](#) (unknown size)
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- [31/01/2019 - construction method statement](#) (unknown size)
- [01/02/2019 - Planning Constraints](#) (unknown size)
- [05/02/2019 - CED Tree Team Comments](#) (unknown size)
- [05/02/2019 - CED Tree Team comments](#) (unknown size)
- [07/02/2019 - Dorset NET Response](#) (unknown size)
- [08/02/2019 - Site Notice](#) (unknown size)
- [11/02/2019 - Airport Safeguarding Response](#) (unknown size)
- [11/02/2019 - Wessex Water Map](#) (unknown size)
- [11/02/2019 - Wessex Water Consultee Response](#) (unknown size)
- [14/02/2019 - Verwood Town Council Response](#) (unknown size)
- [19/02/2019 - Dorset County Council Highways comments](#) (unknown size)

**Documents**

- [19/02/2019 - Tree Root Protection Plan rev. B](#) (unknown size)
- [19/02/2019 - Dorset Wildlife Trust comments](#) (unknown size)
- [19/02/2019 - Natural England Response](#) (unknown size)
- [20/02/2019 - Richardson L 3 Summer Fields Objection](#) (unknown size)
- [21/02/2019 - Charalambakis 4 Summer Fields Objection](#) (unknown size)
- [22/02/2019 - Tree Protection road reinforcement technical information](#) (unknown size)
- [22/02/2019 - CED Tree Team Comments](#) (unknown size)
- [24/02/2019 - SUPERSEDED Affordable Housing Allocation Plan](#) (unknown size)
- [25/02/2019 - DCC LLFA Response](#) (unknown size)
- [25/02/2019 - Environment Agency comments](#) (unknown size)
- [25/02/2019 - East Dorset Environment Partnership comments](#) (unknown size)
- [25/02/2019 - Design and Access Statement 3/13/0674/OUT](#) (unknown size)
- [28/02/2019 - Service Plan](#) (unknown size)
- [01/03/2019 - Dorset NET Response](#) (unknown size)
- [12/03/2019 - CED Conservation Comments](#) (unknown size)
- [13/03/2019 - SUPERSEDED Tree Protection Plan](#) (unknown size)
- [15/03/2019 - CED Tree Response](#) (unknown size)
- [19/03/2019 - DCC Highways Response](#) (unknown size)
- [19/03/2019 - Revised Drainage Plan](#) (unknown size)
- [21/03/2019 - SUPERSEDED Updated Ecology Report](#) (unknown size)
- [21/03/2019 - SUPERSEDED Updated BMEP](#) (unknown size)
- [21/03/2019 - SUPERSEDED Revised Arb Report march 2019](#) (unknown size)
- [27/03/2019 - Dorset Waste Partnership Response](#) (unknown size)
- [04/04/2019 - REVISED Site Plan South Section rev. B](#) (unknown size)
- [04/04/2019 - REVISED Plans and elevations Plot 1 rev. A](#) (unknown size)
- [04/04/2019 - REVISED Plans and elevation Plots 22-23 rev. A](#) (unknown size)
- [04/04/2019 - REVISED Street Scenes rev. A](#) (unknown size)
- [04/04/2019 - REVISED Site Sections Indicating Retaining Walls and raised patios rev. A](#) (unknown size)

**Documents**

- [04/04/2019 - REVISED Affordable Housing Allocation Plan rev. A](#) (unknown size)
- [04/04/2019 - Plans and elevations Garages & Stores](#) (unknown size)
- [29/04/2019 - SUPERSEDED Landscape Details Sheet 1 of 2 rev. C](#) (unknown size)
- [29/04/2019 - SUPERSEDED Landscape Details Sheet 2 of 2 rev. B](#) (unknown size)
- [29/04/2019 - REVISED Site Plan North Section rev. C](#) (unknown size)
- [29/04/2019 - REVISED Full Site Plan rev. C](#) (unknown size)
- [29/04/2019 - REVISED Plans and elevations Plot 4 rev. A](#) (unknown size)
- [29/04/2019 - REVISED Plans and elevations Plot 28.pdf rev. A](#) (unknown size)
- [29/04/2019 - REVISED Plans and elevations Plots - 17 - 21 rev. A](#) (unknown size)
- [29/04/2019 - REVISED Tree Protection Plan](#) (unknown size)
- [03/05/2019 - REVISED Arb Report April 2019](#) (unknown size)
- [08/05/2019 - Chris Edwards - Bournemouth Airport Safeguarding](#) (unknown size)
- [08/05/2019 - REVISED Landscape Details Sheet 2 of 2 rev. C](#) (unknown size)
- [08/05/2019 - REVISED Landscape Details Sheet 1 of 2 rev. D](#) (unknown size)
- [10/05/2019 - DC Floor Risk Management Team Response](#) (unknown size)
- [14/05/2019 - Wessex Water Response](#) (unknown size)
- [16/05/2019 - Dorset NET Response](#) (unknown size)
- [16/05/2019 - Verwood Town Council Response](#) (unknown size)
- [16/05/2019 - EDEP Response](#) (unknown size)
- [17/05/2019 - REVISED Updated Ecology Report](#) (unknown size)
- [17/05/2019 - REVISED Updated BMEP](#) (unknown size)
- [20/05/2019 - Natural England - Comments](#) (unknown size)
- [20/05/2019 - DC Tree Response](#) (unknown size)
- [03/06/2019 - BMEP Approval Land Howe Lane BH31 6JF REM UPDATED 31.05.19.pdf](#) (unknown size)
- [03/06/2019 - Land Howe Lane Verwood BMEP Mar 2019 V2 NET SIGNED.pdf](#) (unknown size)
- [05/06/2019 - Scheme of Delegation Form](#) (unknown size)
- [06/06/2019 - DC Engineers comments](#) (unknown size)
- [18/06/2019 - REVISED Landscape Proposals PLOT1-3 rev. C](#) (unknown size)

**Documents**

- [04/07/2019 - Officer Report](#) (unknown size)
- [04/07/2019 - Decision Notice](#) (unknown size)
- [15/02/2021 - DIS - C3, C5, C6, C9, C15, C16 - Application form redacted](#) (unknown size)
- [22/07/2021 - DIS - C5, C6 - BS5837 Tree Report in relation to design, demilition and construction](#) (unknown size)
- [22/07/2021 - DIS - C5, C6 - Plan No. 202 P1 - Proposed Site Plans showing Indicative Attenuation Layout](#) (unknown size)
- [22/07/2021 - DIS - C5,C6 - Arboricultural Method Statement](#) (unknown size)
- [04/08/2021 - DIS - C9 - footpath construction](#) (unknown size)
- [04/08/2021 - DIS - C15 - Nearside egde specificaiton](#) (unknown size)
- [04/08/2021 - DIS - C16 - proposed levels](#) (unknown size)
- [24/12/2021 - DIS C 3 5 6 9 15 16 Response](#) (unknown size)

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**Planning Services**

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) 01305 838336- **Development Management**

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8 [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

Mr Nigel Jarvis

Mr Nigel Jarvis

[REDACTED]

[REDACTED]

[REDACTED]

**Date:** 4 May 2023

**Ref:** P/RES/2021/02802

**Case Officer:** Emma Thornett

**Team:** Western and Southern

) [REDACTED]

\* [REDACTED]

Dear

**Application No:** P/RES/2021/02802

**Application Type:** Reserved Matters

**Location:** Land South of Louviers Road Gentian Way Weymouth DT3  
6FH

**Description:** Application for approval of reserved matters for appearance &  
landscaping in relation to outline approval WP/15/00341/OUT.

With reference to the above application, I can confirm that this application has now been formally withdrawn with effect from 3 May 2023.

If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely

**Emma Thornett**  
**Senior Planning Officer**



## Planning Services

County Hall, Colliton Park  
Dorchester, Dorset, DT1 1XJ

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Betterment Properties  
(Weymouth) Ltd  
Unit 1, 2 Curtis Way  
Weymouth  
DT4 0TR

**Date:** 20 June 2024

**Ref:** P/MPO/2023/03270

**Case Officer:** James Lytton-Trevers

**Team:** Western and Southern



## Planning Decision Notice

### Modify Or Discharge A Planning Obligation

Town and Country Planning Act 1990

Town and Country Planning

(Development Management Procedure) (England) Order 2015

---

**Application Number:** P/MPO/2023/03270

**Location:** Phases 2-4 Curtis Fields Land South of Chickerell Road  
Weymouth DT4 0TR

**Description:** Modify section 106 agreement dated 17 August 2016 -  
Relating to Phases 2-4 at Curtis Fields (WP/14/00777/OUT) -  
to modify a portion of the affordable housing requirements from  
30% to 26.24% following receipt of independent viability report  
(revised description)

---

Dorset Council **refuses** the request to Modify or Discharge a Planning Obligation as detailed in the application.

---

### This permission is refused for the following reasons:

1. Having regard to Policy HOUS1 (iii) of the West Dorset, Weymouth & Portland Local Plan (2015) and the information submitted with the application, it is considered that requiring 30% affordable housing and financial contributions in accordance with the extant permission and legal agreement would not make the development economically unviable and hence the proposal is contrary to Policy HOUS1 of the adopted local plan.

---

**Decision Date:** 20 June 2024



*Mike Garrity*  
**Head of Planning**  
**Economic Growth and Infrastructure**

---

## **Planning Decision Notes**

### **Power to refuse planning permission**

This decision is issued by Dorset Council as the local planning authority set out by the Town and Country Planning Act 1990 (as amended) and the Town and Country (Development Management Procedure) (England) Order 2015 .

### **Site Notice**

If you have not already done so I would be grateful if you could take down and dispose of this application's site notice if it is still being displayed outside the property.

### **Appeals**

If you disagree with our planning decision or the attached conditions, then you can appeal to the Secretary of State (Planning Inspectorate) under section 78 (1) of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within Six Months of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against our enforcement notice, then you must do so within 28 days of the date of service of the enforcement notice.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

An appeal must be made by the applicant. Forms are available on-line at Appeals - Appeals - Planning Portal

The Planning Inspectorate can allow a longer period for giving notice of an appeal, but they will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Planning Inspectorate need not consider an appeal if it seems that we could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

The Planning Inspectorate does not normally refuse to consider appeals solely because we based our decision on a direction given by them.

For further information about making can be found at [www.planningportal.co.uk](http://www.planningportal.co.uk).

### **Southern Gas Networks – Overbuild Advisory**

There are several risks created by building over gas mains and services. If you plan to dig, or carry out building work to a property, site or public highway you should check your proposal against the information held at <https://www.linesearchbeforeudig.co.uk/> for any underground services.

### **Purchase Notices**

If either the Council or the Planning Inspectorate refuses permission to develop land or grants it subject to conditions, the owner, in exceptional circumstances, may claim that neither the land can be put to a reasonably beneficial use in its existing state, nor can the land be rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.



If this happens, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

South Walks House  
South Walks Road  
Dorchester  
DT1 1UZ

Tel: (01305) 838000  
Website:  
www.dorsetforyou.com



Miss McGregor  
Peter Brett Associates  
16 Brewhouse Yard  
London  
London  
EC1V 4LJ

Development Management  
Head of Planning (Development Management and Building  
Control)  
Jean Marshall

15 November 2016

**Town and Country Planning Act 1990  
Town and Country Planning (Development Management Procedure) (England) Order  
2015**

**GRANT OF PLANNING PERMISSION**

This permission does not carry any approval or consent which may be required under any enactment, bylaw, order or regulation (eg in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.

**Application No:** WP/14/01064/FUL

**Location of Proposal:** BREWERS QUAY, HOPE SQUARE, WEYMOUTH, DT4 8TR

**Description of Proposal:** Alterations and conversion of existing building to provide a museum; wet weather/ exhibition space and cultural experience space; 4 Class A1/A3 units; 35 Class C3 residential units and other associated works

In pursuance of their power under the above mentioned Act, Weymouth and Portland Borough Council Grant Planning Permission for the proposal described above.

Subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing No 1662-LP-01 B received on 17/12/2014  
Proposed Basement Plan - Drawing No 1662-P-04 received on 17/12/2014  
Proposed Ground Floor Plan - Drawing No 1662-P-05 received on 17/12/2014  
Proposed First Floor Plan - Drawing No 1662-P-06 received on 17/12/2014  
Proposed North Elevation - Drawing No 1662-P-24 received on 17/12/2014  
Proposed Mews Elevation 3 - Drawing No 1662-P-28 received on 17/12/2014  
Ground Floor Plan Coopers Building - Drawing No 1662-P-40 received on 17/12/2014  
1662-P-03A Revised Roof Plan and Site Layout (AMENDED) received on 25/03/2015  
1662-P-07A Revised Proposed Second Floor Plan (AMENDED) received on 25/03/2015  
1662-P-08A Proposed Third Floor Plan (AMENDED) received on 25/03/2015  
1662-P-10 A Revised Proposed Fifth Floor Plan (AMENDED) received on 25/03/2015  
1662-P-21 A Revised Existing and Proposed West Elevation (AMENDED) received on 25/03/2015  
1662-P-22 A Revised Existing and Proposed South Elevation (AMENDED) received on 25/03/2015  
1662-P-23 A Revised East Elevations (AMENDED) received on 25/03/2015  
1662-P-26 A Revised Proposed Mews Elevation 1 (AMENDED) received on 25/03/2015  
1662-P-27 A Revised Proposed Mews Elevation 2 (AMENDED) received on 25/03/2015  
1662-P-29 A Revised Proposed Elevations (AMENDED) received on 25/03/2015  
1662-P-30 A Revised Proposed Elevations (AMENDED) received on 25/03/2015  
1662-P-41 A Revised Proposed Sections (AMENDED) received on 25/03/2015  
1662-P-42 A Revised Sections (AMENDED) received on 25/03/2015  
1662-P-09 A Revised Proposed Fourth Floor Plan (AMENDED) received on 25/03/2015

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Before the commencement of development, unless otherwise agreed by the Local Planning Authority, details and samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority and the development shall be completed in accordance with these details.

Reason: To ensure that the external appearance of the completed development is sympathetic to the listed status of this building and its locality, which is designated as a Conservation Area.

4. The mortar mix to be used shall be agreed with the Local Planning Authority before work commences. The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that this aspect of the work is in sympathy with the character of the building.

5. Detailed drawings and specifications showing the design and construction of external doors and windows shall be provided to the Local Planning Authority and approved in writing prior to commencement of development, and the work shall be completed in accordance with the approved detail.

Reason: In order to ensure that the detailing is of sufficiently high standard.

6. The development hereby permitted shall not be occupied or utilised until the parking shown the approved plans have been provided. Thereafter, these areas shall be maintained, kept free from obstruction and available for the purposes specified.

Reason: In the interests of road safety.

7. Prior to the occupation of the development hereby approved, full details of a Travel Strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall show measures to reduce the need to travel to and from the site by private transport and the timing of such measures. The strategy shall be implemented in accordance with the details as approved.

Reason: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

8. No dwelling shall be occupied until secure space has been laid out within the site in accordance with details submitted to and approved by the Local Planning Authority for at least 70 bicycles to be parked, to include provision for both residents and visitors.

Reason: To ensure the provision of adequate cycle parking.

9. Development shall not commence until details of the continuous flood defence wall, and flood resistant construction techniques and resilient materials, in accordance with the Flood Risk Assessment (Peter Brett Associates LLP, Ref: 29205/4001, dated December 2014), has been submitted to and approved in writing by the Local Planning Authority. The building shall be re-developed in accordance with the approved details.

Reason: To reduce the consequences of flooding and facilitate recovery from

the effects of flooding as soon as possible.

10. A flood plan (Flood Emergency/Evacuation Plan) shall be prepared and submitted to the Local Planning Authority for their approval prior to the occupation of the building. Flood warning and emergency evacuation procedure notices shall be erected in numbers, positions and with wording all to be agreed with the Local Planning Authority. Thereafter the notices shall be kept legible and clear of obstruction.

Reason: To ensure that owners and occupiers of the premises are aware that the area is at risk of flooding, and the emergency evacuation procedure and route(s) to be used during flood events.

11. Before the commencement of development, the developer shall submit for the written approval of the Local Planning Authority: (a) a 'desk study' report documenting the site history; (b) a site investigation report documenting the ground conditions of the site, and incorporating a 'conceptual model' of all potential pollutant linkages, detailing the identified sources, pathways and receptors and basis of risk assessment; (c) a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed; (d) a detailed phasing scheme for the development and remedial works. The remediation scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented before the development is occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall provide written confirmation that all works were completed in accordance with the agreed details.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised.

12. Before the commencement of development, a further investigation and risk assessment shall be completed in accordance with a scheme to be submitted to and approved by the Local Planning Authority to assess the nature and extent of any contamination on the site. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to human health, property (existing or proposed, including buildings, crops, livestock, pets, woodland and service lines and pipes), adjoining land, groundwaters and surface waters, ecological systems, archeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. Before the commencement of development, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14. Before the commencement of development, the approved remediation scheme shall be carried out unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development

can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16. The applicant shall secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant to, and approved by the Planning Authority. This scheme shall cover archaeological fieldwork together with post-excavation work and publication of the results.

Reason: The area is of archaeological importance and the archaeology should be preserved by record.

17. Prior to the commencement of the development, unless otherwise agreed in writing by the Local Planning Authority, detailed proposals for the phasing of the development, off street car parking for contractors, the delivery of materials and any requirements for external scaffolding/cranes and material deliveries, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be completed in accordance with the agreed scheme.

Reason: In the interests of highway safety, the amenities of the locality and the vitality and vibrancy of this important part of the town

18. The floor area of any retail (Class A1) unit hereby approved shall not exceed 333.9 m<sup>2</sup> gross and the layout of retail (Class A1) and restaurant/café (Class A3) units shall remain as detailed on the ground floor layout plan.

Reason: To protect the specialist nature of the development with regard to its important tourist location and relationship to the town centre.

19. Prior to the commencement of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority, detailed proposals for all hard and soft landscaping works shall be submitted to and be approved by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.

Reason: Landscaping is considered essential in order to preserve and enhance the visual amenities of the locality.

## **Informative Notes**

### **National Planning Policy Framework paragraphs 186 &187 Statement**

Environment Agency Informative

The development should include water efficient systems and fittings. These should include

dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered. Applicants are advised to refer to the following for further guidance  
<http://www.environment-agency.gov.uk/homeandleisure/beinggreen/118941.aspx>  
<http://www.savewatersavemoney.co.uk/>

Environment Agency Informative  
Sustainable Construction

Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced.

Environment Agency Informative

Pollution Prevention During Construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Environment Agency Informative

Waste Management

Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction. If any controlled waste is to be removed off site, then the site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on our website

<https://www.gov.uk/how-to-classify-different-types-of-waste>

Community Protection Informative

Due to the age of the building asbestos may be present. You are advised that the Environment Agency and Health and Safety Executive are made aware of this application and proposed demolition and any formal guidance produced by either enforcing body is referred to during the demolition phase of the development.

In accordance with paragraphs 186 and 187 of the NPPF the council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

The applicant was provided with pre-application advice.

This permission is subject to an agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated 11th November 2016.

**Signed:**

Jean Marshall



**HEAD OF PLANNING**

PLEASE REFER TO NOTES ENCLOSED



**Development Management**  
PO Box 9148  
Christchurch  
BH23 9JQ

## **Town and Country Planning Act 1990**

### **Town and Country Planning (Development Management Procedure) (England) Order 2015**

Mr Giles Moir  
Chapman Lily Planning Ltd  
Unit 5, Designer House  
Sandford Lane  
Wareham  
BH20 4DY

#### **Grant of Full Planning Permission**

Application reference no: **3/17/3058/FUL**

This permission does not carry any approval or consent which may be required under any enactment, by-law, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc.) other than Section 57 of the *Town and Country Planning Act 1990*.

*East Dorset District Council* in pursuance of powers under the above-mentioned Act hereby **PERMITS**:

**Demolition of the existing extensions and erection of 7, 2 bedroom, properties  
with associated parking and access**

**at 20-23 East Street WIMBORNE MINSTER BH21 1DT**

in accordance with the approved plans and subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

8757/200 rev D- Site, Block & Location Plan  
8757/201 rev A- Proposed Floor Plans & Elevations Plots 1 & 2  
8757/202 rev A- Proposed Floor Plans & Elevations Plots 3 - 5  
8757/203 rev A - Proposed Floor Plans & Elevations Plots 6 & 7  
8757/204 rev A - Street Scene & Site Section A-A  
TAP - 500 - Foul Water Sewer Diversion

## 5588/2 rev B - Measured Building Survey

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the details accompanying this application, details and samples of all external facing and roofing materials shall be made available for assessment on site and approved in writing by the Local Planning Authority before any on-site work commences. This shall include the material for the steps and any rendered surface. The dwellings facing Park Lane shall be in clay facing brick. All works shall be undertaken strictly in accordance with the details as approved.

Reason: This information is required prior to commencement of development to ensure satisfactory visual relationship of the new development to the existing surroundings.

4. No development shall take place until full details of both hard and soft landscape works and a timetable for their implementation have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The landscaping details shall include proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefacts and structures (eg. furniture, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.). Any plants found damaged, dead or dying in the first five years shall be replaced.

Reason: This information is required prior to commencement of development as the long term establishment, maintenance and landscaping of the site is necessary to preserve the amenity of the locality. This decision has also had regard to Policies HE1 and HE2 of the Local Plan and Government Guidance contained in the National Planning Policy Framework

5. Before planning permission is implemented, other than in respect of demolition works, a scheme shall be submitted to the Local Planning Authority to deal with potential contamination of the site. Such scheme shall include the following actions and reports, which must be carried out by appropriately qualified consultant(s):

(a) A Site History Report, which shall, by reference to site layout drawings of an appropriate scale, include a history of the site, past land uses, current and historical maps, site plans, locations of any known spillages or pollution incidents and the location and condition of old tanks, pits, fuel or chemical storage areas. (Please note it is the responsibility of the landowner, developer or consultant to provide and disclose all relevant information).

(b) Before any works commence on site, should (in the opinion of the Local Planning Authority) remedial works be required, consultants appointed to carry out intrusive site investigation work must submit their sampling strategy to the Local Planning Authority for approval.

(c) A Site Investigation Report (based on the information contained in the site history report), will be required where the appointed consultant and/or the Local Planning Authority anticipate that contamination may be present in, on or near the proposed development area. The site investigation report must characterise and identify the extent of contamination, identify hazard sources, pathways and receptors and develop a conceptual model of the site for purposes of risk assessment.

(d) Where contamination is found which (in the opinion of the Local Planning Authority) requires remediation, a detailed Remediation Statement, including effective measures to avoid risk to future and neighbouring occupiers, the water environment and any other sensitive receptors when the site is developed, shall be submitted to the Local Planning Authority. Any remediation scheme(s) or part(s) thereof recommended in the remediation statement, shall require approval to be obtained in writing from the Local Planning Authority.

(e) Development shall only take place in accordance with the approved Remediation Statement.

(f) If, during works on site, contamination is encountered which has not previously been identified, the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority. Any such scheme shall require approval to be obtained in writing from the Local Planning Authority.

(g) On completion of all the works detailed in the agreed Remediation Statement, a Remediation Completion Report must then be completed by the environmental consultant(s) who carried out the remediation work confirming that they have supervised all the agreed remediation actions. This report is to be submitted to the planning authority confirming that all works as specified and agreed have been carried out to the point of completion. Until the Planning Authority is in receipt of said Remediation Completion Report and is satisfied with the contents of the statement and the standard of work completed, it will be viewed that the remediation of the site is incomplete.

Reason: To preserve the amenity of future occupiers.

6. Following the demolition of the structures necessary for the implementation of this permission a schedule for remedial works to the rear elevation of the frontage buildings shall be submitted to the Local Planning Authority and approved in writing prior to the commencement of construction of the dwellings hereby approved.

Reason: To ensure the satisfactory appearance of the existing site prior to the construction of the new dwellings.

7. Before the development hereby approved is occupied or utilised the turning and parking shown on Drawing Number 8757/200 D must have been constructed. Thereafter, these areas, must be permanently maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.

8. Prior to the first occupation of the dwellings, details of storage for refuse and recycling, together with the access to it including details of a private refuse collection solution, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Furthermore unless agreed in writing with the Local Planning Authority the approved private refuse collection solution shall be retained in perpetuity.

Reason: In the interests of highway safety, visual amenity and the amenities of future occupiers of the development.

9. No development shall take place until a foul water drainage scheme and a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include appropriate arrangements for the discharge of foul water. The approved drainage scheme shall be completed in accordance with the approved details.

Reason: This information is required prior to commencement to ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of flooding.

10. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority.

Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: This information is required prior to occupation of the development hereby approved to avoid surface water flooding.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting, or modifying that Order), no further windows, dormer windows, or doors (other

than those expressly authorised by this permission) shall be constructed above ground floor ceiling joist level in the northern elevation of Unit 3, the southern elevation of Units 5 and 6 and the northern elevation of Unit 7 as shown on Drawing 8757/200 (such expression to include the roof and wall) of the dwellings hereby permitted.

Reason: To avoid loss of privacy to adjoining properties and to accord with Policy HE2 of the Core Strategy.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactment thereof no extensions to the dwellings hereby approved shall be constructed under Schedule 2, Part 1, Classes A and B without express planning permission first being obtained.

Reason: To avoid overdevelopment of the site and harm to the Conservation Area and neighbouring amenity

The following Informative Notes are drawn to the Applicant's attention:

1. This grant of permission is to be read in conjunction with the Legal Agreement dated 11th May 2018 entered into between East Dorset District Council and David Francis Scott.
2. In view of the potential flood risks in this locality, the developer is advised to give consideration to the use of flood resilient construction practices and materials in the design and build phase. Choice of materials and simple design modifications can make the development more resistant to flooding in the first place, or limit the damage and reduce rehabilitation time in the event of future inundation.  
Guidance is available within the Department for Communities and Local Government publication 'Improving the Flood Performance of New Buildings – Flood Resilient Construction, May 2007' available at:-  
<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>
3. The National Planning Policy Framework Planning Practice Guidance states that Access considerations should include the voluntary and free movement of people during a 'design flood', as well as the potential for evacuation before a more extreme flood. Access and egress must be designed to be operational for changing circumstances over the lifetime of the development.

The Council's Emergency Planners should be consulted in relation to flood emergency response and evacuation arrangements for the site. It is recommended that the applicant prepare a Flood Warning and Evacuation Plan for future occupants. The Environment Agency does not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as they do not carry out these roles during a flood event. Their involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users

registered for this service further information can be found at:  
<https://fwd.environment-agency.gov.uk/app/olr/home>

4. Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced.

Water efficiency measures should be incorporated into this scheme. This conserves water for the natural environment and allows cost savings for future occupants. The development should include water efficient systems and fittings such as: dual-flush toilets; water-saving taps; water butts; showers and baths. Greywater recycling and rainwater harvesting should also be considered.

5. Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

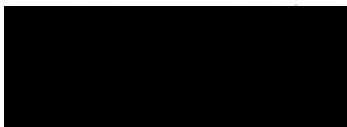
Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. It is recommended that the applicant refers to the Pollution Prevention Guidelines, which can be found at:  
<https://www.gov.uk/guidance/pollution-prevention-for-businesses>

6. Should this proposal be granted planning permission, then in accordance with the waste hierarchy, the Environment Agency advises the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction.

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on the website <https://www.gov.uk/how-to-classify-different-types-of-waste>

The applicant's attention is drawn to the need to comply with all conditions imposed on this permission. There may be conditions that require the submission of additional details and these may be needed before the commencement of the approved development. Failure to comply with all conditions may result in the Council serving a breach of condition notice against which there is no right of appeal. Note that legislation requires the payment of a fee in respect of requests to discharge conditions.

Signed



Head of Planning

Decision Date: 16 May 2018

## NOTES TO THE APPLICANT

### **Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012)**

In accordance with the above, East Dorset District Council has worked with the applicant in a positive and proactive way by offering to engage in pre-application discussions and, where possible, by enabling problems to be resolved within applications in accordance with its Development Management Charter. Where the applicant chooses to engage in pre-application discussions, these will be referred to in the application report. In responding to pre-application enquires and determining formal applications, East Dorset District Council always seeks to look for solutions rather than problems so that applications for sustainable development can be approved, thereby resulting in improvements to the economic, social and environmental conditions of the area.

### **Policy considerations and reasons**

In reaching this decision the policies in the Development Plan for the area, which currently comprises the Christchurch and East Dorset Local Plan Part 1 – Core Strategy 2014, were taken into account. Saved policies within the East Dorset Local Plan 2002 were also taken into account. These include specifically the following policies:

KS1	Presumption in favour of sustainable development
KS2	Settlement Hierarchy
KS12	Parking Provision
LN1	The Size and Type of New Dwellings
WMC1	Wimborne Minster Town Centre Vision
LN2	Design, Layout and Density of New Housing Development
HE1	Valuing and Conserving our Historic Environment
HE2	Design of new development
HE3	Landscape Quality
ME1	Safeguarding biodiversity and geodiversity
ME2	Protection of the Dorset Heathlands

### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, or to grant it subject to conditions, then you may appeal to the Secretary of State under Section 78 of the Town and Country



Planning Act 1990. The appeal will be dealt with, on behalf of the Secretary of State, by The Planning Inspectorate.

- If you want to appeal your Local Planning Authority's decision then you must do so within six months of the date of this Notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application, and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.
- Appeals must be made using the Appeals Casework Portal which is available at <http://www.planningportal.gov.uk/planning/appeals/> alternatively, please call The Planning Inspectorate on 0303 444 5000.
- The Planning Inspectorate can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of the appeal.
- The Planning Inspectorate need not consider an appeal if it seems that the Local Planning Authority could not have granted planning permission for the proposed development, or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order, and to any directions given under a development order.
- In practice the Planning Inspectorate does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.

### **Purchase Notice**

If either the local planning authority or the Planning Inspectorate refuse permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

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Main Details	Location	View Documents	Consultees	Appeals	History
Application No	P/RES/2023/05868		Type	Reserved Matters	
Case Officer	Kirsten Williams		Committee / Delegated		
Status	Under Officer Consideration		Committee Date		
Proposal					
Erection of 151 dwellings and associated infrastructure - including informal and formal public open space. (Reserved matters application to determine access, appearance, landscaping, layout and scale following the grant of Outline planning permission 2/2018/0036/OUT) .					
Valid Date	14/11/2023		Neighbour Expiry		
Decision			Issue Date		
Authority			Agent	Mr Gareth Jackson	
Applicant	Redrow Homes Ltd		Agent's Address	St Catherine's Court Berkeley Place Bristol BS8 1BQ	
Applicant's Address	Redrow House Unit 1 Faraday Office Park Rankine Road Basingstoke RG24 8QB				

## Planning application: P/RES/2022/04960

Viewing a Planning application.

[Back to search results](#) | [New search](#)

Main Details	Location	View Documents	Consultees	Appeals	History
Application No	P/RES/2022/04960		Type	Reserved Matters	
Case Officer	Kirsten Williams		Committee / Delegated	Committee	
Status	Under Officer Consideration		Committee Date	05/03/2024	
Proposal					
Erection of 108 dwellings and associated infrastructure including informal and formal public open space pursuant, (reserved matters application to determine access, appearance, landscaping, layout and scale) following the grant of outline planning permission 2/2018/0036/OUT.					
Valid Date	17/08/2022		Neighbour Expiry		
Decision			Issue Date		
Authority			Agent	Ms Suzy Birdseye	
Applicant	Redrow Homes Ltd		Agent's Address	St Catherines Court, Ground Floor Berkeley Place Clifton Bristol BS8 1BQ	
Applicant's Address	Redrow House Unit 1 Faraday Office Park Rankine Road Basingstoke RG24 8QB				

## Jim Bennett

---

**From:** Ken Parke [REDACTED]  
**Sent:** 12 June 2024 11:10  
**To:** Jim Bennett  
**Subject:** FW: Planning Application P/RES/2021/05662 - Land south of Milborne Business Centre Blandford Hill Milborne St Andrew DT11 0HZ  
**Attachments:** Letter to Agent\_PRES202105662(2).pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Jim, thank you for the attached correspondence. The applicants are updating the budget and will submit as soon as possible. We will also advise of mitigation. Please take this response as complying with the requirement to respond within 14 days to advise of intentions – which are to update the budget and submit a scheme of mitigation which may involve in whole or in part some contributions.

Kind Regards

Ken Parke



Anniversary House  
23 Abbo • Road  
Bournemouth BH9 1EU

Tel [REDACTED]  
Fax [REDACTED]

 Follow us on Twitter and  LinkedIn to keep updated on the latest planning news and approvals

**P** Please consider the environment before printing this e-mail!

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Ken Parke Planning Consultants Limited is registered in England and Wales at

13 Queens Road, Westbourne, Bournemouth BH2 6BA

Company no:4653064 VAT 807 5083 33

---

**From:** Kat Burdett [REDACTED]  
**Sent:** Monday, June 10, 2024 4:34 PM  
**To:** Ken Parke [REDACTED]  
**Subject:** FW: Planning Application P/RES/2021/05662 - Land south of Milborne Business Centre Blandford Hill Milborne St Andrew DT11 0HZ

---

**From:** [Jim.Bennett](mailto:Jim.Bennett@kppcltd.co.uk) [REDACTED]  
**Sent:** Monday, June 10, 2024 12:55 PM  
**To:** Info - Ken Parke Planning Consultants <[info@kppcltd.co.uk](mailto:info@kppcltd.co.uk)>  
**Subject:** Planning Application P/RES/2021/05662 - Land south of Milborne Business Centre Blandford Hill Milborne St Andrew DT11 0HZ

Dear Sir

Please find attached:

Letter in respect of nutrient mitigation

Kind regards  
Development Management  
Dorset Council

This e-mail and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. It may contain unclassified but sensitive or protectively marked material and should be handled accordingly. Unless you are the named addressee (or authorised to receive it for the addressee) you may not copy or use it, or disclose it to anyone else. If you have received this transmission in error please notify the sender immediately. All traffic may be subject to recording and/or monitoring in accordance with relevant legislation. Any views expressed in this message are those of the individual sender, except where the sender specifies and with authority, states them to be the views of Dorset Council. Dorset Council does not accept service of documents by fax or other electronic means. Virus checking: Whilst all reasonable steps have been taken to ensure that this electronic communication and its attachments whether encoded, encrypted or otherwise supplied are free from computer viruses, Dorset Council accepts no liability in respect of any loss, cost, damage or expense suffered as a result of accessing this message or any of its attachments. For information on how Dorset Council processes your information, please see [www.dorsetcouncil.gov.uk/data-protection](http://www.dorsetcouncil.gov.uk/data-protection)



**Dorset Council, Flood Risk Management Team**  
Dorset Highways, County Hall, Dorchester

[LLFAplanning@dorsetcouncil.gov.uk](mailto:LLFAplanning@dorsetcouncil.gov.uk)

**Lead FRM Officer: Rob Hanson**  
**Direct Dial: [REDACTED]**

**Date: 01 February 2024**

### **Internal LLFA Consultation – Surface Water (SW) Management**

**Our Ref:** PLN20-006/7

**Proposal:** Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref.2/2019/1799/OUT).

**Your Ref:** P/RES/2023/05768

**Location:** Land at Station Road Stalbridge

**Grid Ref:** 374230, 117990

#### **To: Robert Lennis**

We write in response to the above re-consultation, sent to us as relevant Lead Local Flood Authority (LLFA), and statutory consultee for Surface Water (SW) management in respect of major development (as defined within Article 2(1) of the Town & Country Planning, Development Management Procedure, England Order 2015) and legislated for under The Town and Country Planning (Development Management Procedure) (England) Order 2015, schedule 4, paragraph (ze). Given that the proposal under consideration relates to development of 10 or more dwellings it requires our ongoing input as statutory consultee.

This consultation response follows comments by us dated 9<sup>th</sup> November 2023. We recommend you review any earlier responses from us, as a reminder of the site from a flood risk context and the rationale behind our approaches thus far.

We reiterate that all (major) development proposals are to be supported by a site-specific drainage strategy in accordance with the recommendations of the revised National Planning Policy Framework (July 2018 – NPPF), relevant technical guidance and best practice. Accordingly, the management of surface water runoff must demonstrate that the proposed development is not to be placed at risk and that no off-site worsening is to result.

In our previous correspondence we issued a holding objection because the latest surface water drainage strategy included the use of a surface water pumping station. Pumping of surface water is not considered sustainable by the LLFA and is only ever to be considered as an option of last resort. We also had concerns with regards to the potential for some areas of ponding of surface water during exceedance events.

The applicant has submitted the below document in response:

- Technical Note for Land at Station Road, Stalbridge (Ref: Acl835/23024/TN) by Adama Consulting (Date: 2<sup>nd</sup> January 2024)

The document referenced above provides additional detail regarding the latest proposals for surface water drainage from the applicant's site. As a result, we can acknowledge the following:

- The applicant has explored some alternatives to a pumped surface water system and discussed their reasons why they think that these alternatives will not be viable as a means to achieve a gravity discharge to the nearby watercourse.
- The applicant has provided some survey information which provides site levels along with an invert level for the southern watercourse.
- The applicant has included a copy of the most recent ground investigations as an appendix to the submitted Technical Note. Results from bore holes and trial pits indicate that soil types across the site are mostly clays and mudstones up to approximate depths of 2.5-5m below ground level.

The LLFA accepts that the development site is very flat and this poses a number of challenges when designing a suitable surface water management scheme. The technical note submitted has gone some way in explaining the options that have been considered by the applicant and its discussion of these does help to clarify the applicant's thinking when dismissing some of these.

**However, the LLFA is not satisfied that all alternative options to pumping have been exhausted, and as such the latest surface water drainage proposals iteration cannot be supported by the LLFA. Therefore, we recommend that our (Holding) Objection to the reserved matters application remains.**

The following concern needs to be addressed before the LLFA can consider withdrawing our holding objection:

- The LLFA does not accept the proposed pumped surface water drainage system and does not accept that the applicant has demonstrated that all other options have been fully exhausted.

All alternatives to the pumping of surface water must be considered in order to pursue a gravity discharge of surface water from the development. In our previous response the LLFA suggested alternatives and these could include, but not be restricted to, the following options: reconsideration of the position of the pond, the use of multiple smaller attenuation features, increased use of above ground conveyance and consideration of alternative outfall locations. It is acknowledged by the LLFA that some of these options have been discussed but dismissed by the applicant in their most recent response.

However the LLFA notes that layout and scale of the proposed development is yet to be determined by the reserved matters application and as such the developer should also consider if changes to the layout and scale of the development could allow a gravity discharge of surface water to be achieved.

The SuDS manual Section 8.5 of the SuDS Manual contains some advice for very flat sites such as this. Paragraph 8.5.2 suggests *'On very flat sites, it is often not possible to construct piped drainage systems with sufficient falls to achieve minimum self-cleansing velocities. So using shallow SuDS components such as swales, pervious pavements or high capacity linear drainage channels is an advantage in these situations. Good SuDS design should aim to divide the site into small sub-catchments and provide local combined storage and conveyance components.'* Could the site layout be adjusted to accommodate more above ground conveyance components? Could more space be created for a larger and shallower attenuation basin? Or perhaps the same volume of attenuation could be achieved through the use of multiple, shallower attenuation features spread across the site?

The LLFA would also like to see the applicant consider further investigation of deep bore soakaways. We acknowledge that testing to date has not produced favourable results for infiltration, but deeper investigations can sometimes find more suitable soil types further below ground. The applicant has mentioned high groundwater levels but these may be perched. Results from further investigations should be provided before infiltration is fully ruled out.

Also has the applicant looked into discharging surface water further downstream of the site? The applicant could look to negotiate access to a different part of the watercourse with a neighbouring landowner or discuss the possibility of a surface water sewer requisition with Wessex Water.

Insufficient information has been provided regarding SW management from the development. As such, we are unable to ascertain, to our satisfaction, the appropriateness of any SW management in accordance with the Ministerial statement 'Sustainable Drainage System' 2014, chapter 14 of the NPPF and Planning Policy Guidance (PPG). As relevant LLFA in this matter we are unable to confirm that the applicant has met DEFRA's technical guidance or relevant local and national policies concerning drainage.

Our (Holding) Objection may be overcome via the submission of further or additional details outlining a site-specific SW management scheme. Accordingly, we ask to be re-consulted on the SW scheme if further information is supplied. Our objection will be maintained until an adequate a SW scheme has been approved in-principle. We may at that stage request suitable planning condition/s and informative/s to cover detailed design, future maintenance and potential requirement for other permissions.

## **INFORMATIVES**

- If the applicant wishes to offer for adoption any highways drainage to DC, they should contact DC Highway's Development team at [DLI@dorsetcouncil.gov.uk](mailto:DLI@dorsetcouncil.gov.uk) as soon as possible to ensure that any highways drainage proposals meet DCC's design requirements.
- Prior Land Drainage Consent (LDC) may be required from DC's FRM team, as relevant LLFA, for all works that offer an obstruction to flow to a channel or stream with the status of Ordinary Watercourse (OWC) – in accordance with s23 of the Land Drainage Act 1991. The modification, amendment or realignment of any OWC associated with the proposal under consideration, is likely to require such permission. We would encourage the applicant to submit, at an early stage, preliminary details concerning in-channel works to the FRM team. LDC enquires can be sent to [floodriskmanagement@dorsetcouncil.gov.uk](mailto:floodriskmanagement@dorsetcouncil.gov.uk).

Please do not hesitate to contact me should you require further clarification of our position or the scope of any additional information that is required.

**Yours Sincerely,**

**Rob Hanson,  
Flood Risk Engineer.**

## Application details

<b>Ref:</b> P/RES/2023/05768	<b>Applicant:</b> Hampshire Homes Ltd.	<b>Case Officer:</b> Robert Lennis
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<b>Address:</b> Land At E 374230 N 117990 Station Road, Stalbridge
<b>Description:</b> Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref. 2/2019/1799/OUT)
<b>Case Officer comments to Consultee:</b>
<b>Consultee:</b> Helen Lilley CMLI, Senior Landscape Architect
<b>Date:</b> 02 February 2024
<b>Has a Pre-application discussion taken place with you?:</b> No

<b>Support</b>	
<b>Support subject to condition(s)</b>	
<b>Unable to support</b>	X
<b>No objection</b>	
<b>Request for further information</b>	
<b>Other</b>	Recommend referral to Design Review Panel.

## Summary

Substantial changes are required in order to comply with the requirements of NPPF paragraphs 135 (c.), 136 and 139, Policies 4, 7, 13 (f) and 15 (k), 24 of the LP, draft policy STAL3 of the emerging Dorset Local Plan and to align with principles of the National Design Guide. I recommend that the application is referred to Design Review Panel for further consideration.

## Site description/context/significance

The site measures approximately 5.60ha and is located on NE edge of Stalbridge outside the DDB. It comprises a relatively small irregular shaped parcel of land to the south of Station Road, which is currently used for the grazing of cattle. It is relatively flat and there is an existing drainage ditch along the S and W boundary, and a bridleway (N51/74) along part of the W boundary. Field hedges line the S, E and W boundaries, and there are TPOd trees around



the perimeter. Stalbridge Trailway and Stalbridge Site of Nature Conservation Interest/nature reserve are located to the SW.

### **Character of Stalbridge**

**The historic urban character of Stalbridge is closely bound up with its landscape setting and the quality of its historic fabric.** The medieval town plan survives in almost complete form and the associated streetscapes are largely intact. The location of the church and market are significant in terms of the medieval character. **There is a distinct edge to the E boundary of the settlement, which sits overlooking the site and the Blackmore Vale.** Much development has taken place in recent years, with the original village being reclassified as a town in 1992.

The North Dorset Landscape Character Assessment (2008) identifies that the site is located in the Blackmore Vale Landscape Character Area (LCA) which extends eastward from Stalbridge to the valley pasture of the River Stour. This is a strongly rural pastoral landscape, key characteristics of which include:

- A broad expansive clay vale which is tranquil and unified.
- A unique mosaic of woods, straight hedgerows and grassland fields 'dotted' with distinctive mature hedgerow oaks.
- Open views across the undulating to flat pastoral landscape to the chalk escarpment backdrop.
- Dense network of twisting lanes often with grass verges and sharp double 90<sup>0</sup> bends.
- Small hump backed bridges with low stone or brick parapets
- Many very small villages and hamlets built with locally distinctive materials, such as stone, red brick, tile and thatch.
- A network of ditches, streams and brooks which drain into the tributaries of the Stour
- Lydlinch Common (SSSI) and Stock Gaylard Deer Park (an SNCI) are both key locally important features.

### **Main issues**

- Character and design, connectivity, green infrastructure.

### **The proposal**

130 No. 2, 3, and 4 bed houses of up to 2.5 storeys, SuDS, a LEAP and open space.

### **Comments on proposal**

As identified by Urban Design, Planning Policy, Flood Risk Management and Highways colleagues there are some fundamental issues with the layout and design of the reserved matters scheme:

- The development is fenced in and pedestrians and children can only exit the site onto a main road (Station Road). A pedestrian route from the west of the development linking to the bridleway should be provided to enable easy and safe access to the existing playing field and play area, and into Stalbridge beyond.
- Vehicular access on the S boundary and a pedestrian access at the SW corner of the site should be provided.
- There are unresolved issues in relation to surface water drainage. Further investigations need to be undertaken, and the site layout may need to be adjusted to accommodate more above ground conveyance components, a larger/shallower attenuation basin, or multiple, shallower attenuation features spread across the site.
- Key features of the outline masterplan have not been carried through into the design.
- The scheme does not adequately reinforce locally distinctive patterns of development in regard to scale, building lines and definition of space.
- It is unlikely that the site could successfully accommodate 130 dwellings without significant implications on design quality.
- A comprehensive reconsideration of the site layout is required to achieve quality design.
- Few trees are proposed within the development and along new streets.
- Amendments to the highway layout, including the widening of carriageway in places and the inclusion of green or hardened service strips are required.

In addition to these issues, I have a number of concerns as follows:

- There would be little sense of connection with either the surrounding countryside, or with the settlement. The development would essentially be fenced in, and internal footpaths would not connect in to local Rights of Way or to other planned development.
- There would be little sense of place or identity. The central focal space that was a principal feature of the outline scheme is not carried through into the proposed scheme. Incidental internal spaces are lacking, and those that are shown on the layout plan would essentially be treeless, and dominated by parking. Streets would not be tree lined.
- The quality and character of the open space around the perimeter of the site would be compromised by a range of functional and/or engineered structures, including a foul sewer pumping station, above ground SuDS structures, concrete headwalls (with functional Key Clamp type railings), turning heads and parking bays etc. The above mentioned requirement to widen the carriageway in places and provide service strips may further impinge on the open space. There is also potential conflict between proposed tree planting and street lighting columns/service runs in some locations.
- Relatively little internal tree planting is proposed. This, along with a lack of incidental green space within the development, and a high proportion of hard surfacing would give the development a suburban feel. Additional green infrastructure needs to be incorporated both to improve the street scene, and to help assimilate the development into the rural setting. Additional space required for this is likely to have further implications on the number of dwellings that can be achieved on the site.

It is clear that substantial changes are required in order to comply with the requirements of NPPF paragraphs 135 (c.), 136 and 139, Policies 4, 7, 13 (f) and 15 (k), 24 of the LP, draft policy STAL3 of the emerging Dorset Local Plan and to align with principles of the National

Design Guide. In addition to this, the Inspector for 2/2019/1799/OUT appeal noted that the development would represent an intrusion into the existing countryside and would inevitably cause some harm to its intrinsic character and beauty adversely impact on the character of the landscape. It is therefore doubly important that the mitigation measures incorporated are commensurate with those proposed at outline stage, and that the scheme represents a sensitive response to the rural location on the edge of Stalbridge. As such I do not consider that the proposal adequately responds to the requirements of LP Policy 4 in respect to mitigation of impact on the character of the landscape either.

I am not therefore able to support the proposal and recommend that the application is referred to Design Review Panel for further consideration.

## Policy consideration

### NPPF (updated 2023)

- Paragraph 135 – Planning policies and decisions should ensure that developments:
  - (a) **will function well and add to the overall quality of the area**, not just for the short term but over the lifetime of the development;
  - (b) **are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;**
  - (c) **are sympathetic to local** character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - (d) **establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live,** work and visit;
  - (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (**including green and other public space**) and support local facilities and transport networks; and
  - (f) create places that are safe, inclusive and **accessible** and which promote health and well-being, with a **high standard of amenity** for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- Paragraph 136 - Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that **new streets are tree-lined**, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to **ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.**

- Paragraph 139 - **Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design**, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes.

(continues.....)

### North Dorset Local Plan Part 1 (adopted 2016)

- Policy 4 - The natural environment

(preceded .....)

#### Landscape Character

The landscape character of the District will be protected through retention of the features that characterise the area. Where significant impact is likely to arise as a result of a development proposal, **developers will be required to clearly demonstrate that that the impact on the landscape has been mitigated** and that important landscape features have been incorporated in to the development scheme.

(continues.....)

- Policy 7 – Delivering Homes

(preceded .....)

#### Residential Density

The design and layout of any development with a housing element should seek to achieve a residential density that:

- (a) makes effective use of the site; and
- (b) **respects the character and distinctiveness of the locality**; and
- (c) **is acceptable in terms of design and amenity, both for the intended occupants of the new development and the occupants of existing development in the vicinity.**

(continues.....)

- Policy 15 - Green Infrastructure

(preceded .....)

Development will be required to enhance existing and **provide new green infrastructure to improve the quality of life of residents and deliver environmental benefits.**

(continues.....)

- Policy 24 – Design

(preceded .....)

Development should be designed to **improve the character and quality of the area within which it is located**. Proposals for development will be required to justify how the relevant aspects of development form address the relevant design principles and standards set out in Figures 10.1, 10.2 and 10.3 of this policy and how the design responds to the local context. Developments will be permitted provided that the relevant aspects of development have been designed to reflect the relevant design principles and have satisfactorily addressed the relevant standards. **A proposal that uses development forms which do not reflect the relevant design principles and standards, or which otherwise conflict with the design principles, will not be permitted.** ..... Developments will be expected to incorporate existing mature trees and hedgerows and other landscape features into the public realm of the development layout and **provide sufficient additional landscape planting to integrate the development into its surroundings.**

(continues.....)

#### **Other material considerations**

- National Design Guide (updated 2021)
- Dorset Council Local Plan – Options Consultation (2021)

**APP REF:** P/RES/2023/05768

**ADDRESS:** Land At E 374230 N 117990 Station Road, Stalbridge

**APPLICANT:** Hampshire Homes Limited

**DESCRIPTION:** Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref.2/2019/1799/OUT)).

**CASE OFFICER:** Robert Lennis

### URBAN DESIGN OFFICER COMMENTS

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	X
REQUEST FOR FURTHER INFORMATION	X – revised parking plan which includes numbers of parking proposed.
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	No

#### Main issues:

- Density on the site layout exceeds that shown on the outline Masterplan.
- Density does not filter sufficiently with a lack of detached units to S & E.
- Scale proposed exceeds the prevailing character of predominantly two storey dwellings. Significant proportion proposed as 2.5 storey.
- Streets are not tree lined – para 136 (NPPF). Avenue of street planting from Illustrative masterplan removed with design of this scheme.
- Site layout includes haphazard building lines.
- Definition of space at junction heads would compromise sense of place.
- No direct link to Stalbridge Trailway
- The proposed open market mix is not compliant with Policy 7 of the NDLP.
- Proposals not tenure neutral – sited mainly at least desirable site location.
- Plot boundaries visible to the street should be walled boundaries.
- Architectural detailing on dwellings is significantly lacking.
- Materials palette should include stone to be fully reflective of Stalbridge.
- Rear amenity space should be revised for select plots – Policy 25 NDLP.
- No garage parking - conflicts with prevailing character of Stalbridge.

## Comments on proposal:

This is the reserved matters application for outline permission 2/2019/1799/OUT, allowed on appeal APP/D1265/W/21/3284485.

### Context and Character

The site is located on the northeastern edge of Stalbridge, to the south of Station Road and immediately east of an industrial estate. Therefore, the western boundary of this site is a particularly sensitive one with acoustic fencing required as noise mitigation. In terms of topography the site is largely flat with a small increase in the level change from east to west.

In terms of density, the outline permission is for up to 130 dwellings. The proposals within this application show 130 dwellings on the site layout and in the application description. The Illustrative Masterplan from outline was not plot numbered and did not show 130 dwellings (approximately 115 shown). Therefore, it seems unlikely that the site could successfully accommodate the full 130 dwellings without significant implications for the design quality of the scheme. The gross density of the proposals is 23dph (dwellings per hectare) with 130 dwellings on a site of 5.60 hectares. For comparison, the Bovis scheme to the south of this site is 120 dwellings at 6.59ha which equates to 18 dph gross density. In relation to density and the dispersal of dwelling types across the site, the proposals do not show a suitable filtering of the density where the site abuts the rural edges. Dwellings fronting to the southern and eastern boundaries are predominantly shown to be semi-detached. A greater proportion of detached dwellings is required here and in general within the mix in order to achieve this filtering of density. The Illustrative Masterplan from outline stage shows a greater quantum of detached dwellings fronting the aforementioned boundaries. When determining achieving appropriate densities, Paragraph 128 of the NPPF cites *“the desirability of maintaining an area’s prevailing character and setting”* as a key factor to take into account regarding the efficient use of land.

The site layout proposes perimeter block development which would allow for good natural surveillance of public spaces. These perimeter blocks are said to *“ensure that buildings contribute positively to the public realm”* within Manual for Streets (MFS) are considered to be a positive aspect of these proposals. The Design & Access Statement (DAS) asserts that the development will *“emphasise a high quality character throughout the development”*. I disagree with this statement.

Regarding scale, the DAS states: *“Two storey dwellings are quite prominent in Stalbridge and the surrounding area”*. Despite this fact, the application puts forward 25% of the proposed dwellings as 2.5 storey. This is not considered an appropriate design response in terms of character for a rural edge site, particularly for those 2.5 storey dwellings proposed on the edge of the scheme. Within the DAS for the outline for this site, 2.5 dwellings were indicatively shown

on a Building Heights Plan. These taller dwellings were specifically limited to the centre of the site with the density and massing filtering out to the edges of the scheme. This approach does not appear to have been utilised within the plans for this application to the detriment of the proposed character. The recent development north of Lower Road, Stalbridge (application 2/2019/0162/REM) is comprised exclusively of two storey dwellings. The Lower Road site has many similarities to the site within this application; it occupies the east of Stalbridge, is an edge of settlement site and is on the same contour line.

The proposed layout lacks cohesive building lines which impacts negatively on the character of the scheme. Building for Healthy Life (BHL) cites *“Staggered and haphazard building lines that are often created by placing homes with a mix of front and side parking arrangements next to each other”* as red criterion and a catalyst to stop and re-think the design. Given that haphazard building lines are widespread across the proposed site layout, a comprehensive reconsideration of the site layout is necessary in order to achieve quality design at this site. Paragraph 136 of the NPPF states; *“Planning policies and decisions should ensure that new streets are tree-lined”*. This is a key consideration that has implications for design quality and the character of a development. Ensuring that streets are tree-lined is not a consideration that the layout appears to have factored in.

The approach to the definition of junctions through built form is limited by the presence of parking proposed at key spaces. The image below highlights two key areas of the site which would provide a poor sense of place as currently designed. This is backed up by the indicative street scene with the overwhelming presence of close board fencing at the junction head which would reinforce the notion that this place was designed for vehicles and not people.

Annotated excerpt of the site layout





Indicative Street Scene for plots 54-56



Design cues should be taken from the recently developed Bovis scheme to the south of this application site in terms of the definition of space at key junctions. The plans and image of the completed development below show how the positioning of dwellings at junction heads helps to define space. The wide frontage dwelling shown on the image on the right is plot 8 from the site layout.

Excerpt from site layout (2/2019/0162/REM)



Completed development - Bagber Rd, Stalbridge



The Stalbridge Railway is an excellent recreational resource for the town and for prospective residents of this development. The Railway is not mentioned at all within the DAS which gives the impression that the context in which the site resides is not fully appreciated. Paragraph 135 (c.) of the NPPF states; *“Planning policies and decisions should ensure that developments: are sympathetic to local character and history, including the surrounding built environment and landscape setting”*. I do not consider that the plans show how the development can be sympathetic to the local character of Stalbridge. Policy 24 of the North Dorset Local Plan (NDLP) states; *“In places that already have a positive image or character, the design of new development should respond to and reinforce locally distinctive patterns of development, landscape and culture”*. For the reasons outlined above, relating to scale, building lines and definition of space, it cannot be considered that these proposals reinforce locally distinctive patterns of development.

## **Movement & Connections**

There are a number of Public Rights of Way (PROW) in close proximity to the site. The Stalbridge Trailway and bridleway N51/74 run parallel to the SW corner of the site. As previously raised, the DAS in this application makes no reference to the Stalbridge Trailway. If this scheme could facilitate a link between the site and the Stalbridge Trailway it would be a valuable connection for prospective residents of the development. The link would enhance the walkability of the scheme and further encourage active travel.

The three turning heads shown on the site layout all facilitate informal parking within them which would render the turning head obsolete as a turning feature. Parking spaces that radiate from a turning head, provide additional parking while actively discouraging informal parking within the turning head. This method should be utilised where turning heads are shown. Aesthetically, the design and siting of the proposed turning heads would reduce the quality of the public realm as these are proposed to jut out into open space or act as a break to tree planting as shown below.

Excerpt from the Site Layout



## Streets & Spaces

The street hierarchy proposed broadly coalesces with the indicative outline plans. The starkest difference from the pattern of streets shown at outline is the approach to the entrance to the site. The image below shows the Illustrative Masterplan with the annotation “*Avenue street planting will line the spine road, softening the built form of the development, as well as framing views out towards the public open space and beyond. A focal square will create pedestrian priority through shared surfacing*”. These are key features of the masterplan envisaged for the site and from which permission has been gained that have been abandoned within the Reserved Matters application to the detriment of the design of the scheme.

Excerpt from Illustrative Masterplan



Excerpt from the Site Layout



The public open space (POS) appears to broadly follow the quantum and siting shown within the outline plans. Regarding play spaces, the plans propose a Locally Equipped Area for Play (LEAP). The LEAP is proposed to be situated at the SW corner of the site which is also consistent with the indicative outline plans. As designed, this would receive passive surveillance from the dwellings fronting towards the LEAP.

## Homes

The proposed open market mix is divergent from the supported position within Policy 7 of the NDLP which states; “*In the period to 2031, the Council will support the delivery of about 40% of market housing in North Dorset as one or two bedroom properties and about 60% of market housing as three or more bedroom properties*”. Regarding affordable housing the policy states, “*In the period to 2031, the Council will support the delivery of about 60% of affordable housing in North Dorset as one or two bedroom properties and about 40% of affordable housing as three or more bedroom properties*”.

In the absence of a comprehensive accommodation schedule from the applicant, I have produced the following tables to show the proposed breakdown of mix between open market housing and affordable housing.

Open Market Mix                      77/130 dwellings                      60% of the total

Unit type	No. of units	% of Open Market mix	% in relation to Policy 7
2B	15	20%	20%
3B	58	75%	80%
4B	4	5%	

Affordable Mix                      53/130 dwellings                      40% of the total

Unit type	No. of units	% of Open Market mix	% in relation to Policy 7
2B	33	62%	62%
3B	19	36%	38%
4B	1	2%	

As the tables show, the proposed affordable mix accords with Policy 7. The open market mix does not follow Policy 7 with a greater proportion of larger dwellings proposed, predominantly 3B dwellings.

The application proposes 53 / 130 dwellings as affordable housing which meets the 40% requirement stipulated within Policy 8 of the NDLP. Affordable housing is largely proposed to be situated in a cluster at the least desirable part of the site which undermines the application’s tenure neutral credentials. The NDG defines “tenure neutral” as *“Housing where no group of residents is disadvantaged as a result of the tenure of their homes. There is no segregation or difference in quality between tenures by siting, accessibility, environmental conditions, external facade or materials”*. Regarding the siting of affordable housing Policy 8 of the NDLP states *“Affordable housing should be designed to be indistinguishable from other housing on a development site. On a larger site, the affordable units should be pepper-potted amongst the market housing, or where there is a high proportion of affordable housing, grouped in small clusters amongst the market housing”*. To an extent this is the case within the proposals, given that the same housetypes are proposed for open market and affordable dwellings. Open market and affordable dwellings are also proposed to adjoin as semi-detached units on four instances across the site layout. I also note that the Housing Enabling Officer considers that *“The affordable housing is well designed and spread appropriately around the development”*.

The housing mix and type of dwelling would have a significant impact of the residential capacity of the site. A necessity for a higher proportion of detached dwellings than is currently shown would likely require a larger amount of space

per plot. The need for a higher quantity of larger detached dwellings was identified within the 'context and character' chapter due to the necessary filtering of density that is required and expected for rural edge developments.

The development would also benefit from the introduction of flatted development which would allow 1B dwellings to be incorporated into the scheme. Flatted development was envisaged within the Illustrative Masterplan for the site but, as with several other aspects, this has not been carried forward into the reserved matters plans. Flatted development would offer diversity in the housing mix and unit type while offering a dual aspect of natural surveillance on the front and rear elevations.

There is somewhat of a disconnect between the character analysis undertaken at outline and reserved matters stage and what is proposed within this submission in terms of materials and detailing. Material finishes proposed include red, brown, buff bricks and render paired with brick detailing. Roof tiling is proposed as 'slate grey' and 'cottage red'. The materials proposed appear appropriate to the local palette but would benefit from the addition of stone. Stone could be used to denote feature plots within the scheme and would enhance the quality of the materials palette, while offering local distinctiveness.

Plot boundaries that would be visible to public spaces are generally proposed as brick walls with close board timber infill panels. As the street scene drawings over the page show this would not provide a particularly attractive boundary for the public realm. It is recommended that brick walled boundaries are incorporated on all boundaries highlighted green on the 'Site Layout – Boundary Materials' plan (or plots in these positions subject to revised submissions). This should also apply to plot boundaries, or plot boundaries in the position of plots 24 and 40.

#### 'Indicative Street Scenes'



Architectural detailing is significantly lacking with an absence of chimney stacks within the plans. As the street scene drawings above demonstrate, the absence of this detailing detracts from the design quality of the scheme. Chimney stacks would not only elevate the quality of dwellings individually but also provide variation to roofscapes across the scheme. Chimneys are characteristic of Stalbridge and their omission from the plans is further evidence that the submitted plans do not propose a development that is in harmony with the local vernacular. Chimney stacks were identified within the DAS for both outline and reserved matters.

Quoins would be another addition to the detailing of dwellings which would elevate the design quality of the proposed homes while making the dwellings appear locally distinctive. Multiple dwellings identified within the 'Context Analysis' within the DAS of this application incorporate quoins. Varied door colours would add distinction and diversity to individual dwellings within the street scene. These different coloured doors would be particularly effective for dwellings that are the red brick and cottage red tile pairing as this combination could appear monochromatic. This combination would apply to all three of the affordable terraces on the western boundary as currently proposed.

Dual aspect dwellings are essential for turning the corner within a scheme that includes perimeter block development. This would be carried out to good effect with the housetype 3BedC which is proposed for the vast majority of corner units whether that be as a detached unit or as a semi-detached unit. However, the 4 bed detached housetype shown within the submission should not be used to turn the corner within the scheme as is shown for plot 54. The only fenestration on the side elevation would be the bathroom window which wouldn't provide adequate frontage and natural surveillance to the street.

In terms of the design of individual plots, the position of plot 34 would expose a vast quantity of the rear boundary to the streetscene at key junctures. Being part of the gateway of the site, the plot here should be reconsidered to ensure that there is minimal plot boundary exposure and where it does exist it is comprised exclusively of a walled boundary. The orientation of dwelling 122 as designed would have a poor outlook immediately onto double banked parking.

Private amenity spaces are generally shown to match or exceed the ground floor footprint of the assigned dwelling. However, there are instances within the layout where;

- Parking encroaches on the rear amenity space (plots 53 & 54).
- There is a disparity in rear amenity space size between adjoining and identically sized dwellings / plots (plots 7-8, 26-27 & 39-40).
- Rear amenity space is an odd shape which would impact on its usability (plots 51, 94 and 95).

- Neighbouring plots where smaller dwellings are afforded larger garden sizes than large dwellings (plot 8 with plot 9, plot 35 with plot 36, plot 128 with plots 126-127).

Policy 25 of the NDLP states; *“Residential development will be permitted provided that it provides private open space in the form of gardens or communal open spaces appropriate to the needs of the intended occupants.”*

## **Parking**

Proposed parking predominately takes the form of frontage parking and tandem parking. Curiously, the submitted parking plan (‘Site Layout – Parking & Bins’) does not include the numbers of parking proposed. This plan should be revised with numbers of allocated, unallocated and visitor parking clearly specified. Only when this information has been provided, can the proposed parking provision be suitably assessed.

The parking shown within the plans is largely unrelieved by street planting which would create an environment dominated by hard surfacing and is poor in terms of placemaking. A notable example of this on the site layout is plots 55-56 which are proposed to be engulfed by unrelieved hard surfacing associated with parking. The NDG advises that; *“Well-designed parking is attractive, well-landscaped and sensitively integrated into the built form so that it does not dominate the development or the street scene”*. By this widely respected definition, the parking proposed within these proposals cannot be considered to be well-designed. This is illustrated effectively by the image below.

Excerpt of the Site Layout to show poor arrangement of allocated parking.



The absence of garage parking within the proposals reads as a glaring omission in relation to the character of Stalbridge. The indicative site plan from the outline application (2/2019/1799/OUT) included garages which would be in-keeping with the character of the town.

## **Conclusion**

In conclusion, I am unable to support these proposals. It is disappointing to see such generic proposals that do not suitably respond to the prevailing character of Stalbridge. The site layout proposed within this application has eroded several of the positive aspects of the Illustrative Masterplan from the outline permission.

In terms of local policy, the submission does not meet Policy 7 or Policy 24 of the NDLP. Given that the proposals do not include streets that are tree-lined and given that they are not sympathetic to local character, the proposals also go against Paras 135 and 136 of the NPPF. There are numerous examples highlighted within these comments that do not follow guidance (NDG, BHL, MFS) on good design. As such, the development proposals within this application cannot be considered to be well-designed. Paragraph 139 of the NPPF states; *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance”*.

In the event of a revised submission for this application, I cannot envisage how the array of design issues could be resolved without a reduction in the density of the scheme. The outline permission is for ‘up to’ 130 dwellings and I recommend that any revised submission seeks to utilise a reduction in dwellings at this site to resolve design issues relating primarily to character but also to streets / spaces, housing mix and parking.

## **Policy and Guidance consideration:**

### National Planning Policy Framework (NPPF)

Paragraphs 128, 135, 136, 139

### North Dorset Local Plan (2016)

Policy 7 – Delivering Homes

Policy 8 – Affordable Housing

Policy 24 – Design

Policy 25 – Amenity

### National Design Guide (2021)

### Manual for Streets (2007)

### Building for Healthy Life (2020)

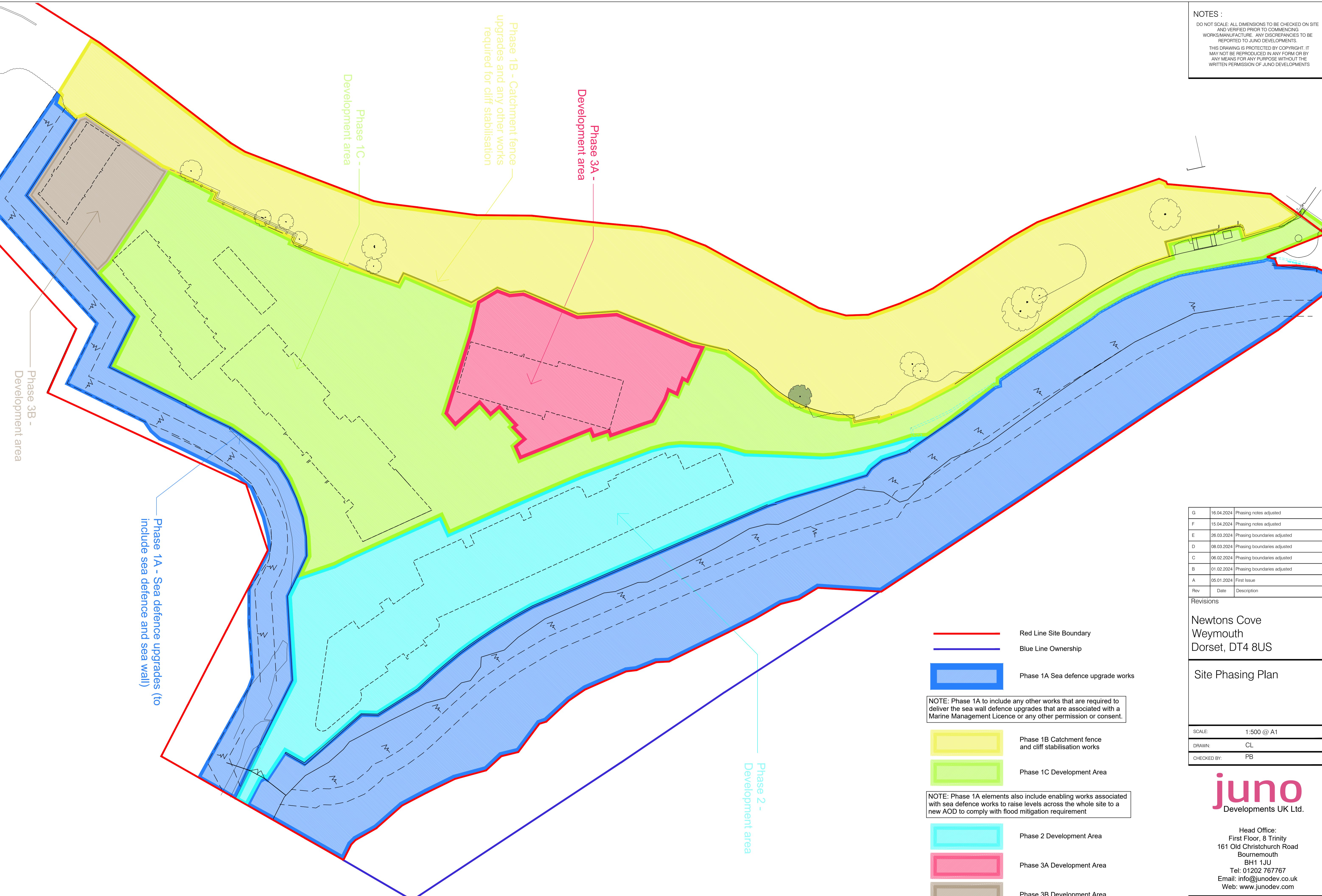
**OFFICER:** Sophie Smith

**TITLE:** Urban Design Officer

**DATE:** 02/02/23



**NOTES :**  
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Phase 3B -  
Development area









Phase 1A - Sea defence upgrades (to include sea defence and sea wall)

Phase 1C -  
Development area

Phase 1B - Catchment fence upgrades and any other works required for cliff stabilisation

Phase 3A -  
Development area

Phase 2 -  
Development area

-  Red Line Site Boundary
-  Blue Line Ownership
-  Phase 1A Sea defence upgrade works
-  Phase 1B Catchment fence and cliff stabilisation works
-  Phase 1C Development Area
-  Phase 2 Development Area
-  Phase 3A Development Area
-  Phase 3B Development Area

NOTE: Phase 1A to include any other works that are required to deliver the sea wall defence upgrades that are associated with a Marine Management Licence or any other permission or consent.

NOTE: Phase 1A elements also include enabling works associated with sea defence works to raise levels across the whole site to a new AOD to comply with flood mitigation requirement

Rev	Date	Description
G	16.04.2024	Phasing notes adjusted
F	15.04.2024	Phasing notes adjusted
E	26.03.2024	Phasing boundaries adjusted
D	08.03.2024	Phasing boundaries adjusted
C	06.02.2024	Phasing boundaries adjusted
B	01.02.2024	Phasing boundaries adjusted
A	05.01.2024	First Issue

Revisions  
 Newtons Cove  
 Weymouth  
 Dorset, DT4 8US

Site Phasing Plan

SCALE: 1:500 @ A1  
 DRAWN: CL  
 CHECKED BY: PB



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Drawing No.  
 JDMXX-NC-0001

Matthew Pochin-Hawkes  
Dorset Council - West  
Development Services Division  
County Hall Colliton Park  
Dorchester  
Dorset  
DT1 1XJ

**Our ref:** WX/2012/120301/11-L01

**Your ref:** 1/D/11/002012

**Date:** 28 June 2024

Dear Mr. Pochin-Hawkes,

**DEVELOP LAND BY THE ERECTION OF 95 DWELLINGS (51 HOUSE AND 44 APARTMENTS), NEW AND REFURBISHED COMMERCIAL FLOOR SPACE, ASSOCIATED CAR PARKING AND NEW VEHICULAR AND PEDESTRIAN ACCESSES FOLLOWING DEMOLITION OF SOME COMMERCIAL UNITS. APPEARANCE AND LANDSCAPING RESERVED FOR FURTHER APPROVAL. (REVISED SCHEME)**

**SOUTH WEST QUADRANT, ST MICHAELS TRADING ESTATE, BRIDPORT**

In response to the emails dated 21st June 2024 and 27th June 2024 from Steph Howard of SSP to Matthew Pochin-Hawkes, we offer the following comments.

We note the query from the consultant with regards to our request to update some of the flood data and assessment for this application. On this point, we wish to highlight that despite this being a long-standing application, it has not yet been determined. The NPPF requires planning applications to meet the most up-to-date information, methodologies and best practices. It is the responsibility of the developer, and not the Environment Agency, to ensure that the FRA provides an appropriate up-to-date assessment of all sources of flooding, and to provide a development that is safe over its lifetime.

In recognition of the late stage of this application, we have acknowledged that a pragmatic precautionary approach to updating the understanding of flood risk for the lifetime of the development at this site may be sufficient to help re-evaluate whether the development would remain acceptable and safe over its lifetime.

When earlier FRA versions and addendums for this application were undertaken by the consultant, they were fortunate to be able to directly use the available modelled 40% climate change data. Changes to climate change allowance requirements however, now necessitate a 47% climate change allowance. Since this is not directly available from our model data, a bespoke evaluation is required (which as we have explained, could be achieved by extrapolation on a stage discharge curve). Unfortunately, our available model data also does not include an 85% climate change model run or corresponding flood level data which could have served as a conservative proxy flood level. Furthermore, where in some cases it can be acceptable to adopt the available 1 in 1000-year event flood levels, this is often found to be exceeded by the 1 in 100 year event plus 47% allowance flood level. Therefore we have advised that this is checked in this case, especially given the scale of the development and sensitivity of flood risk at

this location.

It is important to ensure that the design flood levels including the up to date 47% climate change allowance is established to meet the requirements of the NPPF and PPG. This future design flood level is used to re-assess whether the existing flood defences could overtop in this area over the lifetime of the development. If indeed this is the case, the proposals themselves, including ground floor freeboard levels may need to be reassessed. To date this assessment has not been provided.

The emails above and the Addendum dated 16th May 2024 provide discussion based on a stage discharge rating curve assessment. However, a stage discharge rating curve should show peak flow data vs modelled flood levels, not river level vs return period as shown on the charts in Appendix A of the Addendum. As such, this evidence does not allow an extrapolation of flood level including 47% climate change to be made or provide any basis for any sensitivity / precautionary assessment and discussions that should be considered due to the methodology chosen and age of the existing model and flood data.

Further, the email (21<sup>st</sup> June) states "The latest objection states that the EA now require further assessment of nodes upstream of the site (and North of West Street) which were not required in the previous assessment nor mentioned in their earlier objection.". On this point and keeping in mind that the submitted addendum links back to the original approved FRA (SSP, Second Issue dated 16-05-17), the FRA raises this potential flood risk source in several places (paras. 5.4, 5.7 and 7.1). It is on this basis that in our recent email dated 15/05/2024 to Steph Howard, we raised that the overtopping fluvial flood flow path from north of West Street should also be re-checked due to increase in climate change requirements.

We note that the consultant considers that they have provided a 'more accurate assessment' but we remain of the view that they have not yet provided satisfactory information. We are aware that the consultant has requested our Product 5 data and that this will be provided by our Customer Engagement Team in due course.

Yours sincerely,

**Mr. Bob Sherrard**  
**Sustainable Places - Planning Advisor**

Phone: [REDACTED]

Email: [REDACTED]

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I have reviewed the revised sHRA which although an improvement does not fully address the fact that the scheme will result in the permanent loss of land designated as an SAC to carparking and thereby prevent future restoration of the SAC feature. Natural England notes that the sHRA suggests that there is not a mechanism that will allow the restoration and ongoing management of the bank in situ. Here we would note that while legal mechanisms do exist it is also likely that restoration could be secured through any future planning permission for Portland Lodge Hotel site.

As set out in our previous response any permission should consider whether the scheme can meet the requirements of Regulation 64; that is that there are no alternatives and the proposal must be carried out for imperative reasons of overriding public interest. Specific guidance can be found on the Defra website: <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/sites/> <<http://www.defra.gov.uk/habitats-review/implementation/process-guidance/sites/>>

- \* Your Authority s alternatives test should consider all options including potential alternative schemes for the site that would avoid or be less harmful to the SAC. In this case avoid or minimise any necessary land take.
- \* Whether the scheme is meets the overriding public interest test is a matter for your Authority.
- \* Natural England is satisfied that given the relatively small scale of the impacts on the SAC these could be fully compensated, however, the compensation measures required cannot be on land already designated as SAC. Rather, a suitable area of non designated alternative land should be identified where restoration to the SAC qualifying habitats could be appropriately secured.



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# Monitoring Report 11: Site Specific Policies

This report is one of a series of topic based reports which together constitute the Christchurch and East Dorset Authorities' Monitoring Report.

These reports will be regularly updated. The date that the information was last updated is indicated alongside each table/section as appropriate. Further topic areas can be viewed in the [Christchurch and East Dorset Authorities' Monitoring Report](#).

## Local Plan Part 1 - Core Strategy Policies

The following table sets out site specific policy proposals in the Core Strategy and identifies what progress has been made to date (not necessarily in this monitoring period) on their delivery against plan targets.

Site and policy	Progress	Plan targets
WMC4 Allendale area , Wimborne	Due to Local Government Review a new Civic Hub is currently not being progressed. The policy is not being taken forward as part of the current East Dorset Local Plan Review at Options stage.	A new Allendale Community Centre, District Council offices, other public sector offices, public parking, a riverside park.

Site and policy	Progress	Plan targets
RA2 - Furzehill Village Envelope	EDDC working towards exchange of contracts on land with preferred developer selected through tender process. Planning application currently being prepared but not yet submitted for residential scheme. Allocation is carried forward through the Local Plan Review at Options stage.	Policy supports redevelopment for residential, offices, hotel/community use or residential/non- residential institutions.
WMC9 Leigh Park area Wimborne	This is dependent on vacation of the site by Wimborne Rugby Club. No decision has yet been taken to vacate the existing rugby club site. Principle of new rugby club provision has been secured on the WMC8 site.  Allocation taken forward through East Dorset Local Plan Review at Options stage (Policy Option 5.6). No further discussions have taken place on the relocation of the Rugby Club.	1.5 hectares open space, youth club facilities
FWP5 West Parley Village centre	The Parley Crossroads improvement and enhancement will be delivered following the implementation of the East and West of New Road link roads. Planning applications for the East and West of New Road allocations are currently progressing. The design of the Cross Roads improvement is being progressed by DCC as part of the LEP BIG programme. DCC have identified funding for the delivery of the cross roads improvement. This policy has been carried forward through the East Dorset Local Plan Review at Options stage(Policy Option 5.16).	Environmentally enhancement, new public spaces, shops, services, wholesale changes to Parley crossroads.
VTSW2 South of Howe Lane, Verwood	Policy carried forward through the East Dorset Local Plan Review at Options stage (Policy Option 5.26). Further capacity required but scheme not yet implemented.	Educational use - upper school accommodation

Table last updated January 2019

## Delivery of site specific saved local plan polices

The following table lists the saved site specific policies from Christchurch Local Plan and East Dorset Local Plan, and sets out progress on their implementation.

## Progress on saved Christchurch Borough Council 2001 policies

Policy	Proposal	Progress
H6	Housing;	
	Land rear of 108-116 Stour Road	Undeliverable, flood zone 3a – Policy reviewed and not carried forward as part of Local Plan Review.
	Land at Wick Lane	Complete
H7	The Grove / Barrack Road - Housing	Part developed - remainder undeliverable due to flood risk.
EO3	Bridge Street / Stony Lane mixed development	<p>Site identified in Core Strategy (CH1) as a strategic site. Policy CH1 is proposed to be carried forward with amendments in the Local Plan Review (Policy Option 5.9) which maintains this strategic site.</p> <p>Site being considered for mix use development in the Local Plan Review at Options stage (Policy Option 5.2). Site forms part of Town Centre Floodrisk Study Area and SPD area where a strategic approach is being progressed to address flood risk issues to facilitate mixed use development through the Local Plan Review.</p>
ES5	Land West of High Street 'The Lanes' - mixed use	Former sorting office /Cornfactor site completed. The remainder of this allocation is still to be implemented. The Local Plan Review is carrying forward this allocation for A1 – A5 uses at Options stage in Policy Option 5.12.
ES8	Land adjoining Royalty Inn - retail	This allocation is no longer deliverable due to implementation of a planning consent. The allocation has been considered as part of the Local Plan review and is not being carried forward.
T4	Castle Lane relief road corridor	Not currently in Local Transport Plan (LTP) programme and is not being carried forward as part of the Local Plan review.
T5		
Barrack Road Junction improvements:	Barrack Road / Jumpers Road- traffic signals	Completed.
	Barrack Road / Stour Road traffic signal improvement	Not in LTP programme and no current plans to progress. Not currently included as part of the Local Plan Review.
	Barrack Road / Sopers Lane junction improvements	Not in LTP programme and no current plans to progress. Not currently included as part of the Local Plan Review.

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
T11	1-13 High Street rear servicing	No longer required and not included in Local Plan Review.
T12	Rear servicing:  37-47 Bargates  Magistrates Car park if extended to 34-66 Bargates	No longer required and not included in Local Plan Review.
T14 Cycle Routes	1) Chapel Gate To Christchurch Hospital	Completed
T14 Cycle Routes	2) Avenue Road	Completed
T14 Cycle Routes	3) Tricketts Cross Bridlepath	Completed - permissive path put in by Eco around back of timber yard
T14 Cycle Routes	4) Iford To Town Centre	Part completed where deliverable. Not on current LTP priority list.
T14 Cycle Routes	5) Stour Road	Mostly completed where deliverable. Not on current LTP priority list.
T14 Cycle Routes	6) Avon Buildings To Avon Causeway	Not currently on LTP priority list.
T14 Cycle Routes	7) Stanpit To Tuckton	Mostly cycle route signing. Not on current LTP priority list
T14 Cycle Routes	8) The Runway To Stanpit	Completed
T14 Cycle Routes	9) Mudeford Woods To Mudeford Quay	Completed
T14 Cycle Routes	10) Coastal Cycle Path	Part completed (Mudeford Quay to Avon Beach)
T14 Cycle Routes	11) Castle Avenue To Somerford	Completed



<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
T14 Cycle Routes	12) Somerford To Town Centre	Brief being developed with PB. Study completed but scheme not progressed due to funding issues, but could be part funded through developer contributions in the future.
T14 Cycle Routes	13) The Runway To Highcliffe School	Completed
T14 Cycle Routes	14) Christchurch By-Pass	General maintenance / vegetation clearance of existing cycleway has been completed.
T14 Cycle Routes	15) Stony Lane	Completed
T14 Cycle Routes	16) Mudeford Woods	Completed
T14 Cycle Routes	17) Somerford To Roeshot Hill	Completed
P1	Parking - rear of 13 Wick Lane	Completed 2008. No net gain in parking spaces due to sale of development land.
P2	Extension of Magistrates car park	No longer required to meet town centre parking requirements. Allocation has not been carried forward through Local Plan Review. Planning application has been submitted for Magistrates Court Site as a whole for mixed use scheme which reconfigures parking provision.
P3	Car parking rear of Globe Inn Highcliffe	No longer required and not carried forward as part of the Local Plan Review.
L21	Dudmoor - country park	Allocation will not be implemented as within 400m of Dorset Heathland. Policy is not being carried forward as part of the Local Plan Review.
CF3	Recreation/community facilities -Land adjacent to Stanpit recreation facilities	Allocation part implemented through delivery of the interpretation centre at Stanpit Marsh. This policy will be superseded by the Christchurch Coastal Country Park proposal.

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
CF4	Highcliffe community facility	Northern part of the site now incorporated into new development. Existing buildings in residential use. Policy not considered deliverable and not included as part of Local Plan review.
CF7	New cemeteries adjacent to St Marks cemetery Highcliffe  rear of St Luke's cemetery Burton	The land adjacent to St Marks Cemetery Highcliffe is not considered needed and there is a current housing proposal for this site.  Land to the rear of St Luke's cemetery Burton has not been implemented and the allocation is carried forward as part of the Local Plan review at Options stage.

Table last updated January 2019

## **Progress on saved East Dorset District Council 2002 policies**

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
FWP1	Housing - Green Worlds, Ringwood Road, Ferndown	Land not yet brought forward for development, but the landowner has undertaken some pre-application discussions with the Council. The site is now heavily treed which could preclude a higher density development. The site is being considered as part of the East Dorset Local Plan Review at Options stage (Policy Option 5.13)
FWP2	Employment use Ferndown Industrial Estate east of Cobham Road / north of Wimborne Road	Reserved matters applications being submitted and site under construction.
FWP11	Bracken Road - open space	Part of area to be developed as community woodland in co-operation with local residents. Project delayed because of asbestos contamination. Consultant's Report produced. The planned remediation works have been initiated, with partial clearance of the site achieved. Site to be reviewed in light of further asbestos works required.
SL1	Employment - military testing ground St Leonards	Allocation not considered likely to come forward and not carried forward as part of the Local Plan Review.

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
SL3	<p>Heathland restoration</p> <p>a) land west of Wayland Road</p> <p>b) land between Grange and Foxbury Roads</p> <p>c) to the south-east of St Leonards Hospital</p> <p>d) the Shamba complex south of Lions Hill</p> <p>e) Matchams SSSI, and</p> <p>f) Wattons Ford Common.</p>	<p>Proposed heathland restoration areas have not been progressed. Following discussion with Natural England not being considered as part of Local Plan Review.</p>
WM2	<p>Library extension West Moors Library</p>	<p>Allocation not yet implemented. Carried forward through the Local Plan Review at Options stage through draft Policy 5.25.</p>
WM3	<p>Open space, pitches and facilities - land adjacent to Fryer field, West Moors and Riverside Road.</p>	<p>Allocation not implemented. As part of Local Plan Review area proposed for protection as open space only without detailed allocation.</p>
WIMCO1	<p>mixed use redevelopment - Old Road / Victoria Road, Wimborne</p>	<p>Part of site has been developed to the north. Old Road car park considered as part of asset review and car parking study. Allocation is not being carried forward as part of the Local Plan review.</p>
WIMCO9	<p>Play area east of Canford Bottom</p>	<p>Allocation not yet implemented.</p>
WIMCO23	<p>Land off Old Road and Mill Lane- car parking</p>	<p>Old Road and Mill lane currently being used as car parks. Sites considered as part of Council asset and car parking review.</p>
V16	<p>Heathland restoration</p> <p>a) land to the south, south west and west of Dewlands Common</p> <p>b) land to the south of Noon Hill</p> <p>c) land to the east of Stephens Castle</p> <p>d) land at Horton Common</p>	<p>Proposed heathland restoration areas have not been progressed. Following discussion with Natural England not being carried forward as part of Local Plan Review.</p>

<b>Policy</b>	<b>Proposal</b>	<b>Progress</b>
V17	Land off Dewlands Road Verwood - heathland re-creation	Proposed heathland restoration area has not been progressed. Following discussion with Natural England not being carried forward as part of Local Plan Review.
V26	Junction improvements at Manor Lane and St Michaels Road Verwood	Related to scheme below
V30	New Springfield Distributor Road	Dorset County Council (DCC) corporate funded scheme has now been completed.
V31	Manor Lane improvements once Springfield distributor Road complete	Related to scheme above
CHASE2	Redevelopment of former saw mill Cranborne for business use	Allocation not yet implemented. Carried forward as part of the Local Plan Review at Options stage (Policy Option 5.30).
CHASE3	Speed reduction measures Cranborne	Not on current LTP priority list and not carried forward as part of the Local Plan Review.
CHASE6	Residential development Sixpenny Handley	Allocation has been reviewed as part of Local Plan review process and is carried forward (Policy Option 5.35). DCC have confirmed site capable of coming forward without by-pass. Pre app discussions currently being undertaken for this site.
CHASE7	Residential development land adjacent to Frogmore Lane, Sixpenny Handley	Allocation has been reviewed as part of Local Plan review process and is carried forward through (Policy Option 5.35) at Options stage.
CHASE11	Speed reduction measures Sixpenny Handley	Already has village 30mph and 20mph limit covering school / village centre. Scheme is not currently on LTP priority list and policy not carried forward as part of the Local Plan Review.
CHASE15	Speed reduction measures Witchampton	Already has village 30mph and 20mph Zone covering school / village centre. Scheme is not currently on LTP priority list and policy not carried forward as part of the Local Plan Review.
SM3	Open space and sports facilities Station Road, Sturminster Marshall	Allocation not yet implemented. Carried forward as part of the Local Plan Review at Options stage through Policy Option 5.37.

Policy	Proposal	Progress
GBV4	Proposed open space between High Street and Stewards Lane, Shapwick	Allocation has not yet been implemented. Allocation is carried forward through the Local Plan Review at Options Stage (Draft Policy 5.34).

Table last updated January 2019.

## Planning Policy - East Dorset area

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<input type="checkbox"/>	<a href="#">20/05/2021 - 813.11 Wareham Road LVA -Supporting Photos</a> (unknown size)				
<input type="checkbox"/>	<a href="#">20/05/2021 - 0902 - Transport Assessment 03.05.2021</a> (unknown size)				
<input type="checkbox"/>	<a href="#">20/05/2021 - 2020-03-24 Wareham Road - Dormouse report</a> (unknown size)				
<input type="checkbox"/>	<a href="#">20/05/2021 - Application Form Redacted</a> (unknown size)				

**Documents**

- [20/05/2021 - Arboricultural Assessment and Method Statement - 17125-AA2-CA \(May 2021\)](#) (unknown size)
- [20/05/2021 - Badger Survey Report - 813.33 \(March 2020\)](#) (unknown size)
- [20/05/2021 - CIL Forms - Land East of Wareham Road](#) (unknown size)
- [20/05/2021 - Cover Letter - Full Application \(Wareham Road\)\(1\)](#) (unknown size)
- [20/05/2021 - Double Garage 2-B Plans and Elevations \(ref. DG2-B\)](#) (unknown size)
- [20/05/2021 - Final Planning Statement with appendices](#) (unknown size)
- [20/05/2021 - Flat Block Type 3-HA-B Plans and Elevations \(ref. FBT 3-HA-B\)](#) (unknown size)
- [20/05/2021 - Landscape & Visual Appraisal LVIA \(ref. 813.11WTK Issue 02 \(May 2021\)\)](#) (unknown size)
- [20/05/2021 - Manual for managing trees on development sites \(ref. V3.0\)](#) (unknown size)
- [20/05/2021 - Nutrient Neutrality Assessment - 813.33 \(May 2021\)](#) (unknown size)
- [20/05/2021 - Preliminary Drainage Strategy \(ref. 0902-01-PDL-1101 rev A\)](#) (unknown size)
- [20/05/2021 - Preliminary Highways Layout \(Sheet 1 of 4\) \(ref. 0902-01-PHL-1010 rev A\)](#) (unknown size)
- [20/05/2021 - Preliminary Highways Layout \(Sheet 2 of 4\) \(ref. 0902-01-PHL-1011 rev A\)](#) (unknown size)
- [20/05/2021 - Preliminary Highways Layout \(Sheet 4 of 4\) \(ref. 0902-01-PHL-1013 rev A\)](#) (unknown size)
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- [20/05/2021 - Refuse Collection Distances Plan \(ref. 0902-01-PHL-0003 rev A\)](#) (unknown size)
- [20/05/2021 - Single Garage 2-B Plans and Elevations \(ref. SG2-B\)](#) (unknown size)
- [20/05/2021 - Statement of Community Engagement - Wareham Road Lytchett Matravers](#) (unknown size)
- [20/05/2021 - Street Scenes \(ref. A024-P-100\)](#) (unknown size)
- [20/05/2021 - Tree protection plan \(ref. 17125-3\)](#) (unknown size)
- [20/05/2021 - Twin Garage 2-B Plans and Elevations \(ref. TwG2-B\)](#) (unknown size)
- [20/05/2021 - Typical Double Garage with Home Office Plans and Elevations \(ref. DGHO-B\)](#) (unknown size)
- [20/05/2021 - Vehicle Swpet Path Analysis - Refuse \(Sheet 1 of 4\) \(ref. 0902-01-ATR-101 rev A\)](#) (unknown size)
- [20/05/2021 - Vehicle Swpet Path Analysis - Refuse \(Sheet 2 of 4\) \(ref. 0902-01-ATR-102 rev A\)](#) (unknown size)
- [20/05/2021 - Vehicle Swpet Path Analysis - Refuse \(Sheet 3 of 4\) \(ref. 0902-01-ATR-103 rev A\)](#) (unknown size)

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- [20/05/2021 - Vehicle Swpet Path Analysis - Refuse \(Sheet 4 of 4\) \(ref. 0902-01-ATR-104 rev A\)](#) (unknown size)
- [24/05/2021 - 813.11 34c Landscape Strategy Plan](#) (unknown size)
- [24/05/2021 - 0902 01 Phl 1012 A Preliminary Highways Layout](#) (unknown size)
- [24/05/2021 - 2-4-777 and 1-2-777-HA-B-T3 -Variant Plans and Elevations \(ref. 777-HA-B-T3-V\)](#) (unknown size)
- [24/05/2021 - 2-4-777 and 1-2-777-HA-R-T3- Variant Plans and Elevations \(ref. 777-HA-R-T3-V\)](#) (unknown size)
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- [24/05/2021 - 2-4-777-HA-B-V-Plans and elevations](#) (unknown size)
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- [24/05/2021 - 2-799-Beaminster-B-Cottage Plans and Elevations \(ref. Bea-B-C\)](#) (unknown size)
- [24/05/2021 - 2-845-Bryanston-B-Cottage Plans and Elevations \(ref. Bry-B-C\)](#) (unknown size)
- [24/05/2021 - 2-845-Bryanstone-B-Cottage and 2-830- Bridport-R-Cottage-Variant Plans and Elevations \(ref. Bry-B-C and Bri-R-C-V\) size\)](#)
- [24/05/2021 - 3-5-894-HA-B Plans and Elevations \(ref. 894-HA-B\)](#) (unknown size)
- [24/05/2021 - 3-5-894-HA-R Plans and Elevations \(ref. 894-HA-R\)](#) (unknown size)
- [24/05/2021 - 3-5-1217-HA-R-Variant Plans and Elevations \(ref. 1217-HA-R-V\)](#) (unknown size)
- [24/05/2021 - 3-1036-Compton-B-Cottage Plans and Elevations \(ref. Com-B-C\)](#) (unknown size)
- [24/05/2021 - 3-1036-Compton-R-Cottage Plans and Elevations \(ref. Com-R-C\)](#) (unknown size)
- [24/05/2021 - 3-1136-Glanvilles-B-Cottage Plans and Elevations \(ref. Gla-B-C\)](#) (unknown size)
- [24/05/2021 - 3-1207-Ibberton-B-Cottage Plans and Elevations \(ref. Ibb-B-C\)](#) (unknown size)
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- [24/05/2021 - 3-1222-Iwerne-B-Cottage 1 Plans and Elevations \(ref. Iwe-B-C1\)](#) (unknown size)
- [24/05/2021 - 3-1331-Kimmeridge-B-Cottage and 2-830-Bridport-R-Cottage-Variant Plans and Elevations \(ref. Kim-B-C and Bri-R-C-V size\)](#)
- [24/05/2021 - 3-1348-Kington-B-Cottage and 3-1136- Glanvilles-B-Cottage-Variant Plans and Elevations \(ref. Kin-B-C and Gla-B-C-V\) size\)](#)
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- [24/05/2021 - 3-1348-Kington-B-Infomal Plans and Elevations \(ref. Kin-B-I\)](#) (unknown size)
- [24/05/2021 - 3-1348-Kington-B-Infomal-Variation Plans and Elevations \(ref. Kin-B-I-V\)](#) (unknown size)
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- [24/05/2021 - 3-1349-Knowlton-B-Cottage Plans and Elevations \(ref. Kno-B-C\)](#) (unknown size)
- [24/05/2021 - 4-1360-Lytchett-B-Cottage Plans and Elevations \(ref. Lyt-B-C\)](#) (unknown size)
- [24/05/2021 - 4-1360-Lytchett-R-Informal2 Plans and Elevations \(ref. Lyt-R-I2\)](#) (unknown size)
- [24/05/2021 - 4-1403-Morden-R-Cottage Plans and Elevations \(ref. Mor-R-C\)](#) (unknown size)
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- [24/05/2021 - 4-1569-Regis-B-Cottage Plans and Elevations \(ref. Reg-B-C\)](#) (unknown size)
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- [24/05/2021 - 4-1669-Silton-B-Cottage Plans and Elevations \(ref. Sil-B-C\)](#) (unknown size)
- [24/05/2021 - 4-1669-Silton-B-Informal Plans and Elevations \(ref. Sil-B-I\)](#) (unknown size)
- [24/05/2021 - 4-1681-Sixpenny-B-Informal Plans and Elevations \(ref. Six-B-I\)](#) (unknown size)
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- [09/09/2021 - Simmonds, J, M 26 Glebe road, Lytchett Matravers](#) (unknown size)
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- [11/09/2021 - Carmichael, A Hopmans Cottage 79 High St](#) (unknown size)
- [11/09/2021 - Leary A J, 206 Wareham Road BH16 6DU](#) (unknown size)
- [13/09/2021 - Bulman, S 5 landers reach, bh166nb](#) (unknown size)
- [14/09/2021 - DC Housing Officer Response](#) (unknown size)
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- [19/09/2021 - Nichols M, Sea Glimpse](#) (unknown size)
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- [23/09/2021 - Prince J, 21 Landers Reach](#) (unknown size)
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- [23/09/2021 - Jen, Lytchett Matravers](#) (unknown size)
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- [24/09/2021 - Emmerson- Poppy, 56 Wareham Road](#) (unknown size)
- [24/09/2021 - Mills D, 37 Landers Reach](#) (unknown size)
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- [24/09/2021 - Trott J, 12 Gibbs Green](#) (unknown size)
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- [25/09/2021 - Greetham R, 4, Glebe Road](#) (unknown size)
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- [25/09/2021 - Watts B, Elderton Cottage](#) (unknown size)
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- [25/09/2021 - Smith T, Charborough Close](#) (unknown size)
- [25/09/2021 - Warwick N, 37 Fosters Spring](#) (unknown size)
- [25/09/2021 - Gibbens P, 15 Scutts Clos](#) (unknown size)
- [25/09/2021 - Bagley A, 22 Glebe Road](#) (unknown size)
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- [26/09/2021 - Morris D, The Firs - Redacted](#) (unknown size)
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- [26/09/2021 - 20 GIEBE ROAD, LYCHETT MMATRAVERS, POOLE, BH16 6EH](#) (unknown size)

**Documents**

- [26/09/2021 - Small C, 12 Cecil place](#) (unknown size)
- [26/09/2021 - Angell H, 5 Old Chapel Drive](#) (unknown size)
- [26/09/2021 - Chapman M, no address](#) (unknown size)
- [26/09/2021 - Pallett S, 156a Wareham Road](#) (unknown size)
- [26/09/2021 - Wakeling J, Holton,](#) (unknown size)
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- [26/09/2021 - Elford A, 9 Keates Meadow](#) (unknown size)
- [26/09/2021 - Smith L, 10 Keates Meadow](#) (unknown size)
- [26/09/2021 - Trent P, 77 The Spinney](#) (unknown size)
- [26/09/2021 - Trent E, 77 The Spinney](#) (unknown size)
- [26/09/2021 - Clarke M, 4 Poppy Place](#) (unknown size)
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- [26/09/2021 - Whitelaw C, 14a Anncott Close](#) (unknown size)
- [26/09/2021 - Leonard N, 5 Pryors Walk](#) (unknown size)
- [26/09/2021 - Stansfield P, 19 Glebe Rd](#) (unknown size)
- [27/09/2021 - Holland G, 96 Wareham Road, Lytchett Matravers, Poole, Dorset BH16 6DT](#) (unknown size)
- [27/09/2021 - Harris M, 13 Landers Reach](#) (unknown size)
- [27/09/2021 - Webster P, 83 The Spinney](#) (unknown size)
- [27/09/2021 - Dawes J, 6 Paddock Close](#) (unknown size)
- [27/09/2021 - Steed D, Bay Tree Cottage](#) (unknown size)
- [27/09/2021 - Mason Mr & Mrs, Hope Cottage](#) (unknown size)
- [27/09/2021 - Norcliffe S, Home Farm - Redacted](#) (unknown size)
- [27/09/2021 - Coslett B, 16 Glebe Road - Redacted](#) (unknown size)
- [27/09/2021 - Mason Mr & Mrs, Hope Cottage - PDF](#) (unknown size)
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- [27/09/2021 - Consultation response -Landscape 24/09/2021](#) (unknown size)
- [28/09/2021 - Ashenden J, 11 Old Chapel Drive](#) (unknown size)

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- [28/09/2021 - o'Sullivan, H - 14 Gibbs Green](#) (unknown size)
- [28/09/2021 - Tansey J, 82 Wareham Road](#) (unknown size)
- [28/09/2021 - McGill A, Eldons Drove](#) (unknown size)
- [28/09/2021 - Small G, 38 Glebe Road,](#) (unknown size)
- [28/09/2021 - Goble Mr and Mrs, Afterthought,](#) (unknown size)
- [28/09/2021 - Tristram A, 3 Abbott's Meadow](#) (unknown size)
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- [29/09/2021 - Goble Mr and Mrs, , Afterthought, -PDF](#) (unknown size)
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- [29/09/2021 - 21 Glebe Road, Lytchett Matravers, Poole, Dorset, BH16 6EJ](#) (unknown size)
- [29/09/2021 - Foster N, Meadowfield, Foxhills Road, Lytchett Matravers](#) (unknown size)
- [29/09/2021 - Foster N, Meadowfield, Foxhills Road, Lytchett Matravers](#) (unknown size)
- [29/09/2021 - White Owls, Flowers Drove](#) (unknown size)
- [29/09/2021 - 34 Old Chapel Drive, LYTCHETT MATRAVERS, POOLE, DORSET, BH166HA](#) (unknown size)
- [29/09/2021 - 34 old chapel Drive, , Lytchett Matravers, , Poole, Dorset, , Bh166ha](#) (unknown size)
- [29/09/2021 - 9 Hann Gardens, Lytchett Matravers, BH16 6FD](#) (unknown size)
- [29/09/2021 - Hernandez J, 7 Lime Kiln Road](#) (unknown size)

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- [29/09/2021 - Hernandez R, 7 Lime Kiln Road](#) (unknown size)
- [29/09/2021 - Longden P, 17 Glebe Road](#) (unknown size)
- [29/09/2021 - Price N & R 4 Wareham Road](#) (unknown size)
- [29/09/2021 - Tilopa, 3 Flowers Drove, Lytchett Matravers, BH166BX](#) (unknown size)
- [29/09/2021 - Longden P, 17 Glebe Road - Redacted](#) (unknown size)
- [30/09/2021 - 30 Old Chapel Drive](#) (unknown size)
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- [30/09/2021 - Riach R, 6 Glebe Road, Lytchett Matravers](#) (unknown size)
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- [30/09/2021 - Sad, 24 Glebe Road Lytchett Matravers](#) (unknown size)
- [30/09/2021 - Palmer M, 24 Glebe Road Lytchett Matravers Poole, BH16 6EH](#) (unknown size)
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- [30/09/2021 - Frisby J, 30 Wareham Road, Lytchett Matravers](#) (unknown size)
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- [30/09/2021 - 5 Linnet Road, Creekmoor BH17 7TF](#) (unknown size)
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- [30/09/2021 - 14 Huntick Estate Lytchett Matravers](#) (unknown size)
- [30/09/2021 - 3 Keates Meadow, Lytchett Matravers, Poole, Dorset, BH166NE](#) (unknown size)
- [30/09/2021 - White Owls, Flowers Drove, Lytchett Matravers. BH166BX](#) (unknown size)
- [30/09/2021 - 33 Charborough Close, Lytchett Matravers, false, Lytchett Matravers](#) (unknown size)
- [30/09/2021 - Sunny Meadow, Deans Drove, Lytchett Matravers](#) (unknown size)
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- [30/09/2021 - Perry Jayne - 7 Glebe Road](#) (unknown size)
- [30/09/2021 - Woods F, 7 Glebe Road, Lytchett Matravers](#) (unknown size)
- [30/09/2021 - 11 Glebe Road, Lytchett Matravers, BH166EJ](#) (unknown size)
- [30/09/2021 - Ronalea, Deans drove, Lytchett matravers, Bh166eq](#) (unknown size)
- [30/09/2021 - Ronalea Deans Drove, Lytchett Matravers](#) (unknown size)



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- [30/09/2021 - 1 Lions Court, Wimborne Road, Lytchett Matravers](#) (unknown size)
- [30/09/2021 - 16 Dillons Gardens Lytchett Matravers Dorset BH16 6DW](#) (unknown size)
- [30/09/2021 - 119 Symes Road, Poole, Dorset](#) (unknown size)
- [30/09/2021 - 4 Frys Close,](#) (unknown size)
- [30/09/2021 - 4 Frys Close, Lytchett matravers](#) (unknown size)
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**APP REF:** 6/2019/0717

**ADDRESS:** Land at Policeman's Lane, Upton

**APPLICANT:** Lewis Wyatt Ltd

**DESCRIPTION:** Erection of 92 dwellings with access via Osprey Close, associated landscaping, drainage and footpaths onto Watery Lane.

**CASE OFFICER:** Peter Walters

### **URBAN DESIGN OFFICER COMMENTS**

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	x
NO OBJECTION	
REQUEST FOR FURTHER INFORMATION	
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	no

#### **Summary:**

The application site sits on the western edge of Upton abutting the A35 trunk road to the west and the Frenches Green scheme built by Wyatt Homes to the north. Watery Lane runs along the site's eastern boundary, which is a rural single track lane, unsuitable for vehicles. The site is well screen by existing vegetation along this boundary.

#### **Main issues:**

The principle of development on the site is accepted. However, matters concerning the design of the proposals and whether they will achieve a high quality place as set out in the provisions of the NPPF, National Design Guide, Building for a Healthy Life and the Purbeck Local Plan is still to be considered.

#### **The proposal:**

The proposal is a full planning application for the construction of 92 dwellings, associated landscaping, open space and access. The scheme is an extension of the Wyatt Homes development at Policeman's Lane. Houses are a mix of larger detached, and semi detached housing. There are also 3 apartment blocks at the western end of the site. The affordable housing units are located nearest to the boundary with the A35 with full market housing to the eastern edge of the site. 2 areas of open space are incorporated into the scheme where existing trees are to be retained.

### **Comments on proposal:**

**Layout** - The form and layout of the scheme is a continuation of the development at Policeman's Lane with access to the proposed development through this scheme with a secondary access onto Osprey Close and Watery Lane.

Larger detached houses are positioned away from the A35 with all but 2 affordable housing units located on the western side of the site, closest to the A35.

The grouping together the affordable housing in smaller units where the layout of spaces is dominated by parking with no landscaping will **not** result in a mixed and sustainable community and is therefore contrary to paragraph 116 of the National Design Guide: ***'Where different tenures are provided, they are well-integrated and designed to the same high quality to create tenure neutral homes and spaces, where no tenure is disadvantaged'***.

And is also contrary to Policy AH: Affordable Housing in the Purbeck Local Plan ***'.....the affordable housing element of schemes should be fully integrated or 'pepper potted' through the site..'*** There appears to be no exceptional circumstances that justify a departure from this policy and it is considered that the layout must be revised to address this.

**Detailed design and materials** - The design and access statement refers to a 'Rural Dorset vernacular' including cottages of various shape and size with an informal architectural language and a limited palette of materials. While the architectural approach is simple and understated it is not clear that it has been informed by the best of examples of local context (for example Lytchett Minster). The NPPF is clear that design must be ***'sympathetic to local character and history, including the surrounding built environment and landscape setting*** (para 127c NPPF).

Aerial photos of the area show that the majority of the roofs within the immediate are of the site are grey in colour (except those in the newly completed Wyatt's scheme). However, proposals for the scheme show roofing material consisting of a mix of slate and plain tile (likely to be red in colour). Such a roof colour would not only be out of keeping with the original context of the area, but it is also very prominent within developments particularly where the roof pitches are high (as in the design of the house types proposed here).

Policy D: Design in the Purbeck Local Plan specifically references ***'localised traditions of building materials'*** and therefore red plain tile roofs are not appropriate and careful consideration of brick and render colours are required to ensure they are in keeping with traditional local colours.

As it stands proposed materials are only shown within the elevational drawings and in the selected street scenes, there is no plan that can be approved that clearly illustrates the mix of materials across the site. It is recommended that a condition is added to any approval that requires a materials plan to be submitted and approved in order to ensure that brick and render colour and roof material is appropriate to the context of the site, is not overly dominant within the development and in the surrounding area and delivers a cohesive street scene which has a clear rhythm with elements of uniformity to strengthen this.

**Landscaping and Biodiversity** - The Council's Landscape Architect has already commented on the proposals and I would strongly reiterate the points she raised about the lack of landscaping within the scheme.

No street trees have been proposed within the development which would have multiple benefits including reducing the impact of parked cars, particularly within the areas of courtyard parking and improving the quality of the space and the well being of residents.

The lack of adequate landscaping is contrary to para 127 of the NPPF '*Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.*

In addition to this paragraph 77 of the National Design Guide states that: ***A well-designed movement network defines a clear pattern of streets that: incorporates green infrastructure, including street trees to soften the impact of car parking, help improve air quality and contribute to biodiversity*** and paragraph 90 that the incorporation of ***nature contributes to the quality of a place, and to people's quality of life, and it is a critical component of well designed places. They include natural and designed landscapes, high quality public open spaces, street trees, and other trees, grass, planting and water.***

Adding to this, houses have very little in the way of front gardens and no front boundary treatments. While the illustrative street scenes show there to be some shrub planting in reality houses sit tight against the pavement. This coupled with the lack of any verges or street trees creates a very hard, urban environment that has no amenity or environmental benefits and is inappropriate within the context of the site's setting on the rural edge of Upton. It is therefore contrary to paragraph 127c of the NPPF ***design must be 'sympathetic to local character and history, including the surrounding built environment and landscape setting.'***

The design and access statement and the BMEP alludes to features that will be included within landscaping plans that will support biodiversity but I can see no

record of a consultation response from the Council's NE team to ensure that this document is approved as part of the RM to ensure that the site delivers a net gain in biodiversity and accords with Policy BIO: Biodiversity and Geodiversity '*Plans should incorporate any opportunities for biodiversity in and around the development..*' and Policy D; Design plans should '*Demonstrate support for biodiversity through sensitive landscaping and through in-built features, which provide nesting and roosting facilities for bats and birds*'.

**Energy Efficiency** - No details have been provided as to how the scheme will meet the provisions of Policy D: Design in regards to renewable energy and there is also no indication of the provision of electric car charging points in line with paragraph 110e of the NPPF '***development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.***'

**Policy consideration:**

In addition to the policies already mentioned above, Policy D of the Purbeck Local Plan makes reference to the requirement for housing schemes to meet 14 of the 20 criteria set out in Building for Life. This document has since been superseded and is now known as Building for a Healthy Life. Although the number of criteria has been reduced to 12, the principles of the document remain although it is considered not as a scoring system but as a design process to lead discussions. The current proposals flag a number of red lights and therefore fail to meet clear criteria within national and local planning policies aimed at improving the quality of design and placemaking within new developments. In light of this, there are some necessary changes to the design, layout and landscaping that are required before the proposals are considered acceptable.

**OFFICER: Sophie Duke**  
**TITLE: Senior Urban Designer**  
**DATE: 24/05/2021**



# Planning application: 6/2019/0717

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- [18/02/2020 - Consultation Response - Education services](#) (unknown size)
- [18/02/2020 - Consultation Response - Rights of Way](#) (unknown size)
- [19/02/2020 - Neighbour Response - Shelley Summers](#) (unknown size)
- [21/02/2020 - Neighbour Response - Barbara Coughtrey](#) (unknown size)

**Documents**

- [22/02/2020 - Neighbour Response - Simon and Sophie Cooper](#) (unknown size)
- [23/02/2020 - Neighbour Response - Mr NJ Hancock](#) (unknown size)
- [23/02/2020 - Neighbour Response - Mr NJ Hancock](#) (unknown size)
- [24/02/2020 - Neighbour Response - Robin and Gemma Wilcox](#) (unknown size)
- [24/02/2020 - Email from Town Council & Barbara & John Coughtrey](#) (unknown size)
- [24/02/2020 - Neighbour Response - Fiona Senior](#) (unknown size)
- [24/02/2020 - Consultation response - Senior Landscape Architect](#) (unknown size)
- [24/02/2020 - Neighbour Response - Barbara Coughtrey](#) (unknown size)
- [26/02/2020 - Neighbour Response - Bernie & Mark Allen](#) (unknown size)
- [27/02/2020 - Neighbour Response - Charmaine snelling](#) (unknown size)
- [27/02/2020 - Neighbour Response - Lillie Forder-white](#) (unknown size)
- [27/02/2020 - Neighbour Response - Ali Rawlings](#) (unknown size)
- [27/02/2020 - Neighbour Response - Debbie Talbott](#) (unknown size)
- [27/02/2020 - Neighbour Response - Helen Zambuni](#) (unknown size)
- [27/02/2020 - Neighbour Response - Karen Atkins](#) (unknown size)
- [27/02/2020 - Neighbour Response - Sarah Bennett](#) (unknown size)
- [27/02/2020 - Neighbour Response - Daniel and Davina Nation](#) (unknown size)
- [27/02/2020 - Neighbour Response - Claire Lovell](#) (unknown size)
- [27/02/2020 - Neighbour Response - Deimante Sabutyte](#) (unknown size)
- [27/02/2020 - Neighbour Response - Michael Atkins](#) (unknown size)
- [27/02/2020 - Neighbour Response - Julia Meineck](#) (unknown size)
- [27/02/2020 - Neighbour Response - Aimee Dunkley](#) (unknown size)
- [27/02/2020 - Neighbour Response - Daniel Meineck](#) (unknown size)
- [27/02/2020 - Neighbour Response - Helen Jenkins](#) (unknown size)
- [27/02/2020 - Neighbour Response - Clare & George Martin](#) (unknown size)
- [27/02/2020 - Neighbour Response - Sarah Langdale](#) (unknown size)
- [27/02/2020 - Neighbour Response - Colin Wrigglesworth](#) (unknown size)
- [27/02/2020 - Neighbour Response - Mrs Griffin,](#) (unknown size)

**Documents**

- [27/02/2020 - Neighbour Response - Mark and Julie Andrews](#) (unknown size)
- [27/02/2020 - Neighbour Response - Amanda Fripp](#) (unknown size)
- [27/02/2020 - Neighbour Response - Elizabeth wiles](#) (unknown size)
- [27/02/2020 - Neighbour Response - Mr & Mrs Tucker](#) (unknown size)
- [27/02/2020 - Neighbour Response - Sonia Elliott](#) (unknown size)
- [27/02/2020 - Neighbour Response - Dean neville](#) (unknown size)
- [27/02/2020 - Neighbour Response - Zoe Pipe](#) (unknown size)
- [27/02/2020 - Neighbour Response - Paul Cox](#) (unknown size)
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- [27/02/2020 - Neighbour Response - Carl westwood](#) (unknown size)
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- [27/02/2020 - Neighbour Response - K Staddon](#) (unknown size)
- [27/02/2020 - Neighbour Response - Selina McAllister](#) (unknown size)
- [28/02/2020 - Neighbour Response - Helen](#) (unknown size)
- [28/02/2020 - Neighbour Response - Lauren Anderson](#) (unknown size)
- [28/02/2020 - Neighbour Response - Tina Jewell](#) (unknown size)
- [28/02/2020 - Consultation Response - Town council comments](#) (unknown size)
- [28/02/2020 - Neighbour Response - Yvonne Hulls](#) (unknown size)
- [04/03/2020 - Neighbour Response - Helen Crossley](#) (unknown size)
- [04/03/2020 - Neighbour Response - Sarah Bennett](#) (unknown size)
- [04/03/2020 - Consultation Response - LLFA](#) (unknown size)
- [05/03/2020 - Neighbour response - Mr & Mrs White - 25/02/20](#) (unknown size)
- [05/03/2020 - Neighbour response - Mr Hagger - 25/02/20](#) (unknown size)
- [05/03/2020 - Neighbour response - - Mr & Mrs Morse - 14/02/20](#) (unknown size)
- [12/03/2020 - Consultation Response - Wessex Water](#) (unknown size)
- [12/03/2020 - Consultation Response - Wessex Water](#) (unknown size)
- [12/03/2020 - Consultation Response - Historic England](#) (unknown size)

**Documents**

- [12/03/2020 - Neighbour Response - Sophie Cooper](#) (unknown size)
- [12/03/2020 - Neighbour Response - Helen Crossley](#) (unknown size)
- [12/03/2020 - Consultation Response - Public health](#) (unknown size)
- [01/04/2020 - Consultation Response - Senior Tree and Landscape Officer](#) (unknown size)
- [15/06/2020 - Consultation Response - Housing](#) (unknown size)
- [18/08/2020 - Consultation Response - Environment Agency](#) (unknown size)
- [24/05/2021 - Neighbour Response - Upton Hedgehogs 20/05/21](#) (unknown size)
- [25/05/2021 - Consultation Response - Urban Design Officer](#) (unknown size)
- [05/08/2021 - Consultation Response - Highways 03/08/21](#) (unknown size)
- [19/08/2021 - Linn E, 17 Osprey Close](#) (unknown size)

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Comments have closed on this application (si



## Planning Services

County Hall, Colliton Park  
Dorchester, Dorset, DT1 1XJ

) 01305 838336- **Development Management**

) 01305 224289- **Minerals & Waste**

8 [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

Mrs Clare Spiller  
Chapman Lily Planning Ltd  
Unit 5 Designer House  
Sandford Lane  
Wareham  
BH20 4DY

**Date:** 25 July 2023

**Ref:** P/FUL/2023/01846

**Case Officer:** Bob Burden

**Team:** Western and Southern

)

\*

## Planning Decision Notice

### Full Planning Application

Town and Country Planning Act 1990

Town and Country Planning

(Development Management Procedure) (England) Order 2015

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**Application Number:** P/FUL/2023/01846

**Location:** Former Council Offices, North Quay, Weymouth, DT4 8TA

**Description:** Demolition of the existing (former council) building, alterations to the existing car park and provision for additional car parking spaces.

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Dorset Council **grants** planning permission for this development as detailed in the application. In making this decision the Council considered whether the application could be approved with or without conditions or should be refused.

This planning permission does not cover Building Regulations Approval or any other Byelaw, Order or Regulation. Please see our website [www.dorsetcouncil.gov.uk/planning-buildings-land/building-control/building-control](http://www.dorsetcouncil.gov.uk/planning-buildings-land/building-control/building-control) for more details about making a building regulation application and contacting our Building Control Team.

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### This planning permission is subject to the following conditions:

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1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan

70085295-WSP-00-XX-DR-C-00001 P05 Proposed Car Park Schematic Layout

Reason: For the avoidance of doubt and in the interests of proper planning.



2. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

3. This permission for use as an additional car parking area shall be limited to the period ending 31 July 2026. At the end of this period the use of the additional car parking area shall cease, and the land restored in accordance with a scheme which shall first have been submitted to and approved in writing by the local planning authority. The agreed restoration scheme shall be completed by 31st October 2026.

Reason: To exercise control over the temporary use and to enable review of the potential redevelopment of the site.

4. No development approved by this permission shall be commenced until a Demolition/Construction Management Plan (based on the already submitted CEMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and within an agreed timetable.

The plan shall include pollution prevention measures, (including details of any crusher equipment to be used), arrangements for the protection of local residents from noise, vibration and dust from the development and proposals to ensure that-

Hours of works are limited to-

08.00- 17.00 Monday-Friday

08.00-16.00 Saturday

No working on Sundays or Bank Holidays

The start up of vehicles and machinery is only carried out in a designated area, as far way from residential/sensitive areas as practicable.

The start up of vehicles/equipment etc. is limited to 30 minutes prior to the hours of demolition/construction only.

Details of the construction traffic shall be provided.

Reason: To protect residential amenity, to minimise the likely impact of construction traffic on the surrounding highway network, prevent pollution of the water environment and to protect water quality interests.

5. The surfacing of the additional car park area shall be similar to the existing car park in materials, finish and colour.

Reason: To protect the character of the conservation area

6. The car park extension hereby approved shall not be first brought into use until the surface water drainage scheme shall have been fully installed in accordance with for Surface Water Management Statement, by WSP, version 2, and dated 21 February 2023. The scheme shall thereafter be maintained in accordance with the Drainage Maintenance and Management Plan Report by WSP, ref DR001, rev 1 and dated 24 February 2023.

Reason: To ensure appropriate site drainage and its maintenance.

7. The detailed biodiversity mitigation, compensation and enhancement set out within the approved Biodiversity Plan dated 10/5/23 certified by the Dorset Council Natural Environment Team on 16/5/23 must be implemented in accordance with any specified timetable and completed in full (including photographic evidence of compliance being submitted to the Local Planning Authority in accordance with section J of the Biodiversity Plan prior to the substantial completion, or the first bringing into use of the development hereby approved, whichever is the sooner. The development shall subsequently be implemented entirely in accordance with the approved details and the mitigation, compensation and enhancement/net gain measures shall be permanently maintained and retained.

Reason: To mitigate, compensate and enhance/provide net gain for impacts on biodiversity.

8. Prior to the commencement of any development hereby permitted, a scheme detailing arrangements for archaeological observation and recording that shall take place during any excavations (beyond the footprint of the building to be demolished) within the application site shall be submitted to the local planning authority for approval. The development shall thereafter be carried out in accordance with the approved scheme of observation and recording.

Reason: To ensure any archaeology is correctly and adequately recorded.

9. Prior to the commencement of the development hereby approved the following information shall be submitted to and agreed in writing by the Local Planning Authority:  
1) a 'desk study' report documenting the site history. 2) a site investigation report detailing ground conditions, a 'conceptual model' of all potential pollutant linkages, and

incorporating risk assessment. 3) a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed. 4) a detailed phasing scheme for the development and remedial works (including a time scale). 5) a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of time. The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented before the development hereby permitted first comes in to use. On completion of the development written confirmation that all works were completed in accordance with the agreed details shall be submitted to the Local Planning Authority.

Reason: To ensure potential land contamination is addressed.

10. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved in writing by the Local Planning Authority. On completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

Reason: To ensure risks from contamination are minimised.

11. Prior to the commencement of any development hereby approved, all existing trees and hedges shown on approved plan 70085295-WSP-00-XX-DR-C-0001 P05 to be retained, shall be fully safeguarded in accordance with BS 5837:2005 (Trees in relation to construction - recommendations) or any other Standard that may be in force at the time that development commences and these safeguarding measures shall be retained for the duration of construction works and building operations. No unauthorised access or placement of goods, fuels or chemicals, soil or other material shall take place within the tree protection zone(s).

Reason: To ensure that trees and hedges to be retained are adequately protected from damage to health and stability throughout the construction period and in the interests of amenity

12. Before the development is utilised the accesses, geometric highway layout, turning and parking areas shown on Drawing Number 70085295-WSP-00-XX-DR-C-00001 Rev P05 must be constructed, unless otherwise agreed in writing by the Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site.

13. The car park hereby approved shall not be first brought into use until a Flood Warning Plan and means of its implementation shall first have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out and maintained in accordance with the agreed details.

Reason: In the interests of minimising risk to public safety.

14. No development shall be commenced until a scheme detailing measures for the protection of the historic boundary walling to the south of the application site, along with details of the extent of other boundary walls to be protected and the measures to do so shall first have been submitted to and approved in writing by the local planning authority. Such measures as are agreed shall be fully carried out prior to any commencement of works or operations relating to the demolition of the building. The measures shall be retained for the duration of the demolition of the building and completion of the approved car park construction. Thereafter, these works shall be removed within 2 months of completion of the car park.

Reason: To protect the boundary walling from damage.

### **Informatives:**

#### 1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.

2. For brownfield sites the Environment Agency also encourage any measures to improve the quality of surface water runoff. Table 26.2 of the CIRIA (753) SuDS manual, details a pollution hazard level for commercial roof land use, of 'Low' and lists a value for Total

Suspended Solids, Metals and Hydrocarbons. The table also details a pollution hazard level for non-residential carparking land use, of 'Low' and lists a value for Total Suspended Solids, Metals and Hydrocarbons. Although the existing land use of the building and the proposed land use both have a 'Low' pollution hazard level, the proposed use (car park) has slightly higher values for Total Suspended Solids, Metals and Hydrocarbons. There may be opportunity to improve the quality of surface water runoff by fitting an oil separator, or gross pollutant traps to remove rubbish and sediment. There may be opportunity to install these within the drainage network when the site works are undertaken.

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**Decision Date:** 25 July 2023



*Mike Garrity*  
**Head of Planning**  
**Economic Growth and Infrastructure**

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## **Planning Decision Notes**

### **Power to grant planning permission**

This permission is issued by Dorset Council as the local planning authority set out by the Town and Country Planning Act 1990 (as amended) and the Town and Country (Development Management Procedure) (England) Order 2015.

### **Site notice**

If you have not already done so I would be grateful if you could take down and dispose of this application's site notice if it is still being displayed outside the property.

### **Conditions**

You should not start work until you have agreed with the Council the information requested by the conditions. If you fail to do this the works on site could be unauthorised and the Council may consider enforcement action.

The information must be submitted in writing. There is a standard form which you can download from the website [www.dorsetcouncil.gov.uk/planning](http://www.dorsetcouncil.gov.uk/planning). A fee is required each and every time you apply to discharge any or all of the conditions (£34 per request for householder applications, £116 per request for all other applications).

Please check that any plans approved under the building regulations match the plans approved in this planning permission or listed building consent. Do not start work until revisions are secured to either of the two approvals to ensure that the development has the required planning permission or listed building consent

### **Appeals**

If you disagree with our planning decision or the attached conditions, then you can appeal to the Secretary of State (Planning Inspectorate) under section 78 (1) of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within Six Months of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against our enforcement notice, then you must do so within 28 days of the date of service of the enforcement notice.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. <https://www.gov.uk/appeal-planning-decision>

An appeal must be made by the applicant. Forms are available on-line at Appeals - Appeals - Planning Portal

The Planning Inspectorate can allow a longer period for giving notice of an appeal, but they will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Planning Inspectorate need not consider an appeal if it seems that we could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

The Planning Inspectorate does not normally refuse to consider appeals solely because we based our decision on a direction given by them.

For further information about making can be found at [www.planningportal.co.uk](http://www.planningportal.co.uk)

### **Southern Gas Networks – Overbuild Advisory**

There are several risks created by building over gas mains and services. If you plan to dig, or carry out building work to a property, site or public highway you should check your proposal against the information held at <https://www.linesearchbeforeudig.co.uk/> for any underground services.

### **Purchase Notices**

If either the Council or the Planning Inspectorate refuses permission to develop land or grants it subject to conditions, the owner may claim, in exceptional circumstances, that neither the land can be put to a reasonably beneficial use in its existing state, nor can the land be rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

If this happens, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

### **Street Naming and Numbering**

The Council is responsible for street naming and numbering within our district. This helps to effectively locate property for example, to deliver post or in the case of access by the emergency services. If this permission results in the creation, deletion or change to an address, you must let us know. You need to register the new or changed address by completing a form. You can find out more and download the form from our website [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

**From:**  
**Sent:** 18 December 2023 19:17  
**To:**  
**Subject:** WD/D/20/002569

---

Dear Penny,

Many thanks for consulting the Natural Environment Team on this application. In summary, the latest information submitted appears to some of the more straightforward points raised previously, particularly those around planting, however there are areas where there has been very little change. There are also areas where there is an absence of information, despite concerns being raised previously, for example regarding potentially significant ecological impacts on the ecological corridor where the golf netting is proposed in the south of the site. For ease of reference I have set these comments out in a similar structure to the previous comments, and have carried over comments where they are still relevant.

**Biodiversity Net Gain:**

A biodiversity metric was submitted following our previous comments. However changes have since been made to the layout and landscaping of the proposal and therefore the Metric will need to be amended before we can provide comments.

**Ecological connectivity:**

A little has been done to strengthen to E-W links in the middle of the site where the layout of the Village Green has been amended however landscaping within the rest of the Green Corridors, and the Biodiversity Corridors, has seen little change and therefore our previous point, that ecological connectivity should be strengthened across the development site, still stands. Reference is now made in the DAS to “larger scale trees”, where green corridors cross the Central Avenue, and it appears that some thought has been given to this, but it’s very difficult to say how effective this will be at maintaining connectivity for bats without seeing details of street lighting along the Central Avenue, and how this interacts with the green corridors, trees etc.

As a general point we would ask that a clear commitment is made to retaining ecological connectivity in the outline phases of this application, that is consistent with the provision of ecological buffers and dark corridors in the reserved matters phase.

A plan has been submitted demonstrating the extent of the ecological buffers and dark corridors throughout the site. This is useful in demonstrating the intention for ecological connectivity however this will not be achieved in practice without additional planting. It will also be necessary for the application to demonstrate that the dark corridors are kept dark, noting that the ecology report and DAS state that “Dark corridors for bats to be created/maintained with any lighting directed away from the buffer zone and light spill not exceeding 1lux”. See further comments below regarding lighting.



## **All POS including Eastern Boundary (CA1), Southern Entrance (CA2), Green Corridors (CA5) and Biodiversity Corridors (CA7)**

No additional information about the phasing of landscape planting has submitted. As mentioned previously we would encourage planting is undertaken in advance of construction, and that where possible planting is contained within the first phase of the development. This is not only incentivised by the biodiversity metric but is a requirement of policy CHIC2:

*“Strategic planting is carried out in advance of the site being developed, in accordance with an agreed strategic landscape phasing plan, to reduce the impact of the development on longer views particularly along the northern and eastern boundaries. This should include a connecting corridor of semi- natural green space along the eastern margin of the allocation and biodiversity enhancement.”*

### **Southern Entrance (CA2)**

Much of CA2 is within the higher potential ecological network, and is within the E-W Chickerell Wildlife Corridor as described in policy CNP4 of the Chickerell Neighbourhood Plan. Much more should be done to mitigate the impacts of fragmentation of this important corridor, including tree planting to bridge the road, as suggested above.

It would be preferable for public access to this area to be limited as far as possible, and the scrub allowed to grow dense so that it provides suitable habitat for nesting birds.

### **Green Corridors (CA5)**

The east-west route towards the top of the site is now included within the CA5 character area however the landscaping has not changed to reflect this. We consider it important to strengthen this corridor by providing additional native scrub, woodland and hedgerow planting.

The recently submitted cut and fill plan shows a large amount of cutting to level in Green Corridor B where there should be a retained hedgerow. We presume this will either result in the hedgerow sitting considerably higher or it not being retained. This isn't clearly shown on the landscaping plans so we would ask that the application gives greater consideration to how this hedgerow, and its ecological function, will be retained, and that this is clearly demonstrated in the supporting documents.

### **Biodiversity Corridors (CA7)**

Biodiversity corridors do not currently provide connectivity throughout the western boundary of the site. (As above, a plan combining all green and ecological corridors may go some way to helping to understand this). In the middle of the site this is, in part, due the school site which we understand is a reserved matter. It will be necessary for the application to demonstrate that ecological connectivity along the western edge of the site is maintained, in the absence of any detail of ecological buffers and corridors within the school site, noting that the north and east of

this area have been identified as having high bat activity and therefore are among the most important ecological features on the site.

### **Lighting:**

The latest lighting booklet appears to demonstrate a significant improvement when it comes to impacts of light spill within the defined dark corridors, particularly in the Biodiversity Corridors where lighting is by bollards which have limited light spill. Internal roads are lit by fewer columns with much reduced light spill into the dark corridors in the west of the site. It is therefore a concern that it is now proposed to adopt the internal roads, which presumably would require reverting to the previous lighting scheme. In any case we would like to see the lighting plans extended to show street lighting along the Central Avenue, and in the south of the site at the access within the wildlife corridor, in order for the application to demonstrate that the dark corridors are kept below 1lux, or limited as far as possible.

### **Protected and Notable Species:**

Additional information regarding impacts on protected species has not been provided so the following comments are carried over:

#### **Reptiles and amphibians**

DAS refers to 'toad tunnels' to provide connectivity under the spine road. Please provide locations, within an ecological enhancement plan for the site, and details of implementation and management within LEMP.

A capture and translocation exercise for Slow Worm and Common Lizard and Grass Snake is recommended prior to clearance or construction work within field F7, and around P1. It is proposed that these species will be moved to an area of retained habitat and safeguarded rough grassland. No further information is provided. Please provide details of the receptor site, its current carrying capacity and how this will be improved if required and how this will be managed and maintained long-term.

#### **GCN**

A translocation exercise is also proposed for GCN for habitats within 250m of off-site ponds. It is stated that a Natural England licence will likely be necessary before any development work can commence within field F6, which lies within 250m of the off-site ponds. Please confirm whether this is the case or whether the application will use the District Level Licence within Dorset. Please also provide details of the receptor site for GCN and how this will be safeguarded in the long-term

### **Biodiversity Plan**

-  
It is unclear how the applicants wishes to address ecological impacts, and whether this is through provision of a Biodiversity Plan and LEMP, or simply through a detailed LEMP.

**Golf Netting:**

A plan and elevation view have been provided for the proposed fencing along the boundary between the proposed development and the existing golf course to the east. The fencing is hundreds of metres long, up to 30m in height in places and located within the ecological corridor in the south of the site. It appears that there is potential for significant impacts on wildlife, particularly bats and birds, either as a result of habitat fragmentation, or collision/entanglement with the netting itself. The application will need to demonstrate how significant effects on protected and notable species will avoided or mitigated. Currently this subject is given one sentence in the EclA and does not satisfy that there will be no effects.

We also require greater detail as to how to netting will be installed as it appears to be located within the hedgerow and scrub which comprises this boundary., presumably necessitating some vegetation removal.

If public access to CA2 is limited, as suggested above, this may remove the need for the netting along this part of the site.

Kind regards

**Sam Williams**  
**Lead Senior Ecologist**  
**Place Services**  
**Dorset Council**



[dorsetcouncil.gov.uk](http://dorsetcouncil.gov.uk)



**Dorset**  
Council



**APP REF:** WD/D/20/002569

**ADDRESS:** Land East of Chickerell and South of Coldharbour, Chickerell

**APPLICANT:** Mr G Allison - Persimmon Homes

**DESCRIPTION:** Outline application for 393 dwellings with full details supplied in respect of 186 dwellings (phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), details of the internal spine road, landscaping, drainage, car parking, golf ball fencing of various heights up to 30m, public open space, associated works and diversion of three public right of ways and with all matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space, landscaping, drainage and associated works.

**CASE OFFICER:** Penny Canning

### URBAN DESIGN OFFICER COMMENTS

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	x
REQUEST FOR FURTHER INFORMATION	
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	

**Site description:** The site, known as CHIC2 (Chickerell Urban Extension), is allocated for housing and related community facilities within the West Dorset, Weymouth and Portland Local Plan. The principle of development on the site is therefore acceptable. The policy within the plan clearly sets out design parameters and states that development must be in accordance with a masterplan that is to be prepared by the developer and agreed by the local authority.

The updated **NPPF** is unambiguous in its stance on the importance of design, and this is clearly set out in **Para 126** *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'* with **Para 134** clearly stating that *'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.*

The test for development proposals is therefore not whether they avoid bad design, but that they are achieving good design as contained in the National Design Guide and National Model Design Code as well as relevant local and neighbourhood plan policies.

The importance of ensuring that proposals reflect and reinforce the character and identity of the surrounding area, in terms of both landscape and built form, is fundamental in creating a development which is embedded within its local context.

In terms of built form, referencing local context includes street patterns, boundary treatments, set-backs, plot ratios and detailed design features. However, it is also accepted that there needs to be some flexibility so that layouts and street patterns can also prioritise pedestrians and cyclists, minimise the impact of parked cars and make more efficient use of land, while also ensuring that there is space for open spaces, sustainable drainage features, trees and other landscaping.

**Comments on proposal:**

**Identity/Character:** The submitted DAS outlines different character areas that include details on landscape and built form of 8 different parts of the site however these do not always align with character areas shown on the ‘materials/character areas composite plan (drawing no PA\_LP04.5).

DAS (August 2023 revision)	Materials/ Character area plan
Eastern Boundary (landscape only)	
Southern Entrance (landscape only)	
Central Avenue	?
Village Green	Village Green
Green Corridors	?
Garden Streets	Garden Streets
Biodiversity Corridors	?
Crescent Green	Crescent Green
	Garden Avenue
	Garden Edge Street

The materials/ character plan outlines the materials used to create character and there are clearly defined areas - albeit with an anomaly (stone clad terrace within a Garden Street area units 184-186) which does seem out of place.

However, there is a lack of detail and inconsistency to more fundamental aspects of the design that would significantly contribute to the creation of distinct character areas. These include building setbacks, approach to front boundaries, parking and street design (including landscaping). For example within the Garden Edge Street as shown below, dwellings to the south (nos 45-48) have small front gardens, whereas to the north (nos 10-14) units do not have front gardens, a more consistent approach would strengthen the character of these ‘Edge Streets.’



Extract showing a 'Garden Edge Street'

Similarly, along the Garden Avenue/ Central Avenue there are different approaches to parking within the same character area. While a variety of solutions should be included along such a long stretch, this should be done in a considered way that still has the result of creating a clear identity for identified parts of the site.



Extract of central Spine Road/ Garden Avenue/ Central Avenue

The weakness of defined character areas was raised in previous comments (dated 14/02/2023) and have not been addressed adequately in revisions to the scheme. Please refer back to these for more detailed comments on individual character areas.

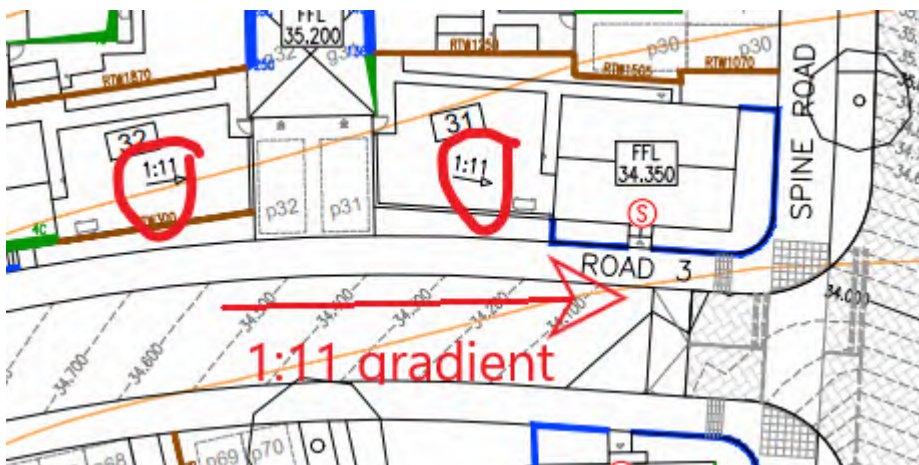
**Movement and Connections:** Good links have been made into surrounding networks. These respond well to pedestrian and cyclist desire lines and will help link the site with existing and new facilities.

The permeability of the site has been improved with a reduction in the number of cul de sacs; where these still exist, footpaths ensure links for walkers and cyclists. Crossing points have been provided along the spine road and although the DAS includes details of these crossing points and junctions, they should be clearly shown on submitted plans.

However, the topography of the site and the layout of the routes pose significant challenges for all people but particularly those with disabilities.

**Inclusive Mobility** provides guidance to ensure that the design of places meets the needs of disabled people, people travelling with small children or carrying luggage or heavy shopping as well as people with temporary mobility problems (e.g. a leg in plaster) and many older people. **Para 4.3** states: *'Generally, pedestrian environments should be level, which means that there should be no gradient in excess of 1 in 60. Effort should be made to ensure that the route is smooth, since even small dips or gaps in paving joints might present a hazard such as to people who use a stick or a crutch. If a level route is not feasible, then gradients should not exceed 1 in 20.'*

Although the gradients of footways have not been provided, those of private gardens adjacent to routes gives a good indication of their approximate slope.





The steep gradient of these routes causes significant restrictions for pedestrians and cyclists and their ability to easily move throughout the scheme, reducing the likelihood that residents and others will use more active forms of travel and will instead resort to using cars.

**National Design Guide para 102:** *'In well-designed places, streets are public spaces that are open to all. They encourage people to walk and cycle rather than to depend upon cars, particularly for short, local journeys. They are accessible to all and designed to meet the needs of their most vulnerable users.'*

**Parking:** The DAS contains information on parking typologies across the site. **DAS Para 5.43** states *'Through preapplication discussions with the Local Highway Authority, the Local Planning Authority and the community through consultation exercises it clearly understood that the proposed development should provide a sufficient parking that will not lead to inconsiderate dangerous parking on the highway through either under provision or poor design leading to inconvenient parking. It continues in para 5.48:* *'Save for dwellings fronting the spine road, parking should be conveniently located at the front of a property meaning it is conveniently located to ensure it is fully used and cars are not parked anti socially on the highway or other areas at the front of properties. As a development, this arrangement is highly sought after by prospective purchasers.'*



	Name	Type	Allocated?	Description	Comments
1	Parking square	Off-plot	Optional	Group(s) of parking bays located adjoining the main carriageway providing convenient access to dwellings.	Convenient access to parking. Good surveillance from neighbouring properties.
2	Parking court	Off-plot	Optional	Group(s) of parking bays and/or garages located within a shared courtyard.	Generally limited to up to 8 dwellings.
3	Parallel	On-street	No	Parking located along the roadside. Accessed directly off the road.	Can be marked or unmarked. Easily accessible. Maximum rows of 4 bays. To be limited in extent.
4	Perpendicular	On-plot/ Off-street	Yes	Parking located perpendicular along roadside. Accessed directly off the road.	Can be marked or unmarked. Easily accessible. Generally suited to streets where speeds are kept to a minimum. Maximum rows of 4 bays.
5	Attached/ integral garage	On-plot	Yes	Private garage adjoining the dwelling, often allowing access directly to house.	To be set back from public domain to allow parking in front. Convenient access to dwelling. Could be attached to neighbouring property and allows for room above.
6	Drive through	On-plot	Yes	Parking bay and/or garage access through a covered arch on the street.	Helps avoid car dominated street scene whilst providing secure on-plot parking.
7	Hard standing	On-plot	Yes	Parking bay located next to dwelling.	Can be located against the back edge of public domain or set back to allow additional parking in front. Can be joined to neighbouring parking bay.
8	Detached garage	On-plot	Yes	Private garage often located next to dwelling. Garages to be set back from prominent frontages. Careful design required to mitigate impact of parked cars on the streetscene.	Must be set back to allow parking in front. Can be joined to neighbouring garage.

### DAS – typical parking typologies

However, there are multiple instances where parking is not located at the front of the property and is poorly located in relation to the dwellings they serve. This limits their accessibility to occupiers and also increases the chances of cars parking indiscriminately.

Although in some instances this is mitigated due to the provision of on street visitor bays (example plot 2 and 6), this is the exception and mostly streets are poorly designed to accommodate informal parking. This will result in cars parking over pavements, blocking routes for pedestrians and cyclists. The incorporation of additional on street parking bays, supported by the increased use of verges and street trees acting as informal parking management would reduce the likelihood of this occurring.



Persimmon - Louviers Road, Weymouth

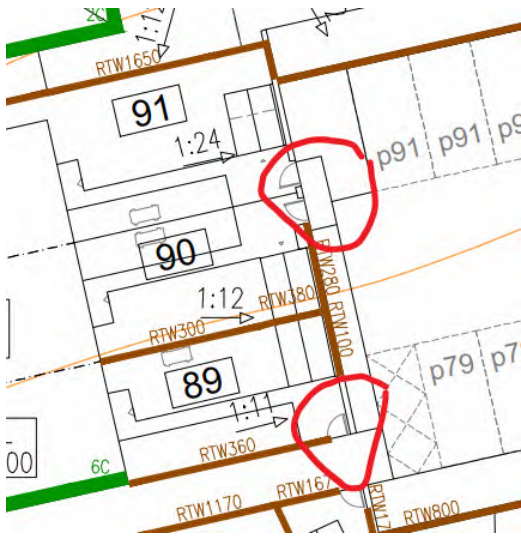
Where large parking courts have been provided, they are not well overlooked and serve multiple dwellings (not just those that front the Spine Road). In addition they contain significant retaining features that range in height from 640mm to 1700mm creating a

poor quality environment. **Para 5.119** of the **DAS** states: *'In forming the design proposals, the following key attributes have been included: Where parking courts or private drives are proposed they serve a limited number of dwellings and are well overlooked by the surrounding built form'*



Landscaping within the parking courts is limited to its edges and gives little value in breaking up the impact of parked cars. Within the northern most parking court there is a 2m strip of planting shown between the retaining features and rear gardens – it is not clear who's ownership this space is in, what purpose it serves or how it will be maintained.

Where there are retaining features within parking courts and direct access into rear garden, plans do not show the detail of how gardens will be accessed (stepped access or ramped).



In places where tandem, front and side parking has been provided, spaces sit tight against the edge of footpaths rather than being set back behind building lines. Not only does this have a detrimental impact on the visual quality of the street scene but also results in cars overhanging the pavement, reducing its width and impacting on the accessibility of the footway for all users, but in particular those with protected characteristics. **Manual for Streets para 6.3.22** states: *‘There is no maximum width for footways. In lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2 m’.*

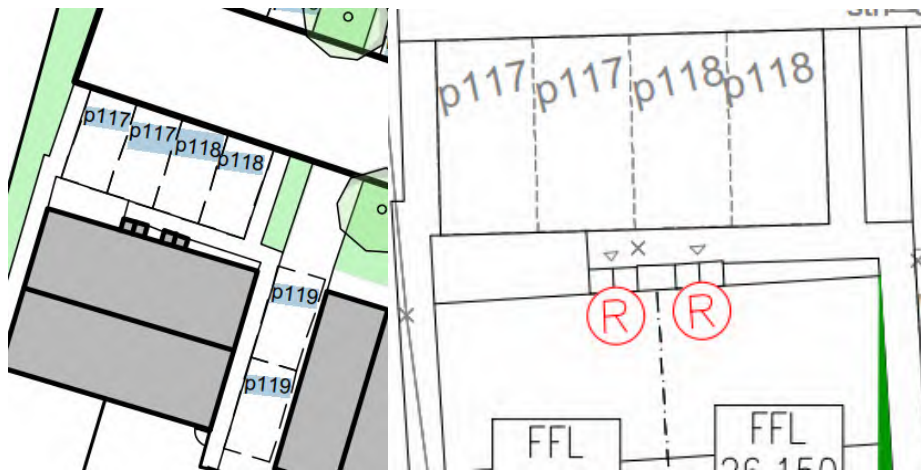
Examples on how this over run impacts the street scene are shown below.



Persimmon – Barton Farm, Sherborne

Where parking is provided to the front of dwellings, the DAS states that there should be a maximum of 4 bays, in many instances this is not the case and there is a lack of planting to break up the impact of parked cars. In addition to this, there is approximately 0.5m provided between parking spaces and the fronts of houses – this has a significant impact on accessibility in particular for those who have mobility

difficulties, wheelchair users and those with buggies – this is illustrated in the plan extract below. In this instance to exacerbate the issue, unit 66 and unit 117, have ramped access – it is not clear how the space allows for this...



While there are some instances where a re- design of the street would resolve this specific issue and also present an opportunity for additional landscaping (see units 32-38 specifically), in other places a more fundamental change in the layout will be required to ensure that layouts achieve an acceptable level of inclusive design.

**National Design Guide para 85 'Well-designed car and cycle parking at home and at other destinations is conveniently sited so that it is well used. This could be off-street to avoid on-street problems such as pavement parking or congested streets. It is safe and meets the needs of different users including occupants, visitors and people with disabilities.'**

**Street and Spaces:** Improvements have been made to ensure more consistency in the building line which has helped define streets and in most cases a change in surface material identifies a no through road/ private drive aiding the legibility of the scheme.

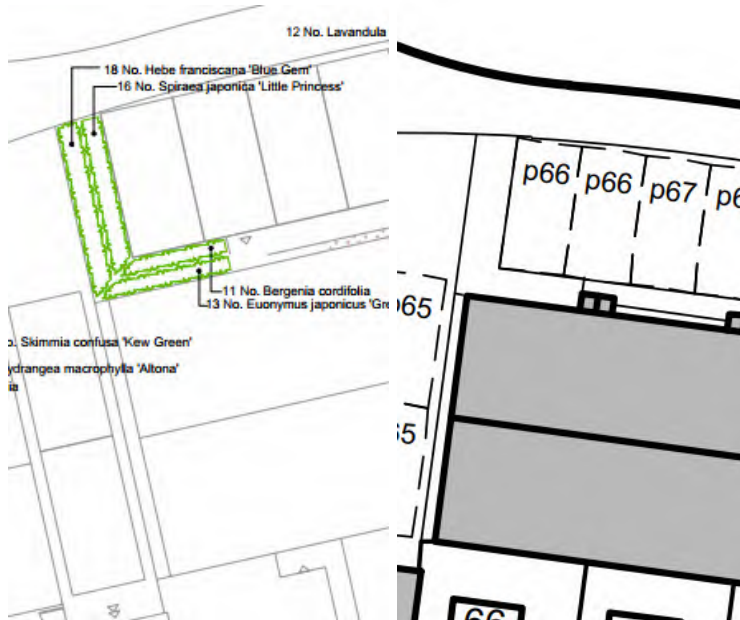
However, there is a lack of landscaping within the street which has been addressed by the Council's Landscape Architect. A varied but considered approach to landscaping and front boundary treatments will assist in adding character to the scheme, which cannot be adequately achieved by changing building materials.

Changes in levels will have a significant impact on the accessibility and visual quality of streets and spaces. Clarification is required on the level of cut and fill and how this impacts on hedgerows and other landscape features that are listed to be retained and also on existing neighbouring properties, specifically those that bound the site on its western side.

There are significant retaining structures throughout the site, in parking courts these extend to 1700mm in height and will then include a 1800mm rear garden fence, in some rear gardens, retaining walls are 2600mm.

The impact of this should be made clearer with a number of cross sections and street elevations provided.

In some streets, parking will dominate and it is particularly important to ensure that any proposed landscaping and tree planting in these areas are adequate to reduce their impact without hindering access to dwellings and parking spaces (see unit 66 below).



**Homes:** Affordable housing is well distributed throughout the site but provision tends to be in smaller units, conversely there is a lack of open market apartments provided which limits the schemes ability to provide a mixed and balanced community in line with **NPPF para 63** and **National Design Guide para 119** *'Good design promotes social inclusion by: contributing to creating balanced and mixed neighbourhoods that are suitable and accessible for all.'*

Changes in levels results in the majority of gardens sloping. In some cases these gradients are gentle but in many they are steeper than 1:20 which will limit their usability for those with disabilities. In extreme cases there are also gardens that have 1:8 and 1:9 slope which provide little amenity benefit.

The majority of units have either a ramped or stepped access, this limits the accessibility of dwellings, not only for those with disabilities but also the elderly and those with pushchairs. On those properties that have stepped access, it is not clear how many steps are required..

The layout of units 114 -116 presents an awkward relationship with no. 25 Mariners Way, by turning the units 90' anti clockwise, all dwellings will overlook the footpath to the north, giving a side boundary – side boundary relationship with no 25. Although this will result in units 117-119 overlooking the rear boundaries of 114-116 it will give all areas of parking a good level of passive surveillance; the addition of brick boundary walls will also improve their outlook.

While along the Spine Road some dwellings have railings as front boundaries,, throughout the rest of the site frontages are planted or left open. While planting can soften a street and add important landscaping features, where they are left open there is a risk that the overall quality of the street suffers as individual residents add features to help provide a more private space to the front of dwellings.



Planted front boundary – Persimmon- Barton Farm, Sherborne



Lack of front boundaries creates opportunities for inconsistency within the street  
Persimmon – Barton Farm, Sherborne

More detailed comments on the design of individual units has been provided separately. The importance of layout and structuring blocks of development so that there is coherence and balance is important in creating harmony within the street scene. In meeting policy **ENV12** of the **West Dorset, Weymouth and Portland Local Plan** plans should also show that the *'quality of the architecture is appropriate to the type of building with particular regard to its architectural elegance, symmetry and rhythm, and richness of detail.'*

Overall the architectural approach is very simple, while there is some variation in materials, dwellings lack features such as window cills, chimneys and verticality of windows.

**Addressing climate change:** The importance of resource conservation and the way in which the design of the scheme will respond to the impacts of climate change is critical. In May 2019 Dorset Council declared a Climate Emergency and there is a heightened expectation that the planning department will secure reductions in the carbon footprint of developments.

Plans show that all houses will be fitted with air source heat pumps and EV charging points, although there are no PV tiles proposed as part of these proposals. The submission should also include a comprehensive energy hierarchy that includes details on water/ soil disposal as part of the extensive cut and fill process, sustainable construction methods (including embodied energy and carbon) and how designs will maximise the contributions of natural resources, including passive measures for light, ventilation and heating.

**Conclusions and policy consideration:** While it is acknowledged that the site has been allocated for housing, due to significant topographical constraints, the design and build of the site poses many challenges. However, national policy has a clear stance regarding

the importance of delivering well design places and this is supported by policies in the **West Dorset, Weymouth and Portland Local Plan** as well as national guidance documents such as **The National Design Guide**.

Despite revisions made to the scheme, it is not considered that proposals meet national or local policies relating to well designed places.

ENV11. THE PATTERN OF STREETS AND SPACES i) Within and adjoining existing settlements, development should ensure that: • **streets and spaces are** well-defined, safe and **pleasant to use**, with active and overlooked public areas and secure private areas. In residential areas, or where pedestrian activity is high, the design of new vehicular routes should aim to keep traffic speed below 20mph

ENV12. THE DESIGN AND POSITIONING OF BUILDINGS i) **Development will achieve a high quality of sustainable and inclusive design**. It will only be permitted where it complies with national technical standards and where the siting, alignment, design, scale, mass, and materials used complements and respects the character of the surrounding area or would actively improve legibility or reinforce the sense of place. This means that...

**The quality of the architecture is appropriate to the type of building with particular regard to its architectural elegance, symmetry and rhythm, and richness of detail**

In moving forward, the applicant may wish to engage again with the Council's preferred Design Review partner who can work with the design team to address some of the issues raised.

**OFFICER:** Sophie Duke

**TITLE:** Senior Urban Design Officer

**DATE:** 15/10/2023



## Application details

<b>Ref:</b> WD/D/20/002569	<b>Applicant:</b> Mr D Buczynskij	<b>Case Officer:</b> Penny Canning
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<b>Address:</b> Land East of Chickerell and south of Coldharbour, Chickerell
<b>Description:</b> Outline application for 393 dwellings with full details supplied in respect of 186 dwellings (Phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), details of the internal spine road, landscaping, drainage, car parking, golf ball fencing of various heights up to 30m, public open space, associated works and diversion of three public rights of ways and with all matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space including field and skate park and changing facilities, landscaping, drainage and associated works.
<b>Case Officer comments to Consultee:</b>
<b>Consultee:</b> Sarah Barber, Senior Landscape Architect
<b>Date:</b> 15 <sup>th</sup> December 2023
<b>Has a Pre-application discussion taken place with you?:</b>

<b>Support</b>	
<b>Support subject to condition(s)</b>	
<b>Unable to support</b>	X
<b>No objection</b>	
<b>Request for further information</b>	X see comments below
<b>Other</b>	

## Summary

Thank you for re-consulting Landscape on the above Application. Prior to this submission – observations were provided in February 2023 that advised that the Proposals failed to comply with national and local planning policies.

I have provided detailed observations (below) on the revised Scheme proposals and have identified several areas of ‘concern’ relating to the creation of a suitably ‘well-designed’ place – given the challenging constraints presented by the Site’s topography and the design solutions presented.

The NPPF, in para.126 clearly states that “*The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*”.

Within Para.130 the NPPF states inter alia that: “*Planning policies and decisions should ensure that developments:*

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit*  
Para. 134 states that “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”

In considering the above NPPF paragraphs I would advise that the Proposals fall short of the standards required and further design development is required.

Turning to local planning policy – I would, again, advise that the Proposals fall short of the standards required with regards the adequate provision of landscaping to successfully integrate the Development with the character of the Site and its surrounding area. In relation to CHIC2 – whilst the Scheme does provide, to some degree, a traditional street with frontage development and a bus route, connecting corridors of semi-natural green spaces along the eastern margin and biodiversity enhancements – the details/design quality of these are compromised by extensive proposed cut and fill operations and engineered solutions and a conflict between lighting and landscaping. I have provided more detail below.

Taking the above into account I am unable to support this Scheme in its current form.

## **Site description/context/significance**

As per my previous observations (dated the 17<sup>th</sup> February 2023):

### **The Application Site:**

*The Site is allocated within the adopted West Dorset, Weymouth and Portland Local Plan (2015) under Policy CHIC2. This proposed Development covers the eastern part of the allocation. The Site is located to the immediate east of the existing settlement of Chickerell and north of the B3157 (Chickerell Link Road).*

*The Site comprises 26.6 ha of predominantly agricultural land which is split into nine medium-large fields that are primarily used for grazing. Each of the fields land parcels across the Application Site are generally bounded by a combination of hedgerows or stock fences.*

*The Application Site is formed by two areas albeit they are linked across Green Land to the south-west. The larger area (east) comprises the land proposed for residential development and primary school; the smaller area (south-west) is the land safeguarded for the provision of a sports facility.*

*The southernmost land parcel is occupied by attenuation ponds associated with the B3157 Link Road. This area is crossed over by over-head power lines with pylons and poles located within the fields.*

*A number of public rights of ways run through the surrounding area – with PRoW's running through the central Site area, entering the Site from Lower Putton Way and Mariners Way to the west, and exiting the Site to the south and north of the substation respectively. The footpaths provide links to School Hill, Green Lane and Wessex Stadium.*

*The surrounding local highway network comprises Green Lane, Putton Lane and School Hill which enable north/south distribution from within Chickerell, to the east of the Application Site. Lower Putton Lane and Mariners Way, together with primarily Glennie Way and East Street provide east/west distribution through Chickerell and onto the more strategic highway links. The B3157 (Chickerell Link Road), to the south of the site provides the main strategic link between Chickerell and Weymouth to the east, as well as providing the main access point into the Granby Industrial Estate*

### **Site Context:**

*The wider area comprises the predominantly residential urban area of Chickerell to the west, The Granby Industrial Estate to the south and agricultural fields to the north and east – with the notable exceptions of the solar farm to the north-east, the Chickerell electricity sub-station to the east and the Wessex Golf Centre to the south-east.*

*The Application Site lies outside of the Dorset AONB (which is located ~755m to the east of the Site at its closest point). The Site lies partly within land designated as Land of Local Landscape Importance (northern extent).*

## **Main issues**

Will the layout, scale and massing of the built form and its strategic landscaping contribute to the creation of a well-designed place.

Do the Proposals comply with National Planning Policy, National Design Guide and the West Dorset, Weymouth and Portland Local Plan?

Paragraph 130 of the NPPF states that with regard to design planning policy and decision making should ensure that developments;

*"a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to the local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

## The proposal

The Proposal concerns the detailed proposals for Phase A of the hybrid planning application comprising:

*Hybrid Planning application. An outline application for up to 393 dwellings with full details supplied in respect of 186 dwellings (Phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), including details of the internal spine road, landscaping, drainage, car parking, public open space, associated works and diversion of three public right of ways for Phase A. All other matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space including playing field and skate park, pavilion and changing facilities, landscaping and associated works."*

### Design and Access Statement:

The Proposals are supported by an updated 'Design and Access Statement' (dated August 2023). The previous version was dated December 2022.

Part 1 of the DAS provides an 'indicative masterplan' (see below):



### **Indicative Masterplan**

Within the 'Vision for Land East of Chickerell', P.9, the following is stated:

*There will be:*

- *A new verdant tree lined avenue;*
- *New readily accessible green spaces, sport and play facilities;*
- *A wide range of new tree planting opportunities;*
- *A highly connected network of foot and cycle paths;*
- *Houses of all sizes to meet a range of needs;*
- *New swales and permanently wet ponds;*
- *A new primary school; and*
- *Architecture and design that respects the area and signals a new ambition for green spaces that will uplift the spirit.*

5.70 of the updated DAS refers to proposed Character Areas which are now described as follows:

- **CA1:** Eastern Boundary
- **CA2:** Southern Entrance
- **CA3:** Central Avenue
- **CA4:** Village Green
- **CA5:** Green Corridors
- **CA6:** Garden Streets
- **CA7:** Biodiversity Corridors
- **CA8:** Crescent Green (previously described as 'Northern Entrance Landscaped Gateway')

A description of each Character Area is provided – along with indicative landscape sections.  
A Landscape Strategy Plan is provided on P.132 of the DAS

Part 2 of the revised DAS centres on the details of Phase A.

## Comments on proposal

My comments, below, follow the same 'structure' as my previous observations dated the 17<sup>th</sup> February 2023.

### Landscape and Visual Impact Assessment (LVIA)

The latest iteration of the LVIA appears to be dated November 2022. I previously provided advice on the content and structure of the LVIA in April 2021.

As previously advised – the LVIA provides references to National Policy (NPPF) 2021 but fails to acknowledge Para.131 which states:

*"Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained where possible".*

Within 6.3 Baseline Conditions – the LVIA states that a full and detailed description of the Site is given within Chapter 3 of the ES. I would advise that the Application Area has since changed and that the Site description is out of date.

6.3.63 of the LVIA refers to 'Users of Public Rights of Way (inside the Site). These are represented by Viewpoints A, B, C and D (Appendix 6.6). Photographs are dated 18/03/2021.

With reference my previous observations, dated 17<sup>th</sup> February 2023, and the various 'typos' relating to place names – I note that the latest iteration of the LVIA still contains these errors (ref. Paras 6.3.72, 6.3.78 and 6.3.81) where place/street names are incorrectly referenced.

Visual Amenity is dealt with within the LVIA from Para. 6.4.5. Appendices 6.1 and 6.2 contain judgements on 'landscape effects' and 'visual effects. I note that the proposed Golf Net (cited as being up to 30m – does this refer to 'height' or 'length'?) has been considered as part of the visual assessment (Appendix 6.2) however, I would advise that the effects from Viewpoint 6 (Hampshire Road) have been under valued regarding the potential visual effects of the proposed Golf Netting.

In assessing the visual impacts of the proposed Development and with reference the 'Design Workshop' held with Persimmon on the 24<sup>th</sup> February 2021- I requested a number of Accurate Visual Representations (AVR's) be produced for the most sensitive Viewpoints. The AVR's were requested as Type 4 Verified Visualisations with ref. LI TG 06/19 and the London View Management Framework AVR Levels). 4no. AVR's have been prepared and the locations of these are:

- AVR VP1: off Radipole Lane B3158 in the vicinity of the junction with Cumberland Drive: I did not request a visualisation from this VP. Within the AVR – the Golf Net is illustrated but I would advise that the details of this net may be subject to change.
- AVR VP4: From Wyke Road looking North-West towards the Site.
- AVR VP6: From Hampshire Road – looking North towards the Site. The Visualisation illustrates the potential visual effects of the Golf Netting – which would dominate the foreground view.
- AVR VP11: From PRoW s20/5 Crook Hill – looking North-East.

I had also requested an AVR from Lanehouse Rocks Road – but am unable to locate this.

Methodology used in the creation of the AVR's – the images have used, among others, the Landscape Institute Advice Note 01/11 – which is now out of date and has been superseded by TGN 06/19. Whilst the date for the baseline photography is given as May 2022 – it is unclear as to how recent the AVR's are? Do they represent the latest iteration of the Scheme Proposals?

I am unable to find any reference to these AVR's within the LVIA?

The LVIA is dated November 2022 and does not appear to consider recent amendments to the Scheme Proposals.

### **Mitigation of Impacts**

NPPF Para. 130 states that “Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Adopted Local Plan – Part iii) of Policy ENV1 requires appropriate measures to moderate the adverse effects of the development on the landscape, and Policy CHIC2 requires the development to include:

- development focused around a traditional street with frontage development connecting from the Chickerell Link Road to School Hill, and from School Hill to Chickerell Hill. The street should be able to accommodate a bus route. The development should also provide improved pedestrian /cycle links to Weymouth Town Centre and surrounding area;
- Strategic planting to be carried out in advance of the site being developed, in accordance with an agreed strategic landscape phasing plan, to reduce the impact of the development on longer views particularly along the northern and eastern boundaries. This to include a connecting corridor of semi- natural green space along the eastern margin of the allocation and biodiversity enhancement. A network of open green spaces, for amenity /recreation and drainage purposes, should run through the development and link to the open countryside;
- adequate on-site provision of community infrastructure;
- areas prone to surface water flooding to be kept free of built development and due consideration given to flood risk elsewhere.

Part ii) of the Local Plan Policy ENV10 requires the retention and protection of trees and other features that contribute to the area's distinctive character. NPPF Para.185 part c) and part iii) of Local Plan Policy ENV16 requires light pollution to be minimised.

These mitigation measures were included in the Local Plan Evidence Base – Landscape Assessment of Strategic Sites Part 1, which included the following suggested Mitigation for the Chickerell Urban Extension:

- *Careful consideration of the northern extents of development would be necessary to avoid the introduction of skyline development in local-medium distance views from the north.*
- *Strategic planting to the northern and eastern boundaries would be required to form strong visual containment of the site, and improve the landscape character of the open space separating Chickerell and Southill, with early implementation of a strategic landscape masterplan.*
- *Linked green spaces within the site, including substantial areas to the south of the site should be created preserve the key public footpath links to the surrounding countryside and preserve the separation between Chickerell and the Granby Industrial Estate.*
- *The form and character, including appearance and scale of development should take cues from the adjacent settlement edge of Chickerell.*

### **Strategic Landscape Buffers**

The latest Proposals are supported by a Strategic Landscape Masterplan (DRWG:P18\_2529-29 Rev:H dated 22/08/2023). This Masterplan is outdated with reference the latest Application Boundary owing to the loss of the south-western land parcel. This latest iteration of the Plan shows the revised locations of the tree planting -and indicates the positions of streetlights. An indication of the approximate mature canopies of proposed trees is illustrated.

The strategic landscaping is separated into the following types:

- Existing trees and hedgerows to be retained
- Proposed Feature trees
- Proposed tree planting – predominantly native/semi-native
- Proposed Avenue tree planting
- Proposed Edible Fruit trees
- Proposed woodland/tree block planting
- Proposed native hedgerow planting
- Proposed single species hedgerow planting
- Proposed ornamental shrub planting
- Proposed areas of native/semi-native/wildlife planting (ecological bias)
- Proposed areas of low growing ecological planting
- Proposed wetland marginal planting
- Proposed grassland is subdivided into 'amenity, long mown/meadow, wildflower, and wetland grassland.

Bulb planting has been removed from the proposals and this is seen as an improvement.

In addition to the above 'soft' areas are the proposed LEAP and naturalistic/informal play space area locations and grass mounding.

The approximate location/extent of the Golf Ball Netting is now indicated within the southern area of the Plan.

The landscape details are illustrated on the associated 'Detailed Soft On Plot Landscape Proposals sheets 1-7 inclusive.

#### **Green Infrastructure Parameter Plan (DWG. GIP01 Rev:a)**

The latest Plan to be submitted is Drawing No. GIP01 Rev. d and dated 08/09/23. The Drawing is now considered outdated as shows the sporting facilities to the south-west of the Site. The distribution of proposed tree planting across the Site appears to correspond with those detailed on the 'On-Plot' plans – which is seen as an improvement on the previous plans.

#### **Detailed Public Open Space Landscape Proposals: Drawings P18-2525 37 Rev. G dated 16/08/2023 Sheets 1-4 running North to South**

**Sheet 1 of 4** – this Drawing covers the northernmost area of the Site/Northern Access. I note that a number of amendments to the previous design are proposed. These include the following:

- Removal of bulb planting (improved)
- Increase in Woodland Buffer planting to the northern/north-eastern boundaries (improved)
- Increased species within Native Hedgerows (improved).
- Re-alignment of the Footway (it is now aligned more closely to the Spine Road)
- Reduction in tree planting between the peripheral Footway and the Spine Road
- The re-design of the northern POS and simplification of the paths across it (an improvement).
- Introduction of attenuation basins to the Eastern boundary and associated marginal planting.
- Revised planting proposals for the 'green link' running North-West to North-East with a reduction in the lengths of proposed Native Hedgerow and an increased number of native trees.
- A decrease in soft landscaping between the Western boundary Cycleway and the proposed built development edge.

In general terms – there are some improvements when compared to the previous submission. When looking at the areas of peripheral 'native species' planting – I advise that you liaise with the NET as to the suitability of the planting. I would, however, advise that the proposed Hedgerow planting across the Site appears rather 'disconnected'. I welcome the reduction in 'width' of the pedestrian routes that run off this Green Corridor (see below).



The lack of large ‘avenue’ trees along the Spine Road is disappointing – with a scatter-gun approach to species which tend to be small in scale.

**Sheet 2** covers the central area of the Site including Character Area 4 -Village Green. This central public area has been re-designed and ‘simplified’ in design terms – enabling a better pedestrian ‘flow’ across the site. The fragmented hedgerows have been removed which is also seen as an improvement to the layout of the space. The landscape proposals illustrate that the majority of the perimeter of the Green is to be ‘enclosed’ by a single-species hornbeam hedge (Carpinus betulus) within which an assortment of specimen trees are to be planted. The enclosure by hedging creates a slight ‘tension’ between the area being well-overlooked and being ‘framed’ as stated within the DAS? I also note that the ‘hedging’ is to run along the outer edge of the Green in some areas – but is ‘set back’ along the SW edge with ornamental planting proposed adjacent to the street. I would advise that the ornamental planting is located on the ‘Village Green’ side of the Hedge to provide consistency and identity. Where ‘shading’ may be an issue for the ornamental planting – a number of the proposed trees could be located to the ‘central grassed area’ of the Green. Feature paving is proposed for the 3no. main access points to the Green.

Large species of trees are proposed along the Spine Road to the immediate north of the Village Green – the ‘avenue’ planting comprises of no less than 3no. different species – and I would advise that a single species is used to strengthen ‘identity’ and to provide visual cohesion.



Within the DAS CA4 it is stated that the Village Green Character Area will provide “opportunities for formal and informal play adventures” – no provision for ‘play’ is indicated on the revised Drawing.



**Sheet 3 of 4** comprises of proposed landscaping for the Eastern Boundary and the Spine Road. The latest proposals indicate that the 'naturalistic/informal play area is to be designed by the Town Council. I will defer to the NET for the suitability of the native species Woodland/Shrub/Marginal Planting.

With regards the treatment along the Spine Road – the proposals are for mixed species 'small-medium' sized trees (and not formal avenue planting). The random mix of tree species will fail to provide any sort of visual coherence along this main vehicular route.

### **The Character Areas**

With reference to 5.70 of the DAS the Site has been divided into 8no. Character Areas. These comprise the following:

- **CA1:** Eastern Boundary
- **CA2:** Southern Entrance
- **CA3:** Central Avenue
- **CA4:** Village Green
- **CA5:** Green Corridors
- **CA6:** Garden Streets
- **CA7:** Biodiversity Corridors
- **CA8:** Crescent Green (previously described as 'Northern Entrance Landscaped Gateway')

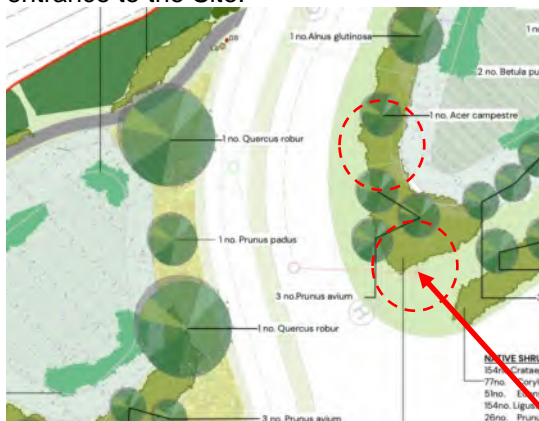
5.69 of the DAS states that the CA's will be "distinct from other areas" with each containing its own individual design components". My observations on the Character Areas are as follows:

#### **Character Area 1 – the Eastern Boundary:**

I am generally happy with the design approach to the Eastern Boundary. The tree planting proposed for the Spine Road/Central Avenue is disappointing in its selection of species and their scale. I also have concerns over the effects of the proposed Golf Netting on Eastern Boundary Area C – owing to the lack of information on its design and construction requirements.

#### **Character Area 2 – The Southern Entrance:**

The revised landscaping proposals for this area see the removal of the formalised 'Platanus x hispanica/Fagus sylvatica 'Rohanii' to the Site's interface with the B3157 Chickerall Link Road– which is seen as an improvement. I note the proposed planting of Quercus robur (Oak) to the western edge of the Spine Road – it would be preferable to see these larger forest trees planted to the eastern side also – to create more 'definition' and identity at the entrance to the Site.



Plant Oaks to either side of the Spine Road

A 'yellow dotted line' on the Detailed Public Open Space Landscape Proposals drawing (P18-2525\_37 Sheet 4 Rev. H) indicates the location of the Golf Ball Netting. This has the potential to be a significantly prominent and visually intrusive vertical element – particularly where it runs in close proximity to the Spine Road and adjacent to the eastern boundary Footway. I would advise that the proposed soft landscaping has not been designed with the mitigation of this substantial Net in mind – and that the planting will need to be modified when the requirements of the Net are finalised. It will not be possible to plant specimen trees adjacent to the Net as they will have no room for canopy growth. **Indicative Landscape Sections will be required to illustrate the proposed relationship of the Netting to the landscaped areas and the Spine Road.**

#### **Character Area 3 – The Central Avenue (Spine Road):**

Within the DAS it is stated that "the proposed development will have a clearly defined central avenue which is a tree-lined street extending between the southern entrance from the B3157 (Chickerell Link Road) and the School Hill entrance". I maintain my opinion that the approach to tree planting along this primary route is 'disappointing' with a proliferation of small-scale trees of mixed species. The use of a 'formalised' and structural approach using

larger trees is required particularly where the Central Avenue runs alongside/through proposed built development. The proposed 'irregular' spacing of trees also fails to create the necessary 'formal' approach that is required to delineate this principal route through the Site. I would advise that the tree planting along this Central Avenue could be greatly improved to achieve enhanced visual cohesion and a 'sense of place'. The detailed tree planting as specified would fail to create the visual presence as illustrated by the 'artists impression' within the DAS on P.109.

I am also concerned that the conflicts between street lighting locations may preclude the planting of trees as indicated. It, therefore, needs to be demonstrated that the proposed tree planting has been coordinated with any proposed above ground lighting to ensure that conflicts between tree canopies and lighting have been adequately mitigated (this also applies to below ground services).

**Character Area 4 – Village Green:**

This Area has been re-designed – with the removal of the previously retained fragmented hedge sections and the improvement of pedestrian routes. Within the DAS it is stated that a "key feature of the space will be the provision of a children's play space in the form of a LEAP". This facility is not shown on the detailed Drawing but is referred to within the DAS on P.115. Whilst I note the improvements to this area – I would advise the proposed peripheral single-species hedging is removed – and replaced with a high quality 1.2m high metal 'railing'.

There has been an improvement in relation to the 'building line' of the proposed Development to the southern edge of the Green (*defer to Urban Design*).

**Character Area 5 – Green Corridors:**

These are mainly focused around the retention and enhancement of existing hedgerows and largely run East to West across the Site and provide opportunities for enhanced green-infrastructure. These routes also provide footway and cycleway links through green corridors – with connections to the existing PRow network.

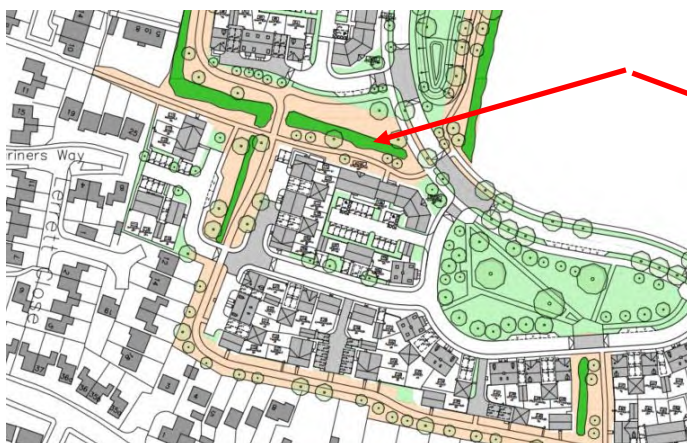


This is the northernmost 'Corridor'. I would advise that a more consistent tree canopy and hedge line could be achieved. The Hedges as shown appear disconnected. Larger canopy trees may be more desirable than the ones illustrated (*defer to NET*).



Heading southwards this Corridor proposes new native species Hedges – these contain only 4no. species and I would recommend that this is increased to a minimum of 5no. species. The inclusion of ornamental planting to the west and south of the Hedgerow appears anomalous within the predominantly 'native' character?

Above are extracts from Detailed POS Landscape Proposals Sheet 1 of 4.



Extract from Phase A POS Drawing



Phase A Cut & Fill Analysis P932/106 Aug '23

With reference the Phase A Cut and Fill Analysis Drawing P932/106 it is clear to see that extensive earth re-modelling is required from north to south across the Site. I would advise that this has the potential to directly impact on the retention/safeguarding of the existing hedgerows to the western boundary and the Green Corridors that run roughly east to west. In some areas (as indicated above) a reduction of ~4-4.5m is required in close proximity to identified Green Corridors which would clearly directly and negatively impact on the existing vegetation. I cannot see how the proposed cut and fill operations can be carried out without negative impacts on the retained vegetation. Further clarification is required on this matter – and representative cross-sections to show the Green Corridors and their relationship to the proposed adjacent Site levels.

**Character Area 6 – Garden Streets:**

The garden streets encompass the residential areas “not subject to a specific character or identity”. Within the DAS the following, inter alia, is stated-

- “the planting has also been used within the residential streets to create a distinctive street scene and promote orientation and a sense of place”.
- “Soft landscape mainly in the form of low hedges to be provided within the streetscape and on-plot”
- “All streets to include street tree planting”

In general terms and with reference the Detailed Soft On-plot Landscape Proposals Sheets 1-7 – the proposed landscaping to the residential areas is ‘limited’ with a meagre provision of street trees or meaningful front gardens. Regarding the proposed low hedging within the streets – the consistent use of species either side of the street will, however, assist in building visual coherence.

The engineered treatment of the Sites slope, as illustrated on the Cut and Fill Drawing, will result in extensive areas of ground modelling – manifesting in dwellings with either ‘exposed’ or ‘buried’ brickwork, rear gardens with 600mm high ‘embankments and the frequent use of substantial ‘retaining structures’.

Garden ‘embankments’ are first introduced at around the 42m contour (northern end of the Site) and run down as far as the 20m contour (towards the south). These embankment elements negatively impact on the accessibility of the private garden spaces – introducing the necessity for ‘steps’ as a means of access (*not indicated on the Drawings*).

I have serious concerns over the scale, and subsequent visual impact, of the ‘retaining structures’ – some of which are noted to be more than 2m in height (a retaining structure of 2.6m is observed on Plot 55). The most visually impactful structures occur south of the 42m contour – where substantial lengths of retaining structures are required to delineate private garden spaces and carparking courtyards. This will result in poor quality place making – especially when combined with a lack of soft landscaping (*see example below*):



**Extract from Proposed Levels & Contours Plan Sheet 2 of 4 P932/86**

Courtyard parking – with no soft landscaping and 1.7m high retaining brick walls to the northern edge, 0.75 retaining wall to the south.

On the Boundary Treatment & Hard Surfaces Plan – a 1.8m high brick wall is indicated for the northern aspect to the Carpark – is this in addition to the 1.7m high retaining wall?

Access from the Carpark to the Dwellings appears ‘challenging’. Further clarification is required for these areas.

Also of concern are the number of Dwellings that require either a ‘ramped’ or ‘stepped’ access (as indicated on the Proposed Levels and Contours Plans Sheets 1-4). Dwellings with a ‘level’ access appear to be in the minority.

**Character Area 7 – Biodiversity Corridors:**

These are largely located along the Site’s western boundary. They are to provide “ecology focused recreational routes” and “green buffers”. As mentioned within my previous correspondence – the proposed planting appears ‘muddled’ in areas – in particular where pockets of native species shrubs are specified alongside ornamental ‘wildlife attracting shrubs’ (i.e., to the north of the pedestrian/cycleway in the vicinity of Plots 129/135).

I have concerns over the potential impacts of the 'cut and fill' operations on the existing boundary features and the construction of underground tanks where they occur in close proximity. Clear no-dig zones will need to be maintained to protect the rootzones of hedges/trees and they should not end up as 'perched' features. I would advise that you seek the advice of the NET on this issue.

I note improvements in the removal of the nodal 'feature hard surfaced' areas.

### **General Observations on the Scheme as a whole:**

#### **The Design and Access Statement:**

- The latest iteration is dated August 2023. This Document provides a very useful 'overview' of the aspirations for the Site – but I would advise that there is clear disparity between the idealistic 'artists impressions' of the Character Areas and what is actually proposed on the detailed drawings. Given the challenges of the Site's levels and the extent of land re-modelling proposed – combined with the limited landscaping within the residential areas – further design work is required.

#### **Landscaping:**

- As stated within my previous response - I welcome the approach to the creation of naturalistic ecologically diverse areas and the provision of formal structured areas. The planting does, however, frequently lose its 'identity' through the merging of both native and ornamental species – diluting the distinctiveness of the Character Areas. Improvements could be made to the proposed native Hedgerow mix – where only 4 species are specified (within sections along the western boundary).
- Tree Planting within Streets – I am disappointed with the overall provision of 'street trees' within the layout. There are many instances when large 'shrubs' are specified – and these will fail to provide the equivalent 'presence' within the street scene. The layout fails to provide adequate 'space' for trees.
- Central Avenue/Spine Road - I would advise that the random use of 'small' trees of mixed species along sections of the Central Avenue would not comply with the requirements of NPPF para. 131 which states that "all new streets are tree-lined" (unless there are clear, justifiable reasons why this would be inappropriate). The sections of Central Avenue that run through built development should be consistent in terms of species and scale – and of a height that compliments the architectural scale. There are many examples on the Detailed Public Open Space Landscape Proposals Sheets – where trees are not 'labelled'.
- I note that Tree Pit details have been submitted (Drawing no. P18-2525\_41). I have particular concern over the proposed tree pit details for 'pits for trees with hard landscape to both side of the pit i.e., the verges running along the Spine Road (which are 2m wide). I am unconvinced that there will be sufficient un-compacted and appropriate soil volumes where trees are to be planted within these narrow linear verges. Insufficient soil volumes in these locations may result in the death or restricted growth of the trees or the deformation of adjacent hard surfaces. I would, therefore, suggest that proprietary engineered tree pit systems such as GreenBlue Urban ArborSystem (or similar and approved) are considered for these locations. Again – as a guide I would suggest the following minimum soil volumes are provided:

Small tree- 5.5m<sup>3</sup>

Small to Medium tree – 10m<sup>3</sup>

Medium tree – 14m<sup>3</sup>

Medium to Large tree – 24m<sup>3</sup>

Large tree – 31m<sup>3</sup>

- Landscape Soft and Hard Works Specification – I would expect to see a comprehensive Specification (to describe the materials, standard and quality of workmanship etc) to accompany the detailed drawings.

#### **Advanced planting**

- Within the Local Plan CHIC2 policy there is a requirement for 'advanced planting'. I have seen no reference to this within the Application Documents.

#### **Protection of Existing Vegetation:**

- With reference the associated Arboricultural Impact Assessment – the root protection areas of hedges and trees have been detailed within the Report. Given the details submitted on the proposed cut and fill operations, construction of underground Tanks, and the location for the Golf Net – further details are required that accurately illustrate protective 'no-dig' areas and the location, and specification, of protective fencing. I am not convinced, at this stage, that a coordinated approach is being taken.

#### **Plot Boundary Treatments**

- The proposals illustrate a wide range of boundary treatments – ranging from 1.8m high brick and stone walls, 1.8m high close board timber fencing, 1.2m post and 3-rail fencing, 1.2m high post and 2-rail

fencing, 1.2m high close board surrounds to bin storage and 1.2m high metal railings. The previously specified knee rails have been removed. I am happy with the choice of boundary materials. The use of walling in some areas may emphasise the degree of 'slope' in some areas i.e., along the western boundary (see below) but soft landscaping can assist in mitigating the visual effects.



**Street Elevation C (Proposed Street Elevations PA-SE01 Rev.A)**

- Where 1.8m high boundary walls are to be combined with substantial 'retaining structures' there is the potential for significant adverse visual effects which may be to the detriment of the overall design quality and place making.

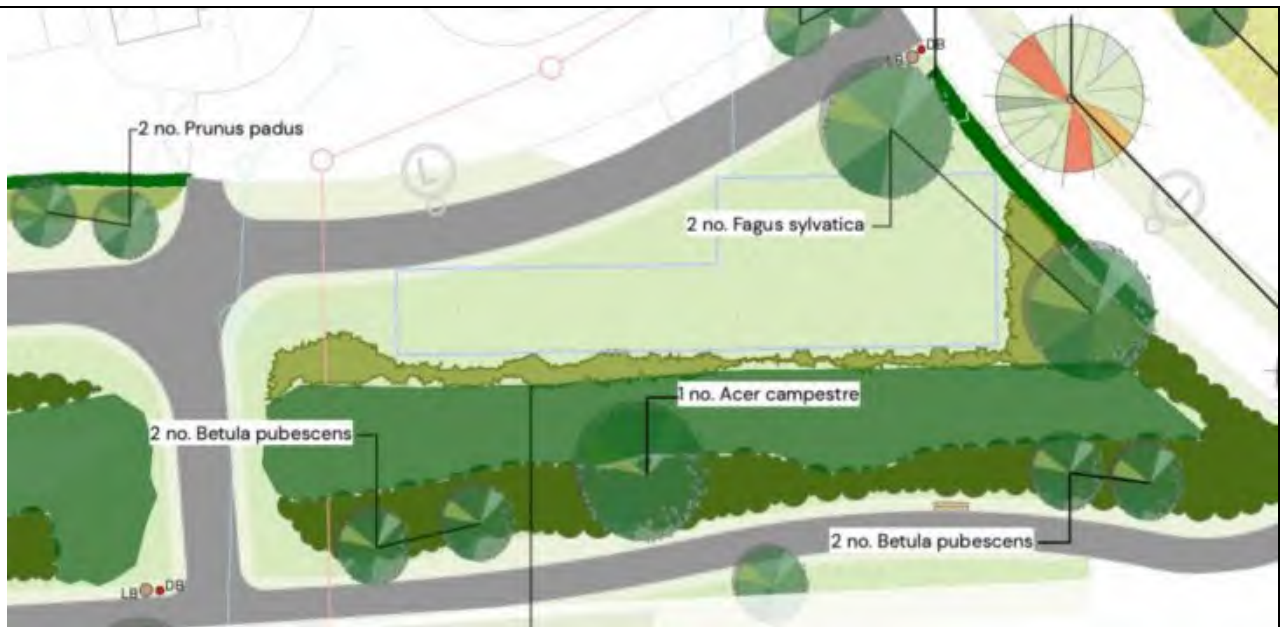
#### Lighting:

- I note the submission of a 'Lighting Design Booklet' which illustrates 3no. types of streetlights. These comprise 5m and 6m high lights and bollard lights. The bollard lighting would be located along the pedestrian/cycle way along the western boundary. 5m high lights are indicated to run along the Green Corridor to the north of the Site and within the courtyard carparks within the Garden Streets Character Area.
- The Strategic Landscape Masterplan Drawing No. P18\_2525-29 rev.H indicates the location of Streetlights across the Site (including the Spine Road and the secondary residential streets). The location of proposed trees *appears* to take into account the siting of individual Lighting Columns. There does not, however, appear to be a comprehensive Plan that shows predicted tree canopy spreads/Lighting Columns and associated light distribution contours? I am aware that the proposals, to date, are considered unacceptable by The Council Lighting specialist – and that several of the proposed Trees *may* need to be removed from the Scheme. I would suggest that further 'coordinated' design work is required to achieve a satisfactory outcome so that an 'acceptable' tree planting proposal may be assessed against the requirements of National and Local planning policies.

#### SuDS:

- Within the DAS 4.20 the 'blue infrastructure' is described as a mix of features that include attenuation basins, drainage ditches and swales. The attenuation features are mainly located along the Eastern Boundary of the Site – and either side of the Southern Entrance. The Basins to be seeded with an appropriate meadow mix.
- Further description on the SuDS is provided within 5.130 of the DAS and there is reference to the 'Drainage Strategy Plan'.
- The supporting 'Flood Risk Assessment' dated August 2023 in para.4.12 refers to the following SuDS techniques:  
Rainwater harvesting  
Pervious pavements  
Infiltration devices such as soakaways and infiltration trenches  
Swales, ponds, detention basins and underground storage facilities.
- 4.24 of the Assessment refers to the 'Proposed Surface Water Drainage Strategy' and Drawing No. P932/20 Rev. G indicates the position of the attenuation features. No cross-sections of these features are provided – and I would like to see more detail on the engineered profiles.

Drawing No. P932/04 Rev. J indicates the location of Attenuation Basins and 'Geocellular Tanks'. I have concerns relating to the proximity of Geocellular Tanks 1 and 5 to the retained Hedge/Scrub areas (see below). The location of the underground Tanks is shown in 'blue'. The construction of the Tanks is likely to have a severe detrimental effect on the integrity/health of the belts of vegetation to be retained. Tank 3 is located to the south of the Site and on top of a proposed linear belt of native shrub planting. Clarification is required as to whether the ground above these Tanks can be planted with trees/shrubs.



Extract from Detailed Public Open Space Landscape Proposals Sheet 1 of 4 P18-2525\_37 Rev. G



Extract from Detailed Public Open Space Landscape Proposals Sheet 2 of 4 P18-2525\_37 Rev. G

- integration of a comprehensive SuDS is referenced within paras. 5.10 to 5.16. Further detailed description is provided within a separate PFA Consulting 'Technical Note'. The drainage strategy uses storage pipes/underground geocellular tanks/ detention basins alongside grass swales. The detention basins have been designed in accordance with the SuDS Manual. Safety fencing does not appear to be necessary around the basins – which is welcomed. I do have some concern over the location of the underground tanks where they coincide with the Green Corridor C Character Area – as the proposed Tanks may prevent the proposed tree planting over this Area. Further clarification is required as to how the drainage and landscaping could work together.
- Permeable paving – Further clarification is required on the provision of permeable paving within the Layout. I am unable to locate any details on the drawings to show whether road/carpark/footway/cycleway surfacing is permeable.

#### Golf Netting

- The exact details of the Golf Net are yet to be submitted – and, as such, I am unconvinced that the visual and landscape aspects of this substantial 'element' have been adequately assessed. The construction of this Net is likely to necessitate the removal of existing vegetation/ecological habitat – and will preclude

future landscaping along its length. I am, therefore, unable to make a comprehensive judgement on its effects and mitigation at this stage.

## Policy consideration

### **NPPF 2023**

Section 12 Achieving well-designed places paras.126, 130, and 134.

### **West Dorset, Weymouth and Portland Local Plan 2015**

Policies ENV1, ENV2, ENV3, ENV10, ENV11, ENV12, ENV15, ENV16, COM9,

### **CHIC2 Chickerell Urban Extension**

*i) Land to the north and land to the east of Chickerell, as shown on the proposals map, will be developed for housing and related community facilities. Small-scale employment uses may be provided within the site, appropriate to a mixed-use neighbourhood.*

*ii) The development will deliver highway improvements necessary for the development to go ahead.*

*iii) The growth will be phased to deliver a steady rate of growth over at least a 10 year period through the development of:*

*- land to the north (to be developed for housing and public open space);*

*- land to the east (to be developed for housing, public open space and to include a local food store of a scale appropriate to a local centre if there is still a need for such a facility, and securing land for a new primary school)*

*iv) Development should be in accordance with a masterplan for each area prepared by the developer / landowner in conjunction with the local community, Chickerell Town Council and Dorset County Council, and agreed by West Dorset District Council. In order to address sustainable development issues, the masterplan will need to be subject to a sustainability assessment, such as a BREEAM Communities Assessment, carried out by a suitably qualified assessor. The masterplan should ensure that:*

*- The development will be focused around a traditional street with frontage development connecting from the Chickerell Link Road to School Hill, and from School Hill to Chickerell Hill. The street should be able to accommodate a bus route. The development should also provide improved pedestrian /cycle links to Weymouth Town Centre and surrounding area;*

*- Strategic planting is carried out in advance of the site being developed, in accordance with an agreed strategic landscape phasing plan, to reduce the impact of the development on longer views particularly along the northern and eastern boundaries. This should include a connecting corridor of semi- natural green space along the eastern margin of the allocation and biodiversity enhancement. A network of open green spaces, for amenity /recreation and drainage purposes, should run through the development and link to the open countryside;*

*- there is adequate on-site provision of community infrastructure;*

*- areas prone to surface water flooding are kept free of built development and due consideration given to flood risk elsewhere.*

### **Other material Considerations**

National Design Guide 2021

National Model Design Guide 2021

Chickerell Town Neighbourhood Plan 2019-2036

Policy CNP 4 Chickerell Wildlife Corridor

Policy CNP 10 Locally Valued Landscape

**Officer: Sarah Barber CMLI**

**Job Title: Senior Landscape Architect**

**Date: 15<sup>th</sup> December 2023.**

# Planning application: WD/D/16/000378\_DP

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# Public Document Pack



## DORSET COUNCIL - WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

### MINUTES OF MEETING HELD ON THURSDAY 5 SEPTEMBER 2019

**Present:** Cllrs Simon Christopher (Chairman), David Gray (Vice-Chairman), Pete Barrow, Kelvin Clayton, Susan Cocking, Nick Ireland, Louie O'Leary, David Shortell and Sarah Williams

**Apologies:** Cllrs Jean Dunseith and Kate Wheller

**Officers present (for all or part of the meeting):**

Ann Collins (Area Lead – Major Applications Western Team), Philip Crowther (Senior Solicitor - Planning), Colin Graham (Engineer (Development Liaison) Highways), Hamish Laird (Senior Planning Officer), Ian Madgwick (Transport Development Liaison Engineer), Debbie Redding (Development Manager) and Denise Hunt (Senior Democratic Services Officer)

**29. Apologies**

Apologies for absence were received from Cllr Jean Dunseith and Cllr Kate Wheller.

**30. Declarations of Interest**

Cllr Peter Barrow declared that he had predetermined Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth. He wished to speak for 3 minutes as a public speaker, however, he would not take part in the debate or vote on this application.

Cllr David Gray declared that he had predetermined Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth. He would not take part in the debate or vote on this application.

Cllr Kelvin Clayton stated that he had not predetermined Application No WD/D/18/002368 - Former Mountjoy School, Flood Lane, Bridport and had not participated in the debate or vote during its consideration by the Bridport Town Council Planning Committee. He would therefore take part in the debate and vote on the application. He further stated that he had been unable to attend the site visit in respect of Application WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth and confirmed that he was not familiar with the site.

Cllr Susan Cocking stated that she would take part in the debate and vote on Application No WP/19/00162/PIP - Land adjacent to Former Gatehouse, West Way, Southwell Business Park, Portland as she was not previously a member of the Portland Town Council Planning Committee and had not predetermined

the application. She further stated that she had not attended the site visit in respect of Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth, but as she was familiar with the site, would take part in the debate and vote on this item.

Cllr Louie O'Leary stated that he had not attended the site visit in respect of Application No WP/28/00914/FUL - Marchesi House, Poplar Close, Weymouth, but as he knew the location of the site very well, he would take part in the debate and vote on this item.

Cllr Nick Ireland stated that he had not predetermined Application No WD/D/16/000378 - Land South of Warmwell Road, Crossways and had not been involved in consideration of the previous application. He would therefore take part in the debate and vote on this application.

Cllr Sarah Williams stated that she had not predetermined Application No WD/D/18/002368 - Former Mountjoy School, Flood Lane, Bridport. Although a member of the Bridport Town Council Planning Committee when previous applications for this site had been considered, she had left the room when this particular application was considered. She would therefore take part in the debate and vote on this application.

31. **Minutes**

The minutes of the meeting held on 8 August 2019 were confirmed and signed.

32. **Public Participation**

Representations by the public to the Committee on individual planning applications are detailed below. There were no questions, petitions or deputations received on other items on this occasion.

33. **Planning Applications**

Members considered written reports submitted on planning applications as set out below.

34. **WP/18/00914/FUL - Marchesi House, Poplar Close, Weymouth, DT4 9UN**

*Cllr Peter Barrow and Cllr David Gray moved to the public seating area of the room and did not take part in the debate or vote for this application.*

*Cllr Kelvin Clayton did not take part in the debate and abstained during voting on this application.*

The Senior Planning Officer presented the application for the demolition of the existing flats and erection of 18 houses and 13 flats, comprised of 100% affordable housing within the Defined Development Boundary for Weymouth. The scheme would offer a mix of affordable rent and shared ownership that

would assist in meeting the high level of local housing demand. There were presently 1777 people on the Weymouth & Portland housing register and the housing team would have an input into the allocations with regard to a local letting policy. The scheme was considered suitable in terms of highways standards.

Members were shown the proposed site plan, aerial view and a number of artists impressions and photographs detailing the change in level of the site from north to south and the relationship of the site to the surrounding area, in particular, to Southill Primary School. The potential for construction traffic to interfere with the footpath had been recognised as a potential safety issue and could be dealt with via a construction management plan to cover matters such as vehicle movements/timing and wheel washing.

The Development Manager referred to the update sheet containing minor amendments to the wording of the recommendation and condition 5 that had been circulated to the Committee at the meeting.

Beth Chalker addressed the Committee in objection to the application, raising issues in relation to overbearing, density of dwellings per hectare in comparison with other areas of Southill, increase in number of occupants, traffic and noise, impact on road safety and width of the existing footpath. She considered that the application contradicted Adopted Local Plan policy ENV12 in relation to the design and positioning of buildings and asked whether a full impact analysis had been carried out for Southill Primary School.

Jonathan Dixon addressed the Committee in objection to the application, drawing attention to the density of the development and Adopted Local Plan Policy ENV16 in relation to the impact on amenity given the threefold increase in numbers of people living on the site. The deficiency in the allocated parking would see an increase in numbers of vehicles parking in Sycamore Road.

Stephen Hairsine addressed the Committee in support of the application, highlighting inconsistencies and inaccuracies in the local press with regard to the development. He stated that although stress had been caused by the length of time, the residents of Marchesi House were in support of the scheme and many objections had been addressed at the last open day. Ongoing uncertainty was unnecessary and he urged the Committee to approve the application.

Cllr Peter Barrow addressed the Committee as the Dorset Council Ward Member for Radipole. He confirmed that the 200 objections were truthful representations of the community, who did not want to stop the development altogether. The proposal did not comply with Adopted Local Plan Policy ENV16 in relation to neighbourhood amenity or ENV12 with regard to the design and positioning of buildings and was not in keeping with the Southill area which had a distinct character. There would be significant increase in traffic through a restricted access and additional vehicle movements along

Sycamore Road. He requested a permanent access from Radipole Lane and reduction in density of the development.

Cllr Christine James, Weymouth Town Councillor, stated that Weymouth Town Council had voted against this proposal due to the density of the development and impact on amenity. She had previously been informed that a separate access onto the site beyond the temporary access for construction would not be possible and questioned whether this would result in less properties.

Tom Whild, the agent, spoke in support of the application. He said that the current building was dated and had no future. The proposal was for 100% affordable housing and so would be of significant benefit. The scheme had been designed to minimise its impact and make best use of the site.

The Highways Officer, who had been involved in work around safe routes to school, confirmed that the existing access worked well and had a good safety record whereas an access from Radipole Lane could cause further problems. It was likely that residents from the proposed development could avoid peak school run times. The footpath surrounding the development provided good visibility from Sycamore Road into Radipole Lane and, whilst appreciating concerns for children's safety, the application could not be refused on highways grounds.

Members were advised that the density of the site of 77.5 dwellings per hectare was not unique and was reflective of sites that included flats. The National Planning Policy Framework (NPPF) encouraged making the most efficient use of land and this was a self-contained development that established an identity of its own, taking advantage of the opportunity offered by the levels of the site in an area that already had a mix of properties. It was considered that the scheme would not impact on amenity in terms of lack of privacy.

Members considered that this was a large development for the area that would result in a significant increase in the number of people. Some felt that a smaller development would be more appropriate. Comment was also made in relation to layout and location of the flats on the site, the shortfall in parking provision, the availability of free parking at the nearby shopping centre, the provision of cycle storage and access to the local cycle network, and the lack of a bus service. The need for affordable housing and that the existing building was not fit for purpose was also acknowledged.

Proposed by Cllr David Shortell, seconded by Cllr Nick Ireland.

**Decision: That the application be delegated to the Head of Planning to grant planning permission subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Act to secure provision and tenure of Affordable Housing in accordance with Planning Policy and subject to the planning conditions (as amended in the update sheet) outlined in the appendix to these minutes.**

35. **WP/19/00162/PIP - Land Adjacent to Former Gatehouse, West Way, Southwell Business Park, Portland**

The Senior Planning Officer introduced the "permission in principle" (PIP) application for up to 8 dwellings on a site forming part of the car parking area serving the Atlantic Academy at Southwell Business Park. The detail would form part of the technical detail consent at a later stage. Although outside the defined development boundary, the site was located next to existing housing which carried significant weight given the shortfall in the council's 5 year housing supply.

Members were shown a site plan, street views and photos of the car park.

The Section 106 Agreement attached to the school/academy planning permission included a car park management plan and travel plan to be put in place. The site of the application had originally been allocated for staff parking, however, alternative arrangements for parking nearer the school buildings meant that this area of the car park was no longer used. An update of the car park management plan could be pursued with the academy and dealt with as a separate matter.

Andy Matthews, Chairman of the Portland Community Partnership, addressed the Committee in relation to aspects that had been overlooked during discussions with Portland Town Council, including the safeguarding of minerals extraction and the Neighbourhood Plan ECON2 to protect and extend the Southwell Business Park that included the car park area that was the subject of the application. He concluded that it would be premature to accept the application on this basis and in light of other brownfield sites that had been identified that could have been taken account of in the 5 year land supply.

Mr Drayton, the agent, spoke in support of the application. He said the proposal was well located next to existing residential development and that the site had not been used by the Academy for parking for some time.

In response to the issues raised during public participation, it was explained that all detailed considerations, including minerals matters would be considered and addressed at the technical details stage and did not preclude a decision being made on the PIP application.

Members were mindful of the need for housing and that this application avoided the use of greenfield sites.

Proposed by Cllr Kelvin Clayton, seconded by Cllr Nick Ireland.

**Decision: That the application be approved subject to the conditions outlined in the annex to these minutes.**

**36. WD/D/18/002368 - Former Mountjoy School, Flood Lane, Bridport, DT6 3QG**

The Senior Planning Officer presented the application for the erection of 38 retirement living apartments with communal facilities, car parking and landscaping on the site of the former Mountjoy School.

A slide of the location plan showed the proposed site plan with access off Flood lane, 28 car parking spaces to the rear of site, proposed 1 and 2 bed apartments and nearby listed buildings. An aerial photo showed the wider area that included Morrisons, Sydney Gale House and Palmer's Brewery. Amendments made during the application process included widening of the landscape buffer.

Updates to the wording of the recommendation and conditions 8 and 10 had been included in an update sheet that was circulated to the committee at the meeting.

Four further representations in support of the application had been received that raised no new reasons other than those that were already included in the report.

The Highways Officer stated that the footway fronting Flood Lane would be widened to 2m, with little traffic on the east of the site where it became narrower. The parking arrangements were compliant with the Adopted Local Plan and evidence provided by the applicants suggested that people living in the 2 bedroom properties would not necessarily have 2 cars. There were good bus routes in the area with links to cycle routes.

Carla Fumgovi, the agent, spoke in support of the application. She said that the scheme had been significantly amended since it was first proposed and would be in keeping with the area. It would provide better accommodation for older people in the context of an aging local population. In addition, a contribution to affordable housing would be made.

Cllr Sarah Carney, Bridport Town Councillor, stated that the Town Council had strongly objected to this application on two previous occasions. She asked the Committee to view the proposal in the context of child poverty, unaffordable rents and a shortfall in key worker housing in the area and that an affordable housing scheme would be more appropriate. The report did not have regard to the climate emergency or the local or neighbourhood plans.

Although some members were disappointed that this was not an affordable housing scheme, the contribution towards affordable housing was seen as beneficial in providing appropriate housing elsewhere in the locality rather than on a site for sheltered accommodation.

Members were also concerned about flooding, particularly in light of the condition in relation to a flood warning and evacuation plan. It was explained that the amended recommendation was subject to the holding objection being withdrawn by the Flood Risk Management Team and that such a condition

was common to ensure there were mitigation measures in place in the event of a flood.

Members questioned the need for retirement homes in the context of the Bridport Area Neighbourhood Plan which had a policy for retirement living based on proven need when there was an abundance of retirement flats in the area, some of which were vacant. However, there was a demonstrable need for affordable and social housing which should be a priority on a council owned site.

The Development Manager advised that ownership of the site could not influence the decision. The affordable housing policy requirement of 35% was to be made as a financial contribution that had been supported by the housing team and there was no reason to refuse the application on this basis from a planning point of view.

Members felt that Adopted Local Plan Policy ENV4 should also be a consideration in respect of listed buildings around the application site which was also in the AONB.

Slides were revisited that showed the relative heights of surrounding buildings including the Palmer's Brewery and Sydney Gale House. The design and layout of the scheme had been amended as a result of comments and Conservation, Landscape and Urban Design Officers considered the proposal to be acceptable.

The AONB was a wider landscape issue, however, as this was a site where there are buildings around it, the proposal was unlikely to be considered harmful in landscape terms.

Proposed by Cllr Louie O'Leary, seconded by Cllr Susan Cocking.

**Decision: That authority be delegated to the Head of Planning to grant planning permission subject to the holding objection being withdrawn by the Flood Risk Management Team and any amendments to surface water drainage conditions requested by the Flood Risk Management Team and the completion of a Legal Agreement under Section 106 of the Town and County Planning Act 1990 (as amended) in a form to be agreed by the Legal Services Manager to secure the following:**

**An affordable housing Contribution of £295,111 index-linked using RPI from the date of this committee report together with conditions and their reasons (as amended in the update sheet) outlined in the appendix to these minutes.**

**37. WD/D/16/000378 - Land South of Warmwell Road, Warmwell Road, Crossways**

The Area Lead – Major Applications Western Team introduced the hybrid application for a full planning application for the erection of 99 open market and affordable dwellings, a new doctor's surgery, replacement village hall, car

park, a new village green, new vehicular and pedestrian accesses and works to Warmwell Road; an outline application for 401 open market and affordable dwellings, the provision of 2.5ha of employment land, new vehicular and pedestrian accesses, roads, footpaths and cycleways, a car park for the proposed Site of Alternative Natural Green Space (SANG) and 2 pumping stations; and a full application for the change of use of 22.4ha of land to the SANG which was situated within 5km of heathland.

Updates to conditions had been circulated to the Committee at the meeting.

The minerals extraction area would be dealt with by a separate application and a separate condition to ensure that extraction took place prior to development.

Members were shown a map of the proposed layout of the full permission that included 99 dwellings, of which 34 affordable housing units had been secured. A total of 1844 people were on the housing register and 42 people on the Crossways register.

Other elements of the full permission including a replacement village hall and new GP surgery were also highlighted. Discussions were ongoing with the Clinical Commissioning Group (CCG) regarding the provision of a new surgery in order to meet future demand in Crossways.

The application had been brought back to the Committee as the applicants wished to change the phasing in relation to the village hall. The GP surgery had also been included in the phasing condition, as well as a condition in relation to the provision of electric charging points for vehicles.

Jan Wardell addressed the Committee on behalf of the Rambler's Association, referring to the DEFRA guidance on rights of way which encouraged applicants and local authorities to address public rights of way at an early stage in the planning process. Unless proposals for new paths were set out in planning documents it was difficult to get a decent path at a later stage which often resulted in footpaths on estate pavements.

Chris Fry, the agent, spoke in support of the application. He stated that there were serious viability issues and therefore the scheme could not carry any further obligations or limiting conditions. He was aware of the process in respect of public footpaths and gave an assurance that the proper negotiations would be entered into going forward to ensure good public links through and into the site that were currently not available.

The Highways Officer stated that although the proposal was to significantly increase the number of dwellings at Crossways, the development was on one side of Warmwell Road which was a 40mph highway and much of the quarry traffic had gone. Highways England had recognised an impact at Max Gate in Dorchester which had a particularly bad accident record and therefore wished to secure funding from this development to deliver highways improvements at that location. Negotiations would take place with Rights of Way officers about how people were able to access the countryside either by rough path or



decent footpath for wider use by the public in accordance with the Equalities Act.

Cllr Nick Ireland spoke as the Dorset Councillor for Crossways, stating that the developer had engaged with residents and the Parish Council and the application in 2016 to expand the village on the opposite side of Warmwell Road had been welcomed. However, the application did not address the aspiration to reduce the speed limit to 30mph due to a fatality in the area or address issues with Silver Lake Road. He also expressed concern regarding the change in phasing of the village hall. The lease for the existing hall was shortly due to expire and may not be renewed. He suggested that the village hall should be built between phases 2 and 3 rather than phase 5 of the development. There was also no guarantee that the GP surgery would be built with no update by the CCG.

The Area Lead – Major Applications Western Team confirmed that the phasing of the village hall had been pushed back due to viability and the financial demands put on the development during the early phases.

Members discussed the obligations, in particular the financial contribution in respect of Poole Harbour and were advised that this contribution recognised the impact of the development on the Poole Harbour catchment area. Appropriate assessment as required under habitat regulations had been supported by Natural England. If no contribution was made then the scheme would fail this assessment and not meet the requirements of the Local Plan to provide effective mitigation.

The Solicitor advised that it was envisaged that the final 100 houses in phase 5 would provide sufficient incentive to enable the developer to build the village hall with the requirement to do so being through the Section 106 Agreement and conditions. The provision of community facilities and need for a village hall and GP surgery were planning policy considerations and the triggers could impact on viability.

The Development Manager stated that officers had recognised that the existing village hall was not of a good standard and a condition specifying that a new village hall was provided before the existing hall was demolished had been included in the conditions which was considered to be a reasonable safeguard. The lease arrangement was not a planning matter.

Cllr Nick Ireland stated that the size of a GP surgery was calculated using a multiplier formula and with the proposed additional homes there was no doubt that the existing surgery would be too small and there were limited opportunities to extend it. He stated that the original application specified that the village hall would be built at the end of phase 1, and that phase 5 was too lenient.

Members asked about public transport in the context of a limited bus service and the Highways Officer explained that this scheme would bring forward improved links to the railway station as outlined in the Local Plan.

Cllr Nick Ireland proposed an amendment to the condition in relation to a change in phasing of the village hall to between phase 2 and 3 (250 houses). This was seconded by Cllr David Gray and supported by the Committee.

**Decision:-**

**That authority be delegated to the Head of Planning to grant planning permission subject to the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) in a form to be agreed by the Head of Planning to secure the following:**

- 35% of the units as affordable housing with 50/50 tenure split between rented and shared ownership/low-cost affordable housing
- A clause to revisit the viability of the scheme and the affordable housing provision at 100, 200, 300 & 400 units
- Education contribution of £5,444 per dwelling with 2 or more bedrooms, index linked using RPI from the date of this committee report
- Provision of a minimum of 22.4ha of suitable alternative natural greenspace (SANG) with a maintenance contribution of £960,000 and supporting funding provisions of £241 per dwelling (SAMM), index linked using RPI from the date of this committee report
- Financial contribution of £149,089 towards mitigation for the impacts of the development on nitrogen levels in Poole Harbour, index linked using RPI from the date of this committee report
- Highway contributions of £560,000 towards off-site highway works to include works to Warmwell Road and a Cycle Route Scheme, index linked using RPI from the date of this committee report,
- Provision of a minimum of three no. Locally Equipped Areas for Play, approval of maintenance and management arrangements and financial contributions towards maintenance of the proposed LEAPs of £58,540 index linked using RPI from the date of this committee report if they are transferred to the Parish Council to manage and maintain

**and subject to the conditions outlined in the appendix to these minutes, including the amended conditions in the update sheet and amendment to Condition 6 in relation to phasing of construction of the village hall.**

**B: Refuse permission for the reasons outlined in the appendix to these minutes if the S106 agreement is not completed within 6 months of the date of the committee resolution or such extended time as agreed by the Head of Planning.**

**38. Duration of Meeting - Time Limit**

A vote to continue the meeting was taken in accordance with Part 2, Paragraph 8.1 of the Council's Constitution as the meeting had been ongoing for a period of 3 hours.

**Decision: That the meeting be extended for a further period to allow the business of the meeting to be concluded.**

**39. WP/19/00445/FUL - Council Offices, North Quay, Weymouth, DT4 8TA**

The Senior Planning Officer introduced the application for the demolition of the former Council Offices at North Quay, Weymouth providing slides of the location plan, car park layout, front elevation of building and photographs of the view of the former Council Offices from the Town Bridge, the existing car park and building, historic buildings to the west and the view to Holy Trinity Church. He stated that removal of the building would open up development opportunities, providing an interim step as well as opening up views of the area.

Key planning matters were outlined including the principle of demolition, heritage, archaeology and highways considerations. No cycle store had been included in the proposal due to the conflict with vehicle movements which was in accordance with policy in relation to car parks. Provision of cycle facilities were available at both ends of the Westham Town Bridge which was near the locality.

Since publication of the agenda, the Environmental Health Officer had confirmed that he was content with the scheme and endorsed the conditions in the report.

Nigel Ewens, Founder and Director of Jurassic Coast Holdings, addressed the Committee, saying that it would be irresponsible and a waste of the council's own resources to demolish the building before a planning application for future development was realised and all other options had been evaluated. He questioned why 6 alternative bids in March 2019 had not been given serious consideration.

Rex Johnson referred to National Planning Policy Framework (NPPF) Section 14 which encouraged the conversion of existing buildings. He highlighted the need for the Council to act responsibly in light of climate change and stated that the proposal had no environmental benefit, would harm the conservation area and demolish an important part of the town's heritage.

Graham Perry, a resident of Weymouth and shop owner, questioned the demolition of a re-usable building at huge economic and environmental cost. He asked the Committee to consider the application in the context of the climate emergency, the area's economic and housing issues and that getting the building back into use should be a priority.

The Senior Planning Officer outlined the relevant planning history and stated that this application should be viewed as the first step to realise redevelopment of the site. The policy background was clear that this was appropriate in the Conservation Area and in the context of Adopted Local Plan Policy Wey7.

Cllr Louie O'Leary stated that the building was old fashioned and would require money to refurbish. It was now dilapidated and not maintained whereas demolition would allow the site to be redeveloped at a later stage.

However, not all members held this view. They questioned the lack of provision of cycle storage when there was provision at Westham Bridge which was also a car park; encouraging further car use; that the declaration of a climate emergency was a material consideration; re-use of the building; provision of affordable housing in light of the social housing crisis and that if approved now the car park could remain in place for a long time. They drew attention to the concerns of Historic England that a car park would not enhance the Conservation Area and that the building should not be demolished until a new scheme for the site was in place.

Members were advised that they needed to consider the proposal before them and not on any alternatives., that consideration should focus on the planning issues and that ownership and finance were not relevant matters for the consideration of this planning application.

Cllr Nick Ireland proposed the introduction of cycle storage and that 50% of the car parking spaces had electric charging points. It was confirmed that a condition could be added for electric charging points, however, the number of charging points may need further detailed consideration. Cllr Nick Ireland later withdrew this proposal following subsequent debate.

Cllr Kelvin Clayton proposed that the application be refused as it was contrary to NPPF paragraph 148 as it did not encourage the reuse of existing resources and conversion of existing buildings. This was seconded by Cllr Nick Ireland.

The Development Manager read aloud the exact wording of NPPF paragraph 148. Legal advice was given that the NPPF was a material consideration but that members would need to reach a conclusion on whether the NPPF outweighed the Adopted West Dorset, Weymouth & Portland Local Plan 2015, recognising the potential tension of policy of redevelopment versus reuse of the building. Members noted this legal advice and considered the NPPF paragraph 148 was applicable and relevant.

**Decision: That the application be refused for the reasons outlined in the appendix to these minutes.**

**Duration of meeting: 2.00 - 5.50 pm**

**Chairman**

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**APPLICATION NUMBER: WP/18/00914/FUL**

**APPLICATION SITE: Marchesi House, Poplar Close, Weymouth, DT4 9UN**

**PROPOSAL: Demolition of existing flats & erection of 18no. Houses & 13no. Flats in two blocks**

**Decision: Delegate Authority to the Head of Planning to grant planning permission subject to:-**

- completion of a legal agreement under Section 106 of the Town and Country Planning Act to secure provision and tenure of Affordable Housing in accordance with Planning Policy;
- and the following planning conditions.

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan & Block Plan - Drawing Number 1730-01A (Amended) received on 21/5/2019

Site Plan - Drawing Number 1730 02D (Amended) received on 21/5/2019

Houses 1 - 3 - Proposed Floor Plans - Drawing Number 1730 03 received on 9/11/2018

Houses 1 - 3 - Proposed Roof Plan - Drawing Number 1730 04 received on 9/11/2018

Houses 1 - 3 - Proposed Front & Side Elevations - Drawing Number 1730 05B (Amended) received on 21/5/2019

Houses 1 - 3 - Proposed Side & Rear Elevations - Drawing Number 1730 06B (Amended) received on 21/5/2019

Houses 4 - 7 - Proposed Floor Plans - Drawing Number 1730 07 received on 9/11/2018

Houses 4 - 7 - Proposed Roof Plan - Drawing Number 1730 08 received on 9/11/2018

Houses 4 - 7 - Proposed Front & Side Elevations - Drawing Number 1730 09B (Amended) received on 21/5/2019

Houses 4 - 7 - Proposed Rear & Side Elevations - Drawing Number 1730 10B (Amended) received on 21/5/2019

Houses 8 - 10 - Proposed Floor Plans - Drawing Number 1730 11 received on 9/11/2018

Houses 8 - 10 - Proposed Roof Plan - Drawing Number 1730 12 received on 9/11/2018

Houses 8 - 10 - Proposed Front & Side Elevations - Drawing Number 1730 13A (Amended) received on 21/5/2019  
Houses 8 - 10 - Proposed Rear & Side Elevations - Drawing Number 1730 14B (Amended) received on 21/5/2019  
Houses 11 - 14 - Proposed Floor Plans - Drawing Number 1730 15 received on 9/11/2018  
Houses 11 - 14 - Proposed Roof Plan - Drawing Number 1730 16 received on 9/11/2018  
Houses 11 - 14 - Proposed Front & Side Elevations - Drawing Number 1730 17B (Amended) received on 21/5/2019  
Houses 11 - 15 - Proposed Rear & Side Elevations - Drawing Number 1730 18B (Amended) received on 21/5/2019  
Houses 15 - 18 - Proposed Floor Plans - Drawing Number 1730 19 received on 9/11/2018  
Houses 15 - 18 - Proposed Roof Plan - Drawing Number 1730 20 received on 9/11/2018  
Houses 15 - 18 - Proposed Front & Side Elevations - Drawing Number 1730 21A (Amended) received on 21/5/2019  
Houses 15 - 18 - Proposed Rear & Side Elevations - Drawing Number 1730 22A (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Ground & First Floor Plan - Drawing Number 1730 23A (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Second Floor Plan & Roof Plan - Drawing Number 1730 24B (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Front & Side Elevations - Drawing Number 1730 25C (Amended) received on 21/5/2019  
Flats (Building 1) - Proposed Rear & Side Elevations - Drawing Number 1730 26C (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed Lower Ground & Ground Floor Plans - Drawing Number 1730 27B (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed First Floor Plan & Roof Plan - Drawing Number 1730 28D (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed Front & Side Elevations - Drawing Number 1730 29D (Amended) received on 21/5/2019  
Flats (Building 2) - Proposed Rear & Side Elevations - Drawing Number 1730 30C (Amended) received on 21/5/2019  
Bin Store - Proposed Floor plans and Elevations - Drawing Number 1730 32A (Amended) received on 21/5/2019  
Proposed Street Scene - Drawing Number 1730 33E (Amended) received on 21/5/2019  
Proposed Street Scene - Drawing Number 1730 34C (Amended) received on 21/5/2019  
Site Plan (Section Lines) - Drawing Number 1730 50 received on 21/5/2019  
Site Sections A-A & B-B - Drawing Number 1730 51 received on 21/5/2019  
View 1 received on 21/5/2019 View 2 received on 21/5/2019 View 3 received on 21/5/2019 View 4 received on 21/5/2019

REASON: For the avoidance of doubt and in the interests of proper planning.

3. The development hereby permitted shall be undertaken using the building materials listed on the application forms, and approved Drawings referred to in condition 2 of this planning permission.

REASON: To safeguard the character and appearance of the development having regard to its surroundings.

4. The development shall be carried out in accordance with the approved Biodiversity Mitigation Plan prepared by Adam Jessop of Ecosupport Ltd for Ken Parke Planning Ltd dated 24 October 2018, and this shall not be altered without the prior written approval of the Local Planning Authority.

REASON: In order to safeguard and enhance the ecological value of the site.

5. The development hereby approved shall not proceed above finished floor level until hard and soft landscaping and tree planting schemes shall have been submitted to, and approved in writing, by the Local Planning Authority. The approved soft landscaping and tree planting schemes shall be implemented during the planting season November - March inclusive, immediately following commencement of the development, or as may be agreed otherwise in writing by the Local Planning Authority. The approved schemes shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years from their first being planted. The approved hard landscaping shall be completed prior to occupation of the dwellings.

REASON: In the interest of visual amenity.

6. No development above finished floor level of the new build dwellings shall take place until details of the boundary treatments to that property have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be installed in their entirety prior to the first occupation of the dwelling concerned and shall thereafter be retained.

REASON: In the interests of the character and appearance of the area.

7. Prior to the commencement of development, including works related to the demolition of the existing Marchesi House building, a Construction Traffic Management Plan, shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include provision for construction traffic to access the site from Radipole Lane, only. The development shall be carried out in accordance with the approved Construction Management Plan and shall not be altered without the prior written approval of the Local Planning Authority.

REASON: In the interests of the living conditions of nearby occupiers and highway safety.

8. Before the development is occupied or utilised the access, geometric highway layout, turning and parking areas shall be completed as shown on Drawing Number 1730 02D. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified

REASON: To ensure the proper and appropriate development of the site.

9. No development shall take place until a detailed and finalised surface water management scheme for the site, based on hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be implemented in accordance with the submitted details before the development is completed.

REASON: To prevent the increased risk of flooding, to improve and to protect water quality.

10. No development shall take place until details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

REASON: To ensure future maintenance of the surface water drainage system, and to prevent the increased risk of flooding.

## **Informatives**

### **National Planning Policy Framework Statement**

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development. The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.
- The application was acceptable as submitted and no further assistance was required.



### **S.106 Agreement**

This permission is subject to an agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated xxxxxxx

#### **INFORMATIVE NOTE: Privately managed estate roads**

As the new road layout does not meet with the County Highway Authority's road adoption standards or is not offered for public adoption under Section 38 of the Highways Act 1980, it will remain private and its maintenance will remain the responsibility of the developer, residents or housing company.

#### **INFORMATIVE NOTE: Fire safety**

To fight fires effectively the Fire and Rescue Service needs to be able to manoeuvre its equipment and appliances to suitable positions adjacent to any premises. Therefore, the applicant is advised that they should consult with Building Control and Dorset Fire and Rescue Service to ensure that **Fire Safety - Approved Document B Volume 1 Dwelling houses B5 of The Building Regulations 2006** can be fully complied with

**Notes to LPA/Applicant;** as previously highlighted, detailed proposals including finalised calculations will need to be supplied and approved in respect of subsequent submissions and discharge of the requested surface water planning conditions listed above, prior to commencement. Whilst we acknowledge the discussion contained within the above supporting documents with regard to an acceptable discharge rate, relevant design criteria and perceived betterment over the existing drainage arrangements (i.e. 4.2l/s, 100yr plus 40% CC & a 30% betterment) we emphasise that these figures are regarded as preliminary only at this stage and will require further substantiation within the necessary detailed design. Any subsequent alteration or amendment of the preliminary layout should not compromise the agreed conceptual drainage strategy.

Please note that DC/FRM accept no responsibility or liability for any (preliminary) calculations submitted in support of these proposals. We provided an overview of the scheme and compliance with best practise and current guidance only.

**APPLICATION NUMBER: WP/19/00162/PIP**

**APPLICATION SITE: Lane adjacent to former Gatehouse, West Way, Southwell Business Park, Portland**

**PROPOSAL: Erection of up to 8 no. dwellings**

**Decision: Grant Planning Permission subject to the following conditions:-.**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: This condition is required to be imposed by the Town and Country Planning (Permission in Principle) (Amendment) Order 2017.

2. The development hereby permitted shall be carried out in accordance with the following approved plans.

Location Plan LPC2252 PR01

REASON: For the avoidance of doubt and in the interests of proper planning.

3. The maximum number of residential dwellings permitted by this permission in principle is eight.

REASON: The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 and having regard to the allocation within the SHLAA.

4. Technical detail consent shall be applied for and approved within the three year time limit of this permission in principle consent.

REASON: As directed by the Town and Country Planning (Permission in Principle) (Amendment) Order 2017.

**APPLICATION NUMBER: WD/D/18/002368**

**APPLICATION SITE: Former Mountjoy School, Flood Lane, Bridport DT6 3QG**

**PROPOSAL: Erection of 38 retirement living apartments with communal facilities, car parking & landscaping**

**Decision:**

**A) Delegate to the Head of Planning to Grant Planning Permission subject to:-**

- The holding objection being withdrawn by the Flood Risk Management Team and any amendments to surface water drainage conditions requested by the Flood Risk Management Team;
- The completion of a legal agreement under section 106 of the Town and County Planning Act 1990 (as amended) in a form to be agreed by the legal services manager to secure an affordable housing contribution of £295,111 index-linked using RPI from the date of this committee report;
- And the following conditions:

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing Number 01 Rev A received on 10/10/2018

Proposed Mobility Scooter Store - Drawing Number 046 received on 10/10/2018

Proposed Site Plan - Roof Level - Drawing Number SO-2499-03-AC-025 Rev K received on 03/06/2019

Proposed Site Plan - Ground Level - Drawing Number SO-2499-03-AC-026 Rev S received on 03/06/2019

Proposed Ground Floor Plan - Drawing Number SO-2499-03-AC-028 Rev U received on 03/06/2019

Proposed First Floor Plan - Drawing Number SO-2499-03-AC-029 Rev S received on 03/06/2019

Proposed Second Floor Plan - Drawing Number SO-2499-03-AC-030 Rev S received on 03/06/2019

Proposed Elevations 01 (B&W) - Drawing Number SO-2499-02-AC-35 Rev R received on 03/06/2019

Proposed Elevations 02 (B&W) - Drawing Number SO-2499-03-AC-036 Rev P received on 03/06/2019

Proposed Elevations 01 - Drawing Number SO-2499-02-AC-37 Rev D received on 03/06/2019

Proposed Elevations 02 - Drawing Number SO-2499-03-AC-038 Rev D received on 03/06/2019

Proposed Elevations 01 (Colour) - Drawing Number SO-2499-03-AC-41 Rev B received on 03/06/2019

Proposed Elevations 02 (Colour) - Drawing Number SO-2499-03-AC-042 Rev B received on 03/06/2019

Proposed Street Elevations - Drawing Number SO-2499-03-AC-045 Rev B received on 03/06/2019

REASON: For the avoidance of doubt and in the interests of proper planning.

3) The development hereby permitted shall be occupied only by persons 60 years of age and over.

Reason: To ensure there is sufficient parking provision

4) The development hereby approved shall be carried out in accordance with the external facing materials on the Materials Schedule titled Proposed External Materials, drawing number SO-2499-03-AC-051-B. Thereafter, the development shall proceed in strict accordance with such materials as have been agreed.

Reason: To ensure a satisfactory visual appearance of the development.

5) Notwithstanding the approved plans no development above Damp Proof Course (DPC) level shall be commenced until a landscaping and tree planting scheme have been submitted to, and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented during the planting season November-March inclusive, immediately following commencement of the development. The scheme shall include tree and plant names, numbers, sizes and provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years.

REASON: In the interest of visual amenity.

6) Before the development is occupied the Footway improvement to Flood Lane the new access road, geometric highway layout, parking and turning areas shown on Drawing Number 061 Rev A must be constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified

REASON: To ensure the proper and appropriate development of the site.

7) Prior to the commencement of the development hereby approved the following information shall be submitted to and agreed in writing by the Local Planning Authority:

1. a 'desk study' report documenting the site history.
2. a site investigation report documenting the ground conditions of the site, a 'conceptual model' of all potential pollutant linkages, detailing the identified sources, pathways and receptors and basis of risk assessment.
3. a detailed scheme for remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed.

Before the development hereby permitted first comes into use or is occupied, a Verification/Validation report to demonstrate that remediation works have been incorporated in the development in compliance with the agreed requirements shall be submitted and agreed in writing by the Local Planning Authority.

REASON: To ensure potential land contamination is addressed.

8) In the event that previously unidentified contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved by the Local Planning Authority. . The approved works shall be carried out in accordance with the approved timescales and on completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

REASON: To ensure risks from contamination are minimised.

9) The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (Calcinotto, Rev. 3, dated 27 September 2018) and the following mitigation measures detailed therein:-

- 1 Provision of compensatory flood storage (Appendix E of Flood Risk Assessment).
- 2 finished floor levels set no lower than 5.6 metres above Ordnance Datum (AOD).

REASON: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants

10) Before the development hereby approved is occupied or utilised a Flood Warning and Evacuation Plan shall be submitted and agreed in writing by the Local Planning Authority. The approved Flood Warning and Evacuation Plan must be displayed in locations on the site agreed in writing by the Local Planning Authority before any part of the development hereby permitted is occupied or is brought into use. Thereafter, the Flood Warning and Evacuation Plan must be permanently displayed in the agreed locations.

REASON: To minimise the impact of future occupiers to the risk of flooding.

11) Prior to first occupation of the development a Noise Report of BS4142 or equivalent on the cumulative impact of any fixed plant at the proposed development against the background levels when in operation shall be submitted to and agreed in writing by the Local Planning Authority. The report shall also address any need for mitigation should the background levels be exceeded and if mitigation is required the mitigation measures will be carried out in accordance with the report prior to first occupation of the development. Thereafter the development should be carried out and maintained in accordance with the agreed report.

REASON: In the interests of residential amenity.

12) No development shall take place until a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and including clarification of how surface water is to be managed during construction, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be fully implemented in accordance with the submitted details before the development is completed.

REASON: To prevent the increased risk of flooding.

13) No development shall take place until details of maintenance & management of the surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

REASON: To ensure future maintenance of the surface water drainage system and to prevent the increased risk of flooding.

14) The development shall not be commenced until a foul water drainage strategy is submitted and agreed in writing by the Local Planning Authority. The scheme shall include appropriate arrangements for the agreed points of connection. The drainage scheme shall be completed in accordance with the approved details prior to first occupation of the development.

REASON: To ensure that proper provision is made for sewage of the site.

15) The development hereby approved shall be carried out and maintained in accordance with the approved Biodiversity Mitigation Plan signed by John Broomfield and dated 14/08/2018 and agreed by Natural Environment Team on 17/08/2018, unless a subsequent variation is agreed in writing with the Council.

REASON: In the interests of biodiversity mitigation and enhancement.

16) Prior to the commencement of the development, a Construction Traffic Management Plan and programme of works shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include construction vehicle details (number, size, type and frequency of movement), vehicular routes, delivery hours and contractors' arrangements (compound, storage, parking, turning, surfacing, drainage and wheel wash facilities), and details of working hours. The development shall be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: In the interests of road safety and neighbouring amenity.

## Informatives

### Highways:

The applicant is advised that the works required to construct the footway improvement in Flood Lane must be completed under a suitable agreement and form part of the Public Highway in order to pursue this the applicant should contact Dorset County Council's Development Team. They can be reached by telephone at 01305 225401, by email at [DLI@dorsetcouncil.gov.uk](mailto:DLI@dorsetcouncil.gov.uk) or in writing at Highway Development Team, Environment and the Economy, County Hall, Colliton Park, Dorchester DT1 1XJ.

### Land Contamination:

Based on information reviewed to date AND providing that the Consultant provides further information regarding an above ground tank indicated at the site in the initial CSM, the Phase 1 Desk Study Report could be considered to comply with Part (a) of the recommended contaminated land planning condition.

For the site investigation works, WPA recommends that a detailed investigation strategy is submitted to the LPA prior to undertaking the intrusive site works, in

order to avoid disagreements over methodology at a later stage. WPA stresses that all site investigation works should comply with current guidance including BS 5930:2015BS, 10175:2011+A2:2017 and BS 8576:2013, BS 8485:2015 and CIRIA C665 for ground gas. Flood

### Flood Risk:

In view of the potential flood risks in this locality, we would advise that any developer of this site gives consideration to the use of flood resilient construction practices and materials in the design and build phase. Choice of materials and simple design modifications can make the development more resistant to flooding in the first place, or limit the damage and reduce rehabilitation time in the event of future inundation.

Guidance is available within the Department for Communities and Local Government publication 'Improving the Flood Performance of New Buildings – Flood Resilient Construction, May 2007' available at:-

<https://www.gov.uk/government/publications/flood-resilient-construction-of-newbuildings>

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>

Sustainable design and construction should be implemented across the proposed development. This is important in limiting the effects of and adapting to climate change. Running costs for occupants can also be significantly reduced. Water efficiency measures should be incorporated into this scheme. This conserves water for the natural environment and allows cost savings for future occupants. The development should include water efficient systems and fittings such as: dual-flush toilets; water-saving taps; water butts; showers and baths. Greywater recycling and rainwater harvesting should also be considered.

In accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction. If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on our website <https://www.gov.uk/how-to-classify-different-types-of-waste>

Foul Drainage:

The developer must agree a scheme of protection works with the Wessex Water Regional Development engineer for construction in close proximity of the rising main. The rising main and easement width must be clearly marked on site and on construction plans.

**B) Refuse permission for the reasons set out below if the agreement is not completed by six months from the date of committee or such extended time as agreed by the head of planning**

1) The development by reason of the lack of a suitably worded S106 agreement to secure the 35% affordable housing provision as a financial contribution is considered to be contrary to policy HOUS1 of the West Dorset, Weymouth & Portland Local Plan (2015) and Section 5 of the National Planning Policy Framework (2019).



**APPLICATION NUMBER: WD/D/16/00378**

**APPLICATION SITE: Land south of Warmwell Road, Warmwell Road, Crossways**

**PROPOSAL:** Full planning permission for the erection of 99 open market dwellings & affordable dwellings, a new doctors surgery, a replacement village hall, a car park, a new village green, new vehicular and pedestrian accesses and works to Warmwell Road. An outline application for the erection of 401 open market and affordable dwellings, the provision of 2.5ha of employment land, new vehicular and pedestrian accesses, roads, footpaths and cycleways, a car park for the proposed Site of Alternative Natural Greenspace (SANG) and 2 pumping stations; and a full application for the change of use of 22.4ha of land to Site of Alternative Natural Greenspace (SANG).

**Decision: A: Delegate authority to the Head of Planning to grant planning permission subject to planning conditions as detailed below and the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) in a form to be agreed by the Head of Planning to secure the following:**

- 35% of the units as affordable housing with 50/50 tenure split between rented and shared ownership/low-cost affordable housing
- A clause to revisit the viability of the scheme and the affordable housing provision at 100, 200, 300 & 400 units
- Education contribution of £5,444 per dwelling with 2 or more bedrooms, index linked using RPI from the date of this committee report
- Provision of a minimum of 22.4ha of suitable alternative natural greenspace (SANG) with a maintenance contribution of £960,000 and supporting funding provisions of £241 per dwelling (SMMM), index linked using RPI from the date of this committee report
- Financial contribution of £149,089 towards mitigation for the impacts of the development on nitrogen levels in Poole Harbour, index linked using RPI from the date of this committee report
- Highway contributions of £560,000 towards off-site highway works to include works to Warmwell Road and a Cycle Route Scheme, index linked using RPI from the date of this committee report,
- Provision of a minimum of three no. Locally Equipped Areas for Play, approval of maintenance and management arrangements and financial contributions towards maintenance of the proposed LEAPs of £58,540 index linked using RPI from the date of this committee report if they are transferred to the Parish Council to manage and maintain

**Planning Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing Number 1677 P 01 received on 12/02/2016 Terrace - Type D - Proposed Floor Plans & Roof Plan - Drawing Number P-D-01 received on 12/02/2016  
Terrace - Type D - Proposed Elevations - Drawing Number P-D-02 received on 12/02/2016  
Mews - Type F - Proposed Floor Plans & Roof Plan - Drawing Number P- F-01 received on 12/02/2016  
Mews - Type F - Proposed Elevations - Drawing Number P-F-02 received on 12/02/2016  
Townhouse G - Type G - Proposed Floor Plans & Roof Plan - Drawing Number P-G-01 received on 12/02/2016  
Townhouse G - Type G - Proposed Elevations - Drawing Number P-G-02 received on 12/02/2016  
Manor - Type I - Proposed Floor Plans - Drawing Number P-I-01 received on 12/02/2016  
Manor - Type I - Proposed Roof Plan - Drawing Number P-I-02 received on 12/02/2016  
Manor - Type I - Proposed Elevations - Drawing Number P-I-03 received on 12/02/2016  
Townhouse K - Type K Proposed Floor Plans & Roof Plan - Drawing Number P-K-01 received on 12/02/2016  
Townhouse K - Type K - Proposed Elevations - Drawing Number P-K-02 received on 12/02/2016  
Single Garage - Floor plans and Elevations - Drawing Number P-GAR-01 received on 12/02/2016  
Double Garage - Floor plans and Elevations - Drawing Number P-GAR-02 received on 12/02/2016  
Refuse & Cycle Store - Floor Plans & Elevations - Drawing Number 1677 P-REF-01 received on 12/02/2016  
Garden Store - Floor plans and Elevations - Drawing Number 1677 P-SHE-01 received on 12/02/2016  
Surgery - Proposed Elevations - Drawing Number 1677 P SU 03 received on 12/02/2016  
Surgery - Perspective - Drawing Number 1677 P SU 05 received on 12/02/2016  
Village Hall - Floor Plan - Drawing Number 1677 P VH 01 received on 12/02/2016  
Village Hall - West Elevation - Drawing Number 1677 P VH 02 received on 12/02/2016  
Village Hall - East Elevation - Drawing Number 1677 P VH 03 received on 12/02/2016  
Village Hall - North & South Elevations - Drawing Number 1677 P VH 04 received on 12/02/2016  
Proposed Roof Plan - Drawing Number 1677 P VH 05 received on 12/02/2016  
Surgery - Proposed Elevations - Drawing Number 1677 P SU 04 Rev. A received on 18/09/2016  
Site plan: Drwg. No. 1677 P 02 REV E (Amended) received on 18/09/2016 Block plan: Sheet 2 of 5 Drwg. No. 1677 P 03-2 REV A (AMENDED) received on 18/09/2016

Block plan: Sheet 1 of 5 Drwg. No. 1677 P 03-1 REV A (AMENDED) received on 18/09/2016

Block plan: Sheet 3 of 5 Drwg. No. 1677 P 03-3 REV B (AMENDED) received on 18/09/2016

Block plan: Sheet 4 of 5 Drwg. No. 1677 P 03-4 REV A (AMENDED) received on 18/09/2016

Block plan: Sheet 5 of 5 Drwg. No. 1677 P 03-5 REV A (AMENDED) received on 18/09/2016

Materials Sheet 2 - Drawing Number 1677 P10-2 Rev. A (AMENDED) received on 18/09/2016

Materials Sheet 1 - Drawing Number 1677 P10-1 Rev. A (AMENDED) received on 18/09/2016

Proposed Streetscene A-A - Drawing Number 1677/P07 REV A (AMENDED) received on 18/09/2016

Proposed Streetscene B-B - Drawing Number 1677/P08 REV A (AMENDED) received on 18/09/2016

Cottage - Drwg. No. P-P-02 TYPE P ELEVATIONS received on 18/09/2016

Cottage - Floor Plans Drawing Number P-P-01 TYPE P PLANS received on 18/09/2016

Dovecote Elevations - Drawing Number P-N-02 TYPE N received on 18/09/2016

Dovecote Floor Plan - Drawing Number P-N-01 TYPE N received on 18/09/2016

Lodge Elevations - Drawing Number P-M-02 TYPE M received on 18/09/2016

Lodge Floor Plan - Drawing Number P-M-01 TYPE M received on 18/09/2016

Grange - Elevations: Drawing Number P-J-02 REV A TYPE J (AMENDED) received on 18/09/2016

Grange - Floor Plan: Drawing Number P-J-01 REV A TYPE J (AMENDED) received on 18/09/2016

Townhouse H - Elevations: Drawing Number P-H-02 REV A TYPE H (AMENDED) received on 18/09/2016

Townhouse H - Floor Plan: Drawing Number P-H-01 REV A TYPE H (AMENDED) received on 18/09/2016

Townhouse G (Gable Front) - Elevations: Drawing Number P-G-04 REV A TYPE G (AMENDED) received on 18/09/2016

Townhouse G (Gable Front) - Floor Plan: Drawing Number P-G-03 REV A TYPE G (AMENDED) received on 18/09/2016

Farmhouse - Elevations: Drawing Number P-E-02 REV B TYPE E (AMENDED) received on 18/09/2016

Farmhouse - Floor Plan: Drawing Number P-E-01 REV B TYPE E (AMENDED) received on 18/09/2016

Wide Front - Elevations: Drawing Number P-C-02 REV A TYPE C (AMENDED) received on 18/09/2016

Wide Front - Floor Plan: Drawing Number P-C-01 REV A TYPE C (AMENDED) received on 18/09/2016

Townhouse B - Elevations: Drawing Number P-B-02 REV B TYPE B (AMENDED) received on 18/09/2016

Townhouse B - Floor Plan: Drawing Number P-B-01 REV C TYPE B (AMENDED) received on 18/09/2016  
Apartment - Elevations (front & side): Drawing Number P-A-05 REV A TYPE A (AMENDED) received on 18/09/2016  
Apartment - Elevations (rear & side): Drawing Number P-A-06 REV A TYPE A (AMENDED) received on 18/09/2016  
Apartment - Roof Plan: Drawing Number P-A-04 REV A TYPE A (AMENDED) received on 18/09/2016  
Apartment - Ground Floor Plan: Drawing Number P-A-01 REV A APARTMENTS PLOTS 2-7 (AMENDED) received on 18/09/2016  
Apartment - 1st Floor Plan: Drawing Number P-A-02 REV A APARTMENTS PLOTS 2-7 (AMENDED) received on 18/09/2016  
Apartment - 2nd Floor Plan: Drawing Number P-A-03 REV A APARTMENTS PLOTS 2-7 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_05 PLANTING PLANNING SHEET 1 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_06 PLANTING PLAN SHEET 2 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_07 PLANTING PLAN SHEET 3 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_08 PLANTING PLAN SHEET 4 (AMENDED) received on 18/09/2016  
Landscaping scheme - Drawing Number: TD742\_04B WARMWELL RD PLANTING PLAN SHEET 2 (AMENDED) received on 18/09/2016  
Surgery - Ground Floor plans: Drawing Number 1677 P SU 01 REV A (AMENDED) received on 18/09/2016  
Surgery - 1st Floor & Roof Plan: Drawing Number 1677 P SU 02 REV A (AMENDED) received on 18/09/2016  
Affordable Housing Plan - Drawing Number 1677 P 09 Rev. D received on 07/08/2017  
Village Hall and Doctors Surgery Materials - Drawing Number 1677 P11 received on 19/10/2017  
Proposed Streetscene B-B Drwg no. 1677/P08 Rev A received on 16/09/2016  
Refuse & Cycle Store - Floor Plan and Elevations Drwg no. 1677 P-REF- 01 received on 20/08/2019

REASON: For the avoidance of doubt and in the interests of proper planning.

### **Outline Consent**

2. Approval of the details of the access, layout, scale and appearance of the development and the landscaping of the site (hereinafter called the Reserved Matters) for the remainder of the site outside of the full permission granted for Phase1 of this hybrid permission shall be obtained from the Local Planning Authority in writing before any development is commenced on these other phases of the development.

REASON: To ensure the satisfactory development of the site.

3. Application for approval of any “reserved matter” under Condition 2 must be made not later than the expiration of ten years beginning with the date of this permission.

REASON: This condition is required to be imposed by Section 92 of the Town and Country Planning Act 1990.

4. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved

REASON: This condition is required to be imposed by Section 92 of the Town and Country Planning Act 1990 (as amended).

5. Not more than 401 dwellings in total shall be constructed under this outline permission.

REASON: The assessment of the impacts of the scheme are based on a maximum of 500 dwellings across the whole site and additional dwellings would require further assessments of impacts to heathland SSSIs.

## **Phasing**

6. Prior to the commencement of the development a Phasing Plan for the entirety of the development shall be submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall make provision for:

- a) Extraction of the mineral interest in accordance with a scheme to be first approved in writing by the Local Planning Authority from the area outlined in red on the Site Location Plan Drwg no. 1701 P01 Rev A prior to the commencement of any development the subject of this outline planning permission within that same area.
- b) Delivery of the Village Green as part of Phase 1. No further dwellings in later phases to be constructed until it is complete.
- c) Delivery of serviced employment land as part of the development of the adjacent residential phase.
- d) Provision of allotments as part of the development of the adjacent residential phase.
- e) Provision of Locally Equipped Areas for Play as part of the development of the adjacent residential phase.
- f) The proposed village hall and adjacent parking spaces being constructed and ready for first use prior to the demolition of the existing village hall or the occupation of the 250<sup>th</sup> dwelling, whichever is soonest, and the submission of a scheme for the interim landscaping of the proposed village hall site until such time as the village hall is constructed. The interim landscaping scheme for the village hall site is to include details of the planting and its maintenance and shall be implemented and completed in full as part of Phase 1 and shall be maintained and retained thereafter until such time as the village hall is constructed on the site.

- g) Provision of the doctor's surgery.

Thereafter the development shall be carried out in accordance with the phasing plan and any subsequent changes to the agreed phasing plan must also be agreed in writing by the Local Planning Authority.

REASON: In the interests of achieving the objectives of the Local Plan and the site specific policy.

## Highways

7. The highway improvements to the Warmwell Road on the site frontage shall be constructed substantially in accordance with the submitted details shown on the application drawings before the development is first occupied.

REASON: In the interests of road safety.

8. The Phase 1 full application hereby permitted shall not be occupied or utilised until the access, geometric highway layout, parking and turning areas shown on the application drawings have been constructed, unless otherwise agreed in writing by the Local Planning Authority. Thereafter, these shall be maintained, kept free from obstruction and available for the purposes specified.

REASON: In the interests of road safety.

9. No more than 100 residential units (to include 35% affordable housing) shall be occupied until the A35 Max Gate junction arrangement, as shown in the WYG Transport drawing "SK09" dated 21 October 2015 is completed and open to traffic, unless any variation in the design of the proposals is otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the safe and efficient operation of the Strategic Road Network (A35).

10. No development shall be commenced until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority.

The plan shall include construction vehicle movements, operation hours, vehicular routes to and from the site, delivery hours, expected number of vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Practice and a scheme to encourage the use of public transport amongst contractors. The plan shall include contractors' arrangements (compound, storage, parking, turning, surfacing, drainage and wheel wash facilities). The plan shall also include a scheme of signing of the heavy vehicle route to the site agreed with advice/warning signs at appropriate points.

The CTMP shall thereafter be implemented in accordance with the approved details upon the commencement of the construction phase of the development and be adhered to for the complete duration of the construction programme, unless a variation to the CTMP is otherwise first agreed in writing by the Local Planning Authority.

REASON: To ensure the safety of traffic on the Strategic Road Network.

### **Travel Plans**

11. Before the development hereby approved is first occupied or utilised the Travel Plan and Strategy included in the submissions shall be implemented and operational.

REASON: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

12. Prior to the submission of any reserved matters under Condition 2 above for the approved employment allocation, a Travel Plan suitable to deal with the travel impacts of the whole 2.5ha employment allocation shall be submitted to and approved in writing by the Local Planning Authority. The employment Travel Plan shall be implemented in accordance with its agreed details prior to the first occupation of any approved employment building on the site.

REASON: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

### **Drainage**

13. No development shall take place until a detailed and finalised surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by the Local Planning Authority. The surface water scheme shall be implemented in accordance with the submitted details before the development is completed.

REASON: To prevent increased risk of flooding and to improve and protect water quality.

14. No development shall take place until details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

REASON: To ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

### **Foul Water**

15. The development shall not be commenced until a foul water drainage strategy has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing. The drainage scheme shall thereafter be completed in accordance with the approved details and to a timetable to be agreed in writing with the local planning authority.

REASON: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property.

### **Contaminated Land**

16. Prior to the commencement of development an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation, risk assessment and scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

The report of the findings must include:

- (a) A survey of the extent, scale and nature of contamination;
- (b) An assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
- (c) An appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11".

REASON: In the interests of ensuring there is no unacceptable risk to occupiers of the development.



17. Before commencement of development, should a remediation scheme be required based on the outcomes of the investigation and risk assessment required by condition no. 17 and the written response of the local planning authority as to whether a remediation scheme is required, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, shall be submitted and be subject to the approval in writing of the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

REASON: In the interests of ensuring there is no unacceptable risk to occupiers of the development.

18. Any approved remediation scheme agreed by the Local Planning Authority as a result of condition no. 18 must be carried out in accordance with its terms, or such other terms which have first been agreed in writing by the Local Planning Authority, prior to the commencement of development other than that required to carry out remediation, unless a remediation phasing scheme is first agreed in writing by the Local Planning Authority, in which case the remediation shall be carried out in accordance with such scheme as has been agreed. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

REASON: In the interest of ensuring there is no unacceptable risk to occupiers of the development.

19. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be submitted to and approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of ensuring there is no unacceptable risk to occupiers of the development.

## **Employment Allocation**

20. The development shall provide a minimum of 2.5 hectares of employment land. No dwelling adjoining the eastern boundary of the residential development, adjacent to the proposed employment access road within the Character Areas 4, 5 & 6 as set out on page 48 of the submitted Design & Access Statement, shall be occupied before the employment allocation has been provided as serviced employment land in accordance with the phasing scheme submitted under condition 6 above.

REASON: In the interests of securing the economic benefits of this Key Employment Site allocation in the Local Plan.

21. Buildings constructed within the employment allocation hereby approved shall not exceed a total floorspace of 13,000 square metres (measured externally).

REASON: In the interests of the impacts of the traffic generated by that level of employment development on the strategic highway network.

## **Biodiversity**

22. Prior to the commencement of the development of each phase agreed by condition no. 6, a Biodiversity Mitigation Plan (BMP) for that phase based on up-to-date ecological survey work which is not more than 2 years old at the time of the submission of the BMP shall be submitted to and approved in writing by the Local Planning Authority. Each Biodiversity Mitigation Plan will include details of the review process to be implemented at the time of commencement of development if the survey work on which the BMP is based is more than 2 years old. The development shall thereafter be carried out in accordance with the approved details unless any subsequent variation is agreed in writing by the Local Planning Authority.

REASON: In order to protect the landscape qualities of the area and to safeguard and enhance the ecological value of the site.

## **Scheduled Ancient Monument**

23. The submission of details of reserved matters under Condition 2 shall make provision for a minimum 5m buffer around the identified remains of the Bowley's Plantation enclosure as set out on page 10 of the submitted Settings Assessment by Context One received on 16<sup>th</sup> October 2017.

REASON: In the interests of the setting of the Scheduled Ancient Monument.

## **Broadband**

24. No development above damp proof course of any building hereby approved shall take place until a scheme for facilitating infrastructure to support superfast broadband technology to serve the development has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a timetable for implementation, including triggers for a phased implementation if appropriate. Thereafter, the development shall proceed in accordance with the agreed scheme.

REASON: To ensure that the utilities service infrastructure is sufficient to meet the extra demands imposed by this development.

## **Phase 1 Detailed Consent**

25. The village hall hereby approved shall be laid out with a full-size badminton court in the main hall as shown on Drwg No. 1677 P VH 01 prior to the Village Hall first being brought into use.

REASON: In the interests of sports provision.

26. The Phase 1 full permission shall be carried out in accordance with the materials details in the approved Drwg No's 1677 P10-1 Rev A, 1677 P10- 2 Rev A & 1677 P11. No development above damp proof course level of any dwelling approved under the Phase 1 full permission shall take place before samples of the materials to be used on that building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these details unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the character and appearance of the area.

27. The development shall be carried out in accordance with the boundary treatments set out in the approved plans Drwg. No's 1677 P 03-1 to 5 Rev A. The boundary treatments to each individual building shall be completed in their entirety prior to the first occupation of the building concerned. The boundary treatments shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the character and appearance of the area.

28. The development of the Phase 1 full permission shall be carried out in accordance with the landscaping details set out in the approved plans Drwg. No's TD742\_04B & TD742\_05 – 08. The landscaping shall be carried out in accordance with the soft landscape works specification set out on the approved plan Drwg. No. TD472\_08. No development above damp proof course level shall be carried out until a timetable for the implementation of the landscaping has been submitted to and approved in writing by the Local Planning Authority. Thereafter the landscaping shall be carried out in accordance with the approved timetable. Any trees or plants which, within a period of 5 years from the completion of the development, die are removed or become seriously damaged or diseased shall be replaced in the next planting

season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping shall thereafter be retained.

REASON: In the interests of the character and appearance of the location.

29. The development shall be carried out wholly in accordance with the Arboricultural Assessment & Method Statement by Barrell Tree Consultancy dated January 2016. The agreed tree protection measures shall be retained during the course of the development and there shall be no variation to the agreed protection measures without the prior written agreement of the Local Planning Authority.

REASON: To protect preserved trees within and adjoining the site during construction in the interests of preserving the character of the area.

### **Sustainable Transport Options**

30. No development above damp proof course of any dwelling in the phase 1 full application area shall be carried out until a scheme showing how the charging of plug-in and other ultra-low emission vehicles is to be provided in safe, accessible and convenient locations has been submitted to and approved in writing by the Local Planning Authority. Furthermore as part of any reserved matters application relating to design, details shall be provided to enable the charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations within the development. Thereafter the development shall be carried out in accordance with such details as have been approved by the Local Planning Authority.

REASON: To ensure that adequate provision is made to enable occupiers of and visitors to the development to be able to charge their plug-in and ultra-low emission vehicles.

### **Informative Notes**

Informative Note: The development of the later phases of the outline permission shall substantially accord with the layout and details of the Illustrative Masterplan Drwg no. 1677/P04 Rev C.

Informative Note: The applicant is advised that, notwithstanding this consent, if it is intended that the highway layout be offered for public adoption under Section 38 and those works under Section 278 of the Highways Act 1980, the applicant should contact Dorset Council's Development team. They can be reached by telephone at 01305 225401, by email at [dli@dorset.gov.uk](mailto:dli@dorset.gov.uk), or in writing at Development Team, Dorset Highways, County Hall, Dorchester, DT1 1XJ.

Informative Note: If the applicant wishes to offer for adoption any highways drainage to Dorset Council, they should contact the Highway's Development team at [dli@dorset.gov.uk](mailto:dli@dorset.gov.uk) as soon as possible to ensure that any highways drainage proposal meets the Council's design requirements.

Informative Note: Prior Land Drainage Consent (LDC) may be required from Dorset Council's FRM team, as relevant LLFA, for all works that offer an obstruction to flow to a channel or stream with the status of Ordinary Watercourse (OWC) – in accordance with S23 of the Land Drainage Act 1991. The modification, amendment or realignment of any OWC associated with the proposal under consideration, is likely to require such permission. We would encourage the applicant to submit, at an early stage, preliminary details concerning in-channel works to the FRM team.

Informative Note: The applicant intends to rely heavily on infiltration. They will therefore need to demonstrate, through further post extraction ground investigation, that soakaways remain feasible. Given the proposed use of soakaways across the site, it is important that soakaway tests and ground water readings are representative of all the areas expected to support infiltration. The Council's FRM team as relevant LLFA will be unable to discharge the relevant condition above without detailed information concerning ground conditions that substantiate the use of drainage through infiltration. Should the site, after mineral extraction, be found not to support infiltration, then the applicant will need to propose alternate and detailed designs for capturing and attenuating surface water.

Informative Note: The highway proposals for the A35(T) associated with this consent involve works within the public highway, which is land over which you have no control. Highways England therefore requires you to enter into a suitable legal agreement to cover the detailed design and construction of the works. Please contact the Asset Manager, Steve Hellier (Tel: 0300 470 4383) at an early stage to discuss the details of the highways agreement. The applicant should be aware that an early approach to Highways England is advisable to agree the detailed arrangements for financing the design and construction of the scheme. Commencement of works will also need to be timed to fit in with other road works on the strategic road network or local road network to ensure there are no unacceptable impacts on congestion and road safety. Please be advised that Highways England will charge Commuted Sums for maintenance of schemes delivered by third parties. These will be calculated in line with HM Treasury Green Book rules and will be based on a 60 year infrastructure design life period.

Informative Note: At all times, a contact telephone number shall be displayed on site for members of the public to use to raise issues. A named person will also be provided for Environmental Health in order for contact to be made should complaints be received. The use of any radio / amplified music system on site must be kept at a level not to cause annoyance to noise sensitive premises beyond the boundary of the site. Any future sub-contractors to the site shall be made aware of, and comply with any guidelines/conditions relating to site management of emissions of noise, dust, smoke, fumes etc. made in as part of the determination of this application. Letter drops to adjacent residents in close proximity should be considered as part of the construction phase to give a minimum of 48 hours notice of any exceptional activities proposed. Any waste arising at the site shall be appropriately segregated and controlled prior to its removal by an appropriately licensed contractor. Any waste

arising from the activity which could potentially be contaminated in any way shall also be segregated again, and removed appropriately. Environmental Health must be informed if this occurs.

Informative Note: The applicant's attention is drawn to the response of the Council's Rights of Way officer and the need to secure diversions for the existing rights of way.

**Recommendation B: Refuse permission for the reasons set out below if the S106 agreement is not completed within 6 months of the date of the committee resolution or such extended time as agreed by the Head of Planning.**

1. Policy HOUS1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 requires a minimum on-site provision of 35% of the units as affordable housing. In the absence of a planning obligation to secure these affordable units the scheme would fail to meet the substantial unmet need for affordable housing in the district and the proposal would therefore be contrary to Policy HOUS1 of the adopted Local Plan.

2. Policy COM1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 sets out that where new development will generate the need for new or improved community infrastructure and this need is not being met through the Community Infrastructure Levy, suitable provision should be made on site. Policy CRS1 of the Local Plan sets out the expected infrastructure for this site and its development. In the absence of a planning obligation to secure the required community infrastructure the scheme would fail to mitigate the increase in demand for the necessary infrastructure to support the development and to avoid and mitigate for the adverse effects upon internationally designated heathlands and additional nutrient loading upon the Poole Harbour internationally designated sites. It would namely fail to provide for:

Education;

Recreation spaces in the form of Sites of Alternative Natural Greenspace and the supporting maintenance and funding mechanisms required for the future;

Mitigation of the impacts upon the Poole Harbour internationally designated sites;

Highway improvements; Children's play provision.

In the absence of a planning obligation the proposals therefore fail to meet the provisions of Policies COM1, CRS1, INT1, ENV2 and COM7 of the West Dorset, Weymouth and Portland Local Plan (2015) and the National Planning Policy Framework (2019).

**APPLICATION NUMBER: WP/19/00445/FUL**

**APPLICATION SITE: Council Offices, North quay, Weymouth DT4 8TA**

**PROPOSAL: Demolition of existing building and provision of car park.**

**Decision: Refuse permission for the following reason:-**

The demolition as proposed is unacceptable as it does not encourage the reuse of existing resources, including the conversion of existing buildings; and as such is contrary to para. 148 of the National Planning Policy Framework 2019.

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**LOCATION:** FOUR PADDOCKS, LAND SOUTH OF ST GEORGES ROAD, DORCHESTER

**APP REF:** P/FUL/2021/02623

**PROPOSAL:** ERECTION OF 108NO. DWELLINGS & ASSOCIATED WORKS, INCLUDING THE FORMATION OF ACCESS, LANDSCAPE & ECOLOGICAL ENHANCEMENTS

**CASE OFFICER:** ROSS CAHALANE

**SITE VISIT:** 27/09/2021

### **CONSERVATION & DESIGN OFFICER FURTHER COMMENTS**

<b>SUPPORT</b>	
<b>SUPPORT SUBJECT TO CONDITIONS</b>	
<b>UNABLE TO SUPPORT</b>	<b>X</b>
<b>NO OBJECTION</b>	
<b>REQUEST FOR FURTHER INFORMATION</b>	
<b>OTHER / PRE-APP</b>	

### **SUMMARY**

The proposal will result in the following impacts on the significance of affected heritage assets, including any contribution made by their setting:

	<b>Grade</b>	<b>No harm</b>	<b>Less than Substantial harm</b>	<b>Substantial harm</b>
<b>Henge Enclosure, Conquer Barrow &amp; Barrow Cemetery (1002463)</b>	<b>SM</b>	<b>X</b>		
<b>Max Gate (1110618)</b>	<b>I</b>		<b>X</b>	
<b>79 St George's Road (1119009)</b>	<b>II</b>		<b>X</b>	
<b>Louds Mill (1119010)</b>	<b>II</b>	<b>X</b>		
<b>Flagstones causewayed enclosure (MDO18013)</b>	<b>ND</b>		<b>X</b>	
<b>Late Iron Age Field System (MDO18016)</b>	<b>ND</b>			<b>X</b>
<b>Medieval Settlement and Agriculture Remains</b>	<b>ND</b>			<b>X</b>

<b>In the view of the Conservation Officer, is the harm caused outweighed by public benefits and/or are other NPPF/Local Plan policy tests met?</b>	<b>No</b>
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## **RELEVANT POLICY / GUIDANCE**

In assessing the proposals, due consideration has been given to the following:

- Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), ss. 66, 72
- National Planning Policy Framework (NPPF): section 16, in particular paras. 194-208
- Planning Practice Guidance (PPG), s.v. 'Historic Environment'
- West Dorset Weymouth & Portland adopted Local Plan, in particular Policies DOR8, DOR9 and ENV4
- Dorset Local Plan (emerging), in particular Policy DOR8
- Design and Sustainable Development SPD (2009)
- West Dorset Weymouth & Portland Strategic Landscape and Heritage Study. Stage 2 Assessment: Dorchester [LUC] (LUC, 2018)
- Historic England, Local Heritage Listing, 2<sup>nd</sup> edn (2021)
- Historic England, The Setting of Heritage Assets, 2<sup>nd</sup> edn (2017)
- Max Gate Conservation Management Plan [CMP] (FB Heritage, 2021)

## **SIGNIFICANCE OF AFFECTED HERITAGE ASSETS (NPPF, PARAS. 194-195)**

An outline of the significance of designated and non-designated heritage assets potentially affected by the development can be found in our previous comments of 28 October 2021.

## **IMPACTS ON AFFECTED HERITAGE ASSETS (NPPF, PARAS. 199-200)**

### **Designated Heritage Assets**

NPPF para. 199 requires that 'great weight' be given to the conservation of designated heritage assets and the more important the asset, the greater the weight should be. In addition, para. 200 requires any level of harm to their significance should require 'clear and convincing justification'.

Our previous comments (28 October 2021) identified less than substantial harm to the significance of designated heritage assets, including Max Gate (Grade I, and therefore an asset of the highest significance) and 79 St George's Road (Grade II). Since these comments, amended drawings have been received, along with a response letter from Landgate heritage (dated 10 November 2021). The latter correctly states the main area of objection in the scheme is the impact on the significance of Max Gate through development within its setting. With that in mind, it is only on this aspect of the proposals that we are focussed here.

Our assessment of this harm, arising from the loss of the open setting to the N of Max Gate, related mainly to non-visual aspects of setting change, specifically relating to a negative change in a surrounding character which, even though diminished partly by modern development in the vicinity, remains clearly and legibly contributory to understanding why Hardy built his house here. This can be conveniently summarised through brief citation from our previous comments, namely through the diminishment of our ability to understand and appreciate

*Hardy's own 'personal relationship' to the Wessex landscape (LUC, p. 19) and his intended exploitation of that by the choice of site and, second, [the reflection of] the previously isolated character of its original surroundings which make it attractive as a location for a Victorian suburban villa.*

The amended site layout drawing for Sector C (C G Fry drawing no. SP-004C), i.e. that sector immediately to the N of Max Gate, appears to show a slight amendment to the SW corner of the site with the removal of a dwelling in favour of a patch of public open space; the change of one dwelling to single-storey; and replacing a garage block with a two-storey dwelling. Whilst we acknowledge that these amendments present an attempt, however minimal, to lessen the impact on Max Gate, they still seem to have been conceived purely with visual considerations in mind. It does not address the issue of creating a new residential area, fairly densely developed at c. 21

dwellings, on a site whose *lack* of development is a contributory element to the significance of a designated heritage asset of the highest significance.

In responding to the assessment of increasing suburbanisation, the Landgage letter states that the reinforcement of planting on the S boundary of the application site effectively strengthens and reiterates Hardy's own desire for privacy which led to planting on the N boundary of Max Gate, i.e. by retaining 'the legibility of Hardy's desire for privacy'. However, in our view this suggestion is not only tenuous in itself, but does not deal with the central issue of increasing suburbanisation, for which the latter only reiterates a point made in the first submissions, namely that 'the surroundings of the house are already somewhat "sub-urban" in nature'. This position was dealt with in our previous comments. The letter also reiterates points previously made with regard to the experience of the house from within its own grounds, for which see Landgage Heritage Assessment (June 2021), 4.2.5 (p. 18) and 5.2.4 (p. 29).

As we have previously stated, and as is stated in the National Trust's most recent comments (dated 29 April 2022) views in and out of Max Gate are not the only relevant aspect of setting to be considered. Whilst the letter makes much of Hardy's increased planting, with an implication that this effectively replaced any outward intent with one of 'seclusion', it does not address the evidence provided for understanding the non-visual, contextual factors which clearly influenced this choice of site. It is surely beyond dispute that the application site is undeveloped. It is this *undeveloped character* of the application site, a remaining and contributory element to understanding and appreciating Hardy's intentional northward views towards Stinsford and Max Gate's original setting, which will be permanently and irretrievably lost. No additional evidence, e.g. through further research, has been provided to suggest that the interpretation advanced for the contribution of this part of the application site to Max Gate's significance should be revised.

Finally, we note that the letter advocates the 'spectrum' of harm. This needs only brief comment to state that placing harm on a spectrum, whilst not unlawful, has been found *not* to be explicitly or implicitly required in the NPPF. The reasons for the invention of this 'spectrum' are manifold, but, in our view, largely result from a misinterpretation of the (admittedly ambiguous) wording from the PPG, cited in Landgage's letter. This paragraph was clearly intended to communicate that the effect of the harm on the various elements of significance identified for a particular asset should be articulated, something which a spectrum certainly does not achieve.

In summary, we retain the concerns previously expressed and clearly still held by Historic England and the National Trust. We remain of the view that the proposals will result in **less than substantial harm** to the significance of Max Gate through detrimental development within its setting.

### **Non-Designated Heritage Assets**

We have no further comments to add to our previous assessment and conclusions relating to harm to the identified heritage assets.

## **PUBLIC BENEFITS / BALANCED JUDGEMENT (NPPF, PARAS. 201-203)**

### **Designated Heritage Assets**

The proposals will result in **less than substantial harm** to the significance of designated heritage assets, meaning that para. 202 of the NPPF engaged, requiring the harm to be weighed against the public benefits of the proposals, though taking into account the 'great weight' to be given to the conservation of heritage assets, including here one of the 'highest significance'. The more important the asset, the greater the weight should be.

### **Non-Designated Heritage Assets**

Our conclusions here remain as stated in our previous comments, dated 28 October 2021.

## **SUGGESTED REASON FOR REFUSAL**

1. The proposals will result in less than substantial harm to the significance of a designated heritage asset of the highest national significance (Max Gate), which is not clearly and convincingly justified through overriding public benefits. For these reasons, the requirements of NPPF paras. 202 and Policy ENV4 of the adopted West Dorset Weymouth and Portland Local Plan are not met.

### **Informative**

We would refer the reader to this section in our previous comments. Whilst the removal of development from this part of the site would likely be the only way in which harm could be avoided. We note HE's comments relating to the applicant's willingness to consider improving signage to the footpaths between Max Gate and Stinsford and the potential thus to enhance understanding and appreciation of Hardy's connection with the area. This would be a relevant heritage-related benefit in the planning balance, one relating to a Grade I-listed heritage asset.

There is a possibility that this could be taken favourably with a much-reduced scheme, one which retained a broader sense of openness and/or some form of spatial/visual corridor along the site. Possible amendments could include removing perhaps half the proposed development from this Sector, concentrating on the N end, or by focussing the development on the roadside, this retaining an undeveloped corridor along the site to their rear.

**OFFICER: Dr James Weir**

**TITLE: Senior Conservation Officer (Spatial Planning and Majors)**

**DATE: 06/05/2022**

## Application details

Ref: P/FUL/2021/02623	Applicant: Duchy of Cornwall	Case Officer: Ross Cahalane
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Address: Erection of 108 No. dwellings & associated works, including the formation of access, landscape & ecological enhancements

**Description:**

**Case Officer comments to Consultee:**

**Consultee:** Katherine Van Etten Senior Landscape Architect

**Date:** 3/11/21

**Has a Pre-application discussion taken place with you?** ~~Yes~~ / No

<b>Support</b>	
<b>Support subject to condition(s)</b>	
<b>Unable to support</b>	X
<b>No objection</b>	
<b>Request for further information</b>	X – Planting plan and softworks details required
<b>Other</b>	

## Summary

The layout fails to demonstrate that the quantum of development proposed can be appropriately accommodated through a sustainable and well-designed scheme. As such I consider that the application fails to meet national and local policy and design standards, set out within the National Design Guide.

## Site description/context/significance

The are no landscape designations on site. The Dorset AONB lies to the South yet no views were identified within the LVIA. The area is allocated within the current West Dorset Local Plan and the emerging Dorset Local Plan. Landscape Character Area Dorchester Downs Landscape and adjacent to the Frome and Piddle Valley Pasture. Whilst the site does exhibit some of the characteristics of the wider landscape context it is strongly influenced by the surrounding urban development of Dorchester.

Site A& B is partially visually contained by dense boundary tree planting and elevated bypass yet the sloping topography affords some partial views from the north.

The LVIA 3.3.14 States Parcel D and C is *more enclosed as the land slopes north at a gentle gradient and they are less influenced by the elevated section of the A35 road corridor*. In addition, parcel D *has an almost continuous vegetated edge which limits views to surrounding areas of existing development*.

Both the bypass and the railway are lined by trees providing the mature screen and rural character to the A35 corridor. However, notably from the bypass, this planting is weak in some localised areas particularly parcel D and C. Generally, this planting lies outside of the site boundary therefore their longevity and integrity as a strong buffer cannot be guaranteed.

PROW S2/26 follows the railway line East/West in the upper boundary of parcel C/D connecting Sywards Rd and Close in a low grade surface footpath towards Dorchester. It also provides a footpath crossing over the rail line linking Max Gate to Stinsford which has strong association with Thomas Hardy. S2/27 Smokey Hole lane West of parcel A/D connects the residential area north towards the rural PROW S40/12 towards Stinsford and The Hardy Way Long distance walking trail and south towards the AONB.

Max Gate Grade 1 listed house and garden borders Parcel C which forms the remaining limited landscape setting which reflects the rural character historically associated with the house. The Conservation Officer clearly explains the significance of the historic context and the issues surrounding the proposal regarding this.

## **Main issues**

The main concerns are the:

- Height of the three story block proposed in parcel A in relation to its elevated position
- High density and massing of development proposed which contrasts with the surrounding urban form and character
- Lack of enhancement of strategic tree planting within the site along the boundary.
- Inadequate street tree planting particularly in Parcel A & B
- Lack of public open space and play provision
- The impact on the landscape setting of Max gate house and garden.
- Failure to provide multifunctional SUDS

## **The proposal**

Full planning application for 108 dwellings and associated highways, drainage, landscape works and an offsite wetland area. The development area is 3.0 hectares and the offsite wetland covers 1.95 hectares of ecological enhancement. The proposed dwellings are a mixture of predominantly two storeys; detached, semi-detached, and terraced houses, and apartments. A three storey terrace plots 24-26 is proposed on the upper slope of Parcel A.

## **Comments on proposal**

### **VIEWS**

In the medium/long distance, views are afforded from the Frome Valley to the north into the site, notably parcel A. Within these views the site is seen within the context of surrounding urban development and the bypass and therefore the visual sensitivity of the site is lowered. However, as seen in views B1, 1-4 of the LVIA, the elevation change across the site increases the visibility and sensitivity further up the slopes to the higher levels of parcel A. The dense tree cover of parcel D limit views into this site.



### A-ELEVATION 3

Given the above, I consider that the three story proposal shown above situated on the most visually prominent aspect of parcel A is inappropriate and out of character with the surrounding two storey dwellings on Eddison Ave. Taller buildings in the area are localised at the bottom of the slope along the valley floor where they are least visually intrusive.

A visual representation from B1 VIEW 4 would assist to explain the prominence of the three-story proposal in its context. Any photography should be inline with Landscape Institute Technical Guidance TGN/06/19 Visual representations of development proposals- Type 4. However, I consider it unlikely that this would demonstrate a positive assimilation of the building into the area. The dominating prominence of plots 24-26 and overall mass of plots 21-28 is considered inappropriate in character and conflicts with Local Plan DOR 8 & 9.

### BUILT FORM

The existing urban grain of development varies around the site. I agree with the DAS P28 that parcel A would be most suitable for denser development. However, I disagree with the later statement on the same page asserting that the masterplan- *allows for an arrangement of properties across the four sites which relates to the density of housing found on surrounding sites, ensuring the character of the area is enhanced by the additional properties.* I consider that the approach to density of development does not adequately achieve this. The proposed layout is higher density on smaller plots than the existing development bordering the site.

The result is over developed layout that fails to reflect the local character. Additionally, the general arrangement is dominated by a hard, dense appearance with little landscape frontage to housing (parcel A & D) which conflicts with surrounding development arrangements. The layout is dominated by access roads and parking that lacks an adequate balance of POS or play provision.

Elevation below shows the dense terraced form of development proposed in Parcel A. Dwg No SE 001



### A-ELEVATION 5

Similarly, within Parcel C, the rear parking area is particularly 'hard' in character dominated by parking spaces at the cost to the quality of the amenity. Lack of street tree planting is contrary

to NPPF 130. I am also concerned that the rear gardens of the proposed development closest to the tree line plots 75-84 will be heavily overshadowed for the majority of the day.

I support the Conservation Officers comments regarding the importance of Parcel C in forming the landscape setting to Max Gate grade 1 house and garden. I consider that the proximity of the new development in addition to the lack of careful landscape mitigation along the southern boundary would unacceptably harm the setting of the listed house and garden.

### **TREES**

The masterplan relies heavily on existing offsite highway and railway tree planting for screening of the new development and as a buffer to the air and noise pollution and disturbance of the bypass. As stated, this existing planting partially/fully screens the four parcels from the bypass and limits longer views to and from the site.



The majority of the existing offsite trees are identified as Category B trees with a limited 20 years plus life expectancy or Category C particularly in parcel D. Their longevity cannot be relied upon to mitigate the development. Despite comments within the DAS p28, the proposed strategic tree planting fails to adequately enhance the existing tree boundary which is particularly thin in parts of parcel C & D (see image below). Furthermore, contrary to the DAS p28 Site C, reinforcement planting is not proposed backing onto Max Gate within the Landscape General Arrangement C.





The DAS states that the planting along the existing footpath adjacent to Site B/ St Georges Cl. which is outside of the site, *is to be managed and maintained as part of the proposal, with good quality planting retained and re-enforced. Planting on the public footpath will be cut back at four points to create pedestrian access through to the properties.* I consider that it would be beneficial to the local amenity and safety of users if this existing planting corridor were to be enhanced and managed to create an attractive and ecologically rich route, in addition to onsite planting proposals to link the existing and proposed developments. However, this would have to be discussed and agreed with the Councils Highways tree team that manage the planting.

The Arboricultural Impact Assessment dated 7.12.21, recommends 'thinning and re=structuring' of offsite planting within Dorset Council ownership which the Highways Tree team will comment on. Again, overall, there is a reliance on the existing tree lines at the boundary rather than the inclusion of new onsite planting. 6.25 of the report states that after shaping of the edge of existing tree groups: *The edge can then be planted with woodland edge type tree species to improve wildlife value, diversity and age structure.* Yet additional boundary planting is very limited in area and specified generally as 'understory' native mix' or 'native shrub planting' proposed within the scheme. I do not consider this a robust enhancement of the offsite tree belts.

The existing gap within the highway tree line along the bypass in parcel D (see image above) would expose the proposed fence line to users of the bypass. Thus, reducing the character of this section of the otherwise rural green route and creating a low-quality environment within the site. Cramping development and associated parking into this corner prevents an adequate planted buffer to the bypass and is strongly considered to be an inappropriate design.

The Landscape masterplan submitted gives inadequate planting detail and a planting plan explaining detailed softworks proposals is required. NPPF 131 requires all new streets to be tree lined however particularly parcel A, B & C fail to comply with this. Hard frontages with development closely pushed against the pavement or long rows of parking restrict opportunity for street tree planting. Again, this is in contrast to neighbouring streets where dwellings are set back and have generous green frontages.

I have reviewed the landscape management proposals within the LEMP and seek clarification on what existing planting is proposed to be maintained. The LEMP 1.4.1 Landscape Design Approach states: *The existing trees, scrub and hedgerows that lie along the site boundaries and adjacent to the road embankments/ railway, provide established corridors of vegetation ...*

*The proposed scheme has been designed to protect and retain existing trees and hedgerows wherever possible and new management practices are proposed to enhance these existing features. This indicates managements outside of the site boundary.*

In contrast, LEMP 2.3 Management of Existing Trees objectives states - *Larger sections of tree planting run north-south and west-east centrally through the four fields, this planting is associated with the embankments running either side of the A35 and the railway cutting and as such, lie outside the objectives and operations set out in this LEMP.*

### **CONNECTIVITY**

The current proposals are dominated by roads and parking and inadequate provision has been made for cycle parking. ENV11 i). The layout does not propose to enhance the existing PROWs surrounding the site which are noted as key routes of wider connectivity within the DAS. The improvement of these routes including the enhancement of appropriate planting, lighting and surfacing should be sought to integrate and connect the new development within the wider area.

Close board fencing is proposed to delineate PROWS2/26 at the northern end of Sywards Road running west through parcel C, further enclosing a narrow secluded route I consider that the seclusion and lack of passive surveillance of are likely to increase rather than decrease opportunities for crime conflicting with NPPF 130 f) and LP ENV11 ii), National Design Guide M1

### **OPENSOURCE & GREEN INFRASTRUCTURE**

Currently the site is used in part for informal dog walking by local residents. Existing play facilities are not easily locally accessible. Parcels A-D offer no play provision or meaningful accessible public open space which does not represent sustainable balanced design. National Design Guide 100 *Well-designed places: include well-located public spaces that support a wide variety of activities and encourage social interaction, to promote health, well-being, social and civic inclusion.* Also conflicts with NPPF 130 f).

### **DRAINAGE/SUDS**

The use of porous paving in car parking spaces is welcome. Water management should be integrated within the development as far a possible eg. through the use of interconnected swales, the addition of domestic water butts and further tree planting to help to control surface water at source. The integration of well-designed multifunctional and integrated SUDS scheme has not been included thus conflicting with NPPF 169.

### **MATERIALS**

To limit the visual impact on longer distance views particularly in site A, slate grey roof tiles and visually recessive materials should be used. I do not consider that the use of varied coloured renders across the whole application is an appropriate response to the local area. Development surrounding the site is primarily brick eg. Eddison Ave with brick and render eg Sywards Rd/ Friars Cl. Whilst I appreciate the intention within the DAS p30 to create cohesion within the street scene, the proposal for all render would be in stark contrast within the local context. In addition, I am concerned the render would be particularly apparent in wider views on the more exposed higher areas of the sites.

### **BOUNDARY TREATMENT**

I note from the Noise and Vibration Assessment that a 2m high acoustic fencing is recommended yet this is not included within the Layout. Close board fencing should be replaced with the higher standard acoustic fencing where necessary and recommended in the assessment (parcel C & D) to limit the impact of traffic noise.

### **Lighting**

A lighting strategy that does not conflict with and which is coordinated with street tree planting is required for approval to demonstrate the viability of the scheme. Similarly, it should be clarified that underground service corridors does not conflict with any tree planting. (National Design Guide M3 89).

### **Climate change**

DAS 5.7 gives information explaining sustainable construction methods proposed. However, this does not go far enough for example to include electric charging points or PV panels. NPPF 155 c).

## **Policy consideration**

### **NPPF 2021**

130. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting,
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space)
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

131 Planning policies and decisions should ensure that new streets are tree-lined

154 New development should be planned for in ways that: a) avoid increased vulnerability to the range of impacts arising from climate change

155 c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co locating potential heat customers and suppliers.

169 Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

### **West Dorset, Wey & Portland Local Plan 2015**

11.6.2 Land south of St George's Way, adjoining the bypass, could provide an additional site for housing (subject to suitable noise and odour mitigation from the bypass and nearby sewage treatment works),

Policy ENV10 The Landscape and Townscape Setting (iii) states that "development should only be permitted where it provides sufficient hard and soft landscaping to successfully integrate with the character of the site and its surrounding area" which I consider the current scheme fails to do.

Policy ENV11 The Pattern of Streets and Spaces (i) states that development should ensure that places are not dominated by roads and parking and that provision is made for bin stores and cycle parking.

Policy ENV11(ii) states that places should be designed to reduce opportunities for, and fear of crime.

DOR8 i). Any development should not have a significant impact on the amenity of nearby residential properties. Public rights of way linking to the wider network are retained  
DOR 8 & 9 A landscape strategy will be required to ensure that there is no significant adverse impact on wider landscape views

National Design Guide 2021

The council uses the Ten principles for sustainable development within the National Design Guide as a best practice standard for design. I do not consider that the application reflects the following of these standards

N1 High quality green open space including play

N2 Improve and enhance water management

P1 high quality and attractive public spaces

P2 Well designed spaces that are safe

P3 Make sure public spaces support social interaction

M1 connected network of routes for all -

M3 Well considered parking

**Officer: Katherine Van Etten CMLI**

**Job Title: Senior Landscape Architect**

**Date: 13/12/21**

**APP REF:** P/FUL/2021/02623

**ADDRESS:** Four Paddocks, Land South of St Georges Road, Dorchester

**APPLICANT:** Secretary of the Duchy of Cornwall

**DESCRIPTION:** Erection of 108 No. dwellings & associated works, including the formation of access, landscape & ecological enhancements

**CASE OFFICER:** Ross Cahalane

### **URBAN DESIGN OFFICER COMMENTS**

SUPPORT	
SUPPORT SUBJECT TO CONDITION(S)	
UNABLE TO SUPPORT	X
NO OBJECTION	
REQUEST FOR FURTHER INFORMATION	X
OTHER / PRE-APP	
NO COMMENT TO MAKE	
HAS PRE-APPLICATION DISCUSSION TAKEN PLACE WITH YOU?	Yes

#### **Main issues:**

- Approximately 2/3 of proposed dwellings would not meet nationally described space standards.
- The materials palette and placement of materials would not be appropriate, as proposed.
- Proposed play facilities are lacking
- Building heights in relation to topography

#### **Comments on proposal:**

This is a full application for 108 dwellings at land south of St Georges Road. The application area is bisected east/west by the A35 and north/south by the railway line. The four paddocks are labelled site A, B, C and D. The application area covers two sites that are allocated for development under two policies in the adopted West Dorset, Weymouth & Portland Local Plan (2015): DOR8 and DOR9. Therefore, residential development of the site is considered acceptable in principle.

#### **Materials palette**

The intention for materials at each of the sites is set out broadly within the Design & Access Statement (DAS). However, the omission of a dedicated materials plan for each site make the proposals ambiguous, particularly in the absence of colour representations of the dwellings within elevation drawings. Different shades of rough cast render appear to be proposed without specifically proposing which dwellings that they would relate to.

In terms of the materials palette, I am unopposed to the aspiration to have a “*relatively restricted palette of locally available materials*”. However, there is clear disconnect between the proposals and what is distinctive to Fordington. Rough cast render does feature within the Fordington materials palette; however, this is not the prevailing external finish. I have concerns at the extent to which rough cast render is being proposed, particularly given that it is not a visually recessive material and much of sites C and D are elevated. I am unconvinced by the proposal of such wide usage of pairing of rough cast render with plain tile. While this is seen in existing dwellings such as on Fordington Green and at Row Cow Farm, the combination is used sparingly and not widely. Stone is proposed for architectural detailing but should be used more widely than is being proposed. This would align with the Fordington palette and with the Red Cow Farm development adjacent to site A. The selection of multi brick (Wieneberger Olde Alton Yellow) appears unjustified, having not been identified as an example within the site context analysis of the DAS and generally not being considered to be a feature of Fordington.

Roof tiling is proposed to be exclusively slate tile for sites A & B and plain tile for sites C & D. The rationale for this decision is not put forward. I would question this approach given that the plain tile is the least visually recessive for the sites (C & D) which are most elevated.

Streetscene drawings allow applicants to demonstrate the dwellings that are proposed within a sequence. They are crucial to the process of assessing the suitability of a scheme, particularly in relation to topography and groupings of materials. They are of particular importance to sites such as this one where the gradient of the site fluctuates.

#### Page 39 of the DAS (Site A)



The current “section drawings” within the DAS limit the ability to assess the suitability of the proposals in terms of massing in relation to topography. Officers would need to see how, for example, unit 33 would relate to unit 34 or how units 37-38 would relate to unit 39.

I understand and support the desire for the scheme not to be comprised of “*architectural mismatch*” and to refrain from peppercotting of materials as I believe that this is counterproductive to the creation of character areas. However, there is a balance to be struck between exclusively proposing one type of roof tile for a site vs peppercotting. The Red Cow Farm development does this to good

effect with large groupings of the same roof tiling to create distinct areas and contribute to character.

This application is significantly lacking in terms of its approach to materials. The plans shown for materials are akin to that of an outline application and not a full. I request the following plans;

- a dedicated materials plan for each site A-D including external finishes and roof tiling proposed.
- comprehensive streetscenes that include uninterrupted sequences of dwellings.
- An amended materials palette that is more appropriate to the site.
- Limited pairing of roughcast render with plain tile.

### **Plot boundaries**

The use of walled boundaries for all plot boundaries that are visible to the street is a welcome feature of the proposals. In line with comments made regarding materials, I would advocate for the boundary material finish to match that of the respective dwelling.

### **Space standards**

Of the 108 dwellings proposed, 70 would not meet nationally described space standards. The proposed plots that would fall short of the national standard are detailed below.

<b>Plots</b>	<b>No. of bedrooms (B) &amp; No. of bed spaces (persons) (P)</b>	<b>No. of Storeys</b>	<b>Proposed gross internal floor area</b>	<b>Minimum gross internal floor area</b>
76, 79, 81	1B2P	1	45.4m <sup>2</sup>	50m <sup>2</sup>
5, 39, 46-48, 85-86, 108	2B3P	2	65m <sup>2</sup>	70m <sup>2</sup>
7, 8, 12-16, 21-23, 27, 31-33, 35-36, 49-54, 58-59, 71	2B4P	2	72m <sup>2</sup>	79m <sup>2</sup>
72-74	2B4P	2	74m <sup>2</sup>	79m <sup>2</sup>
28, 29, 30, 37, 38, 55-57, 88-95, 104-106	3B5P	2	86m <sup>2</sup>	93m <sup>2</sup>
64-68	3B5P	2	91m <sup>2</sup>	93m <sup>2</sup>
96-102	3B5P	2	92m <sup>2</sup>	93m <sup>2</sup>

Site A (23/42), Site B (14/17), Site C (12/25), Site D (21/24)

West Dorset, Weymouth and Portland Local Plan (2015) policy ENV12 states that *“New housing should meet and where possible exceed appropriate minimum space standards”*.

### **Play facilities**

The play facility provision within this application is lacking. The quantum of development proposed requires a LEAP according to Fields in Trust guidance. Existing play facilities at King’s Road could not be relied upon to serve the proposed development due to the distance between the King’s Road play area and the site (500m minimum to site A).

### **Movement and circulation**

The A35 and railway line provide significant barriers to movement and circulation of the site as a whole, the connectivity between the four parcels and the connectivity between each parcel and the wider area. Nevertheless, connectivity could be improved upon with better connections to the Public Rights of Way, namely PROW S2/26 and PROW S2/27. Site D is well connected with the new vehicular access point proposed off Friars Close which would link effectively with PROW S2/27. Site C would be accessed off Syward Road which would provide strong links to the south and allow connection to PROW S2/26 both to the north and to the west. Site B would be connected to the wider area via a vehicular entrance and footway off the re-aligned Lubbecke Way. Dense planting on the eastern boundary of site B would make connecting the site to the PROW S2/26 challenging. Site A should provide better links than those shown on the site layout. Page 49 of the DAS states that *“Site A (north west site) access would be from a new give-way priority junction on St George’s Road. A separate dedicated pedestrian access is also proposed to the Public Right of Way along the western boundary of the site (Smokey Hole Lane)”*. This statement is inconsistent with other submitted plans as the proposed pedestrian access to the PROW isn’t facilitated by the layout. This should be addressed in revised plans providing a pedestrian link at the west of site A onto the PROW.

### **Site A**

Plots 1-42

42 dwellings

Site A is the largest of the four parcels of land included within the application. The housing density within the proposals has decreased since plans shown at pre-application stage which benefits the scheme by having an increase in street planting and having fewer FOGs (flats over garages) without private amenity space.

Three storey development is proposed for units 24-26 at the most elevated part of site A. This is said, within the DAS, to sit *“at the top of the gradient of the land on site A, putting it in a prominent and dominant position, acting as the focal point for the development”*. The suitability of three storey development at one of the most elevated parts of the site is not sufficiently evidenced within this application. I suspect three storey development at this part of the site would exacerbate the



level change and believe that it would make 24-26 appear incongruous to units 16 and 29. The proposed form of the terrace (21-28) at the head of the junction at the most elevated part of site A would alone allow this terrace to be prominent and dominant and act as a focal point without needing to be three storey. I recommend that development here is limited to two storey.

The positioning of the 12m sewer easement impacts site A greater than it does the three other parcels of land. This presents a significant challenge to the layout of site A. However, the fact that site A has the largest area of undevelopable land (of the four sites) and that it is the largest overall area does mean that it represents the best opportunity to implement play facilities. As currently configured, a bathroom window should be added to units 33 (requires handing), 35, 36. Small sections of units 7 and 39 appear to fall within the sewer easement.

In terms of parking, most dwellings are proposed to be allocated two parking spaces, the spaces are predominantly proposed to be off-plot parking courtyards. The largest courtyard has a succession of unrelieved parking spaces that should incorporate a greater number of street trees (outside of the sewer easement). The parking calculator shows that this level of development and breakdown of dwelling types would require 19 unallocated / visitor parking spaces. There are 4 unallocated or visitor parking spaces proposed for site A.

District/Borough?	West Dorset Town & Fringe	
Area Type?	Number of units of this type?	What is the sum total of garages associated with units of this type?
<b>Dwelling types</b> (allocated spaces per unit includes all garages larger than 6m by 3m)		
<b>Flats</b>		
28 One Bed Flat no allocated spaces	0	0
29 One Bed Flat with one allocated space	1	2
30 Two Bed Flat no allocated spaces	0	0
31 Two Bed Flat with one allocated space	1	0
32 Three or more Bed Flat no allocated spaces	0	0
33 Three or more Bed Flat with one allocated spaces	1	0
<b>Houses</b>		
35 One Bed House no allocated spaces	0	0
36 One Bed House with one allocated space	1	0
37 Two Bed House no allocated spaces	0	0
38 Two Bed House with one allocated space	1	0
39 Two Bed House with two allocated spaces	2	20
40 Three Bed House no allocated spaces	0	0
41 Three Bed House with one allocated space	1	0
42 Three Bed House with two allocated spaces	2	17
43 Four or more Bed House no allocated spaces	0	0
44 Four or more Bed House with one allocated space	1	0
45 Four or more Bed House with two allocated spaces	2	3
<b>Total Unallocated parking requirement</b>		<b>19</b>
<b>Total Visitor parking requirement</b>		<b>9</b>
Total allocated spaces provided		82

To overcome the issue of unallocated / visitor spaces, it would be prudent to allocate a single parking space per 2B unit instead of two allocated spaces. This would allow some of the parking currently shown as allocated to be amended to unallocated or visitor spaces. Given the proposed quantum of courtyard parking off-plot at the rear of dwellings, it is likely that informal parking will occur where possible at the front of dwellings such as 9-16 and 21-28. In this event, allocated courtyard spaces would not be utilised and therefore would be obsolete while allowing hard surfacing to dominate large parts of the development.

# Site B

Plots 43-59

17 dwellings

Site B is the smallest of the four sites and is well screened from the A35. As the most visually contained site, I would recommend a high proportion of plain tiled dwellings here, instead of exclusively slate tiled units as mentioned in the DAS. Units 43-45 would achieve an attractive frontage onto the site entrance to the north and unit 45 would turn the corner nicely here. The proposed configuration of units 45-48 would create a positive sense of arrival into the scheme with good natural surveillance and framing of the entrance point.

Most of the dwellings proposed at site B would not meet the national described space standard. This could be resolved with relative ease for units 55-56 by increasing the depth of the dwellings by encroaching onto the generous rear garden space. Given the acoustics plan (page 52 of the DAS) it would be prudent to reconsider plots 57-59 to have these fronting westwards to further minimise adverse impacts on health and quality of life. As currently configured, a bathroom window should be added to units 48, 49 and 59.

The parking calculator shows that this level of development and breakdown of dwelling types would require 6 unallocated / visitor parking spaces. There are no unallocated or visitor parking spaces proposed for site B. Given the quantum of proposed off-plot parking it is likely, as with site A, that site B will experience informal parking where possible such as at the front of units 49-54. I recommend reducing the allocation of parking for these 2B units to one space per unit and then having the six unallocated spaces to help meet the parking calculator requirement.

District/Borough?	West Dorset		
Area Type?	Town & Fringe		
	Number of units of this type?	What is the sum total of garages associated with units of this type?	
<b>Dwelling types</b> (Allocated spaces per unit includes all garages larger than 6m x 3m)			
<b>Flats</b>			
One Bed Flat no allocated spaces	0	0	
One Bed Flat with one allocated space	1	0	0
Two Bed Flat no allocated spaces	0	0	
Two Bed Flat with one allocated space	1	0	0
Three or more Bed Flat no allocated spaces	0	0	
Three or more Bed Flat with one allocated spaces	1	0	0
<b>Houses</b>			
One Bed House no allocated spaces	0	0	
One Bed House with one allocated space	1	0	0
Two Bed House no allocated spaces	0	0	
Two Bed House with one allocated space	1	0	0
Two Bed House with two allocated spaces	2	11	0
Three Bed House no allocated spaces	0	0	
Three Bed House with one allocated space	1	0	0
Three Bed House with two allocated spaces	2	6	0
Four or more Bed House no allocated spaces	0	0	
Four or more Bed House with one allocated space	1	0	0
Four or more Bed House with two allocated spaces	2	0	0
<b>Total unallocated parking requirement</b>		<b>2</b>	
<b>Total visitor parking requirement</b>		<b>4</b>	
<b>Total allocated spaces provided</b>		<b>34</b>	

1) Click on the orange boxes to the left and enter the District or Borough and one area type.

\* Refer to the Dorset Residential Parking Study Interim Guidance, Vol 1 for reference maps. Not all area types exist in each of the Districts or Boroughs. "N/A/VALUE" will appear in the unallocated parking requirement box if this is the case.

2) Fill in the blue boxes in the table to the left.

The total parking requirement for your development will be shown at the bottom of the table.

\* Garages are only to be counted as spaces if their internal dimensions are 6m x 3m or greater

\* Where parking provision differs significantly from the numbers shown here supporting evidence should be provided and agreed with the relevant District, Borough or County Officers.

Site C is proposed to house 25 dwellings, with development proposed to front out towards Syward Road. The railway line is beyond the site immediately to the north and the western boundary of the site backs onto the A35. Of the four sites, site C shows the biggest uplift in dwellings from what was put forward during pre-application stage. The pre-application layout for site C showed plot sizes and a density that was more in keeping with existing dwellings on Syward Road with plots with deep gardens.

Units 69 and 70 are now shown to be oriented to front south and north respectively which would assist in turning the corner by addressing the access street and Syward Road. However, both plots are shown sit hard to the pavement and would lack defensible space. The private amenity space for units 69 and 70 would be poor, considering the size of the dwelling. There would also be a significant disparity in amenity space for these 4B7P units in comparison to plots 60-63. As currently configured, unit 71 should be handed to allow a bathroom window to be added for light and ventilation.

The parking calculator shows that this level of development and breakdown of dwelling types would require 12 unallocated / visitor parking spaces. There are no unallocated or visitor parking spaces proposed for site C.

District/Borough?	Area Type?	Number of units of this type?	What is the sum total of garages associated with units of this type?
<b>Flats</b>			
	One Bed Flat no allocated spaces	0	0
	One Bed Flat with one allocated space	1	6
	Two Bed Flat no allocated spaces	0	0
	Two Bed Flat with one allocated space	1	0
	Three or more Bed Flat no allocated spaces	0	0
	Three or more Bed Flat with one allocated spaces	1	0
<b>Houses</b>			
	One Bed House no allocated spaces	0	0
	One Bed House with one allocated space	1	0
	Two Bed House no allocated spaces	0	0
	Two Bed House with one allocated space	1	0
	Two Bed House with two allocated spaces	2	7
	Three Bed House no allocated spaces	0	0
	Three Bed House with one allocated space	1	0
	Three Bed House with two allocated spaces	2	3
	Four or more Bed House no allocated spaces	0	0
	Four or more Bed House with one allocated space	1	0
	Four or more Bed House with two allocated spaces	2	7
<b>Total Unallocated parking requirement</b>			<b>7</b>
<b>Total Visitor parking requirement</b>			<b>5</b>
<b>Total allocated spaces provided</b>			<b>44</b>

The design of the layout at site C would significantly benefit from a reduction in the number of dwellings proposed here. The removal of units 83 and 84 would facilitate several positive changes such as larger plot sizes for 64-69, unallocated parking spaces and space to increase the number of street trees to break up hard surfacing associated with parking.

Site D sees the largest proportion of dwellings proposed that do not meet the nationally described space standards. In order to meet these standards, it seems questionable that the housing mix currently proposed for site D can be achieved. The proposed layout of the site does include large plots such as 87, 103 and 107 which offer scope to be amalgamated into smaller plots. This would free up space for the necessary amendments to dwellings that are short of the space standards. It is also worth noting that while plots 96-102 would not currently meet the space standards each unit is 1m<sup>2</sup> short of the minimum standard, so a slight addition to the depth of each unit would satisfy this minimum.

The proposals seek to rely on existing planting to visually screen the development from the railway track and from the A35. The NE corner of site D is currently exposed to the A35 (see image below). The proposed approach would introduce close boarded fencing here, which is deemed unacceptable in design terms. Instead, higher standard acoustic fencing should be implemented here as identified as a requirement within the Noise and Vibration Assessment.

#### Google Maps image looking west from A35



As currently designed, the parking area proposed for the NE of site D would not be overlooked and would not receive casual surveillance. When referring to parking the NDG states; *“Its arrangement and positioning relative to buildings limit its impacts, whilst ensuring it is secure and overlooked”*. To ensure that it is overlooked, I recommend that dwellings that sit side onto this area (currently EOT units 95 and 96) incorporate additional fenestration on the side elevations (living rooms). Similarly, unit 104 should include a living room window on the side elevation to provide casual surveillance to the parking area in the SE corner of the site. As currently configured, a bathroom window should be added to units 85 and 86 for light and ventilation.

The parking calculator shows that this level of development and breakdown of dwelling types would require 8 unallocated / visitor parking spaces. There are no unallocated or visitor parking spaces proposed for site D.

District/Borough?	West Dorset		
Area Type?	Town & Fringe		
Dwelling types	Number of units of this type?		What is the sum total of garages associated with units of this type?
<b>Flats</b>			
One Bed Flat no allocated spaces	0	0	
One Bed Flat with one allocated space	1	0	0
Two Bed Flat no allocated spaces	0	0	
Two Bed Flat with one allocated space	1	0	0
Three or more Bed Flat no allocated spaces	0	0	
Three or more Bed Flat with one allocated spaces	1	0	0
<b>Houses</b>			
One Bed House no allocated spaces	0	0	
One Bed House with one allocated space	1	0	0
Two Bed House no allocated spaces	0	0	
Two Bed House with one allocated space	1	0	0
Two Bed House with two allocated spaces	2	3	0
Three Bed House no allocated spaces	0	0	
Three Bed House with one allocated space	1	0	0
Three Bed House with two allocated spaces	2	19	0
Four or more Bed House no allocated spaces	0	0	
Four or more Bed House with one allocated space	1	0	0
Four or more Bed House with two allocated spaces	2	2	0
<b>Total Unallocated parking requirement</b>			<b>3</b>
<b>Total Visitor parking requirement</b>			<b>5</b>
<b>Total allocated spaces provided</b>			<b>48</b>

In conclusion I am unable to support the application in its current form. The number of proposed dwellings that fall short of the nationally described space standards is a concern. The materials palette needs re-considering as does the proposed placement of materials and the rationale for doing so.

**Policy consideration:**

West Dorset, Weymouth and Portland Local Plan (2015)

DOR8 - Land South of St Georges Road

DOR9 - Land off Alington Avenue

ENV12 – The Design and Positioning of Buildings

National Design Guide (2019)

**OFFICER:** Sophie Smith

**TITLE:** Urban Design Officer

**DATE:** 13/12/21

## Application details

<b>Ref:</b> WD/D/20/003302	<b>Applicant:</b> Alton Pancras UK Limited	<b>Case Officer:</b> Ross Cahalane
<b>Address:</b> Austral Farm, Alton Pancras, Dorchester, DT2 7RW		
<b>Description:</b> Removal of modern buildings (including agricultural building, grain store, silage pit & Dutch barn etc). Conversion of traditional buildings into offices (Class B1 (a)) and a cafe (Class A3). Creation of 9No. residential units (Class C3) & 2No. workshop buildings (Class B2).		
<b>Case Officer comments to Consultee:</b>		
<b>Consultee:</b> Colm O'Kelly - Senior Landscape Architect - Infrastructure and Delivery Team		
<b>Date:</b> 02 December 2021		
<b>Has a Pre-application discussion taken place with you?:</b> Yes / No		
<b>Support</b>		
<b>Support subject to condition</b>		
<b>Unable to support</b>	I am unable to support this application in its current form.	
<b>No objection</b>		
<b>Request for further information</b>	I consider that insufficient information has been submitted	
<b>Other</b>		

### Summary (revised 02 December 2021)

The Austral Farm site consists of a large group of modern and traditional farm buildings toward the southern end of the village of Alton Pancras. The site lies within the Dorset Area of Outstanding Natural Beauty.

The proposed development seeks to adaptively reuse the traditional farm buildings in the southern portion of the site to provide workshops, offices and a cafe; and to demolish the modern farm buildings in the northern portion of the site and replace them with workshops and residential units.

I still consider that the development proposals are not acceptable in their current form because the following information still needs to be prepared and submitted before their acceptability in landscape and visual terms can be properly assessed:

- Photomontages of the proposed development and mitigation from agreed viewpoints
- An Arboricultural Survey, Impact Assessment and if necessary Method Statement
- Detailed hard and soft landscape proposals
- A Landscape Management Plan

However if, on balance, the Case Officer is minded to permit the application without the above documents being submitted then I would still wish to see conditions with regard to the submission, approval, implementation and maintenance of an hard and soft landscape scheme included in the notification of decision.

## Site description/context/significance (revised 02 December 2021)

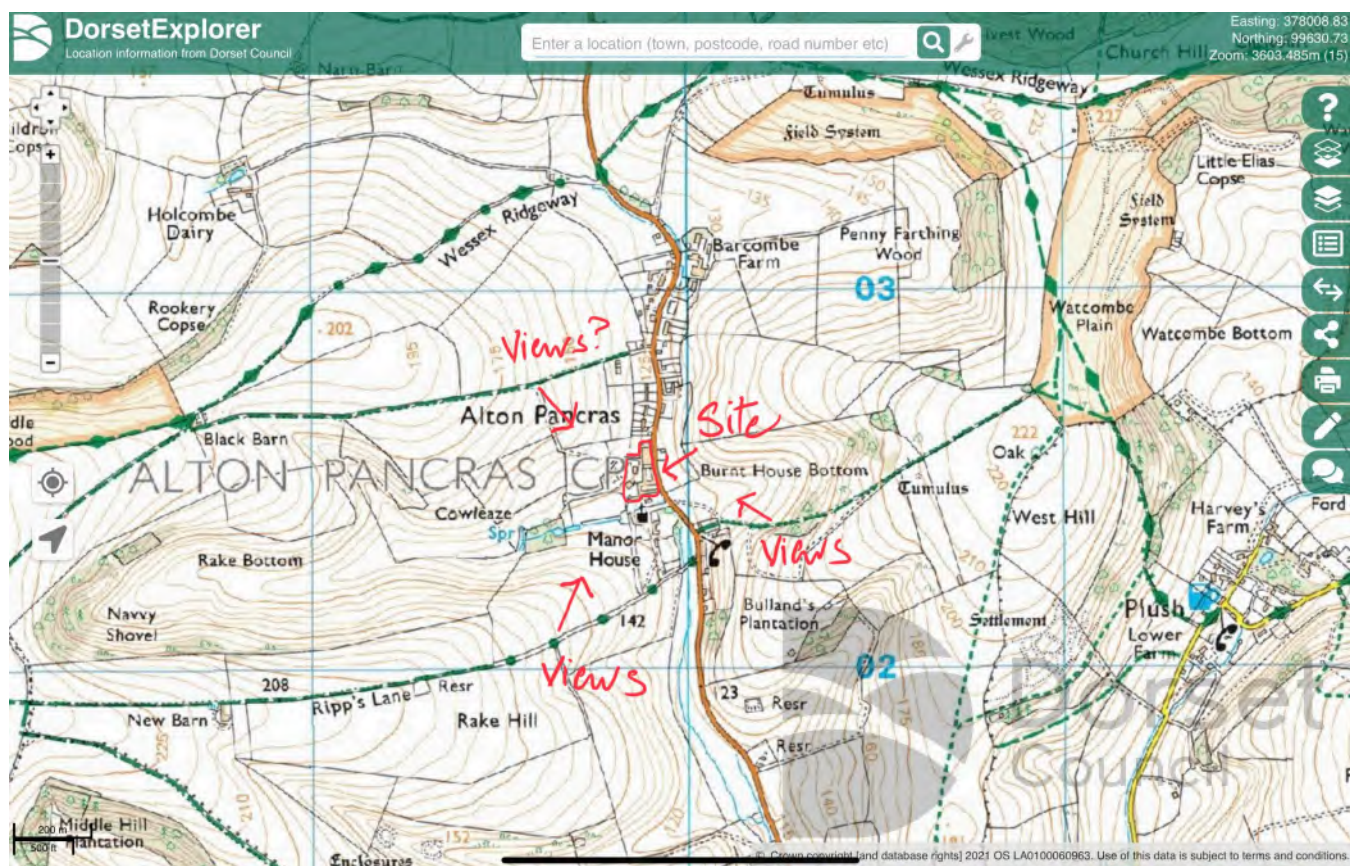
The Austral Farm site consists of a large group of modern and traditional farm buildings toward the southern end of the village of Alton Pancras. It is bounded to the west by farmland; to the north by residential development along the B3143; to the east by the B3143 and the River Piddle with open farmland beyond; and to the south by the Alton Pancras Conservation Area containing the Grade II\* listed Parish Church of St Pancras, the Manor House and other listed ancillary buildings. The site lies within the Dorset Area of Outstanding Natural Beauty.

The farm is situated at the bottom of the River Piddle Valley at approximately 130m AOD with ground levels rising to the west (240m AOD Foxhills); north (211m AOD Knoll); and east (223m AOD West Hill). A number of Public Rights Of Way run from the valley bottom to the surrounding higher ground to the west, north and east (**Figure 1**).

The submitted Landscape and Visual Appraisal (LVA - JPS Landscape Design May 2021) demonstrates that views of the site and the proposed development would be possible from Ripp's Lane and Bridleway S5/9 on the higher ground to the southwest and the southeast respectively (see **Figures 2 and 3**).

However the document also demonstrates that views from the public rights of way further to the sites north (PROW S5/12, S10/29) and south (PROWS5/8) are generally obscured or the distance is too great for the site to be a significant element within the wider view.

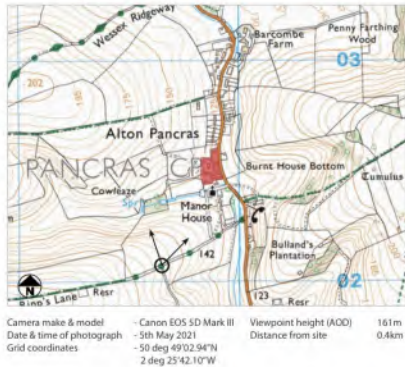
No views are presented from the footpath immediately to the sites north east (PROW S5/11) but similar views to those illustrated in **Figures 2 and 3** may be possible from this public right of way.



**Figure 1:** PROW network surrounding site from which views are possible (DorsetExplorer)



**VIEWPOINT 6**  
View from Ripp's Lane public right of way



**Description of Baseline View**

8.43 This view is taken from a break in the hedgerow that follows the northern side of Ripp's Lane, a public right of way that connects between the B3143 and Foxhills. The view is a panoramic one and looks northwards across the River Piddle valley. The upper western part of the site, and the modern farm buildings present there, is partially visible in the middle distance. The tower of St Pancras church is just perceptible through the trees within the valley bottom.

**Sensitivity of Visual Receptor**

8.44 The view is representative of users of the public right of way network, which are assessed as having a high susceptibility to change in the view. The value of the view is assessed as high; reflective of a classic AONB landscape. Overall, the visual receptor is assessed as having a high sensitivity.

**Predicted View at Year 1 & Magnitude of Change**

8.45 With the proposed development in place the foreground elements of pastoral fields and trees would be unaltered. Similarly, the far distant hills and skyline would be unchanged. There would be some noticeable change to the site in the view. The modern farm buildings would be removed and new single storey office blocks would be seen on the site. The proposed new residential properties which would replace the would be largely screened from view. The

magnitude of change to the view at year 1 is assessed as low.

**Scale of Visual Effect**

8.46 At year 1 of the operational phase of the proposed development, with a high sensitivity and a low magnitude of change, the visual effect is assessed as moderate neutral. The integrity of the key features of the landscape and the existing pattern of settlement would remain substantially unaltered and would still be readily discerned. The proposed development though visible would not be prominent or dominant.

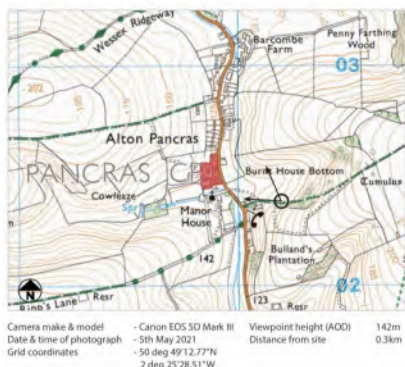
8.47 It is assessed that at year 10 of the operational phase of the proposed development, the visual effect would remain moderate neutral.

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**Figure 2: view of site from Ripp's Lane (JPS Landscape Design)**



**VIEWPOINT 4**  
View from Millennium Bench on bridgeway S5/9



**Description of Baseline View**

8.33 This view is taken from the public right of way that rises up eastward from Alton Pancras. Specifically, the view is taken from a bench erected to mark the Millennium in the year 2000. The view looks west. The foreground is a pastoral field, track and trees. The site is clearly visible in the middle to far distance in the centre of the view with the western slope of the River Piddle valley rising up behind it. The most conspicuous buildings on the site are the more modern ones.

**Sensitivity of Visual Receptor**

8.34 The view is representative of users of the public right of way network, which are assessed as having a high susceptibility to change in the view. The value of the view is assessed as high; reflective of a classic AONB landscape. Overall, the visual receptor is assessed as having a high sensitivity.

**Predicted View at Year 1 & Magnitude of Change**

8.35 With the proposed development in place the foreground elements of pastoral field, track and trees would be unaltered. Similarly, the far distant hills and skyline would be unchanged. There would be some noticeable change to the site in the centre of the view. The modern farm buildings would be removed and new single storey office blocks would be seen on the higher ground on the site. Also evident would be the proposed new residential properties

which would replace the long grey coloured cattleshed to the right (north) of the site. The site would not be perceived as being agricultural anymore. The magnitude of change to the view at year 1 is assessed as low.

**Scale of Visual Effect**

8.36 At year 1 of the operational phase of the proposed development, with a high sensitivity and a low magnitude of change, the visual effect is assessed as moderate neutral. The integrity of the key features of the landscape would remain substantially unaltered and would still be readily discerned with the proposals in place.

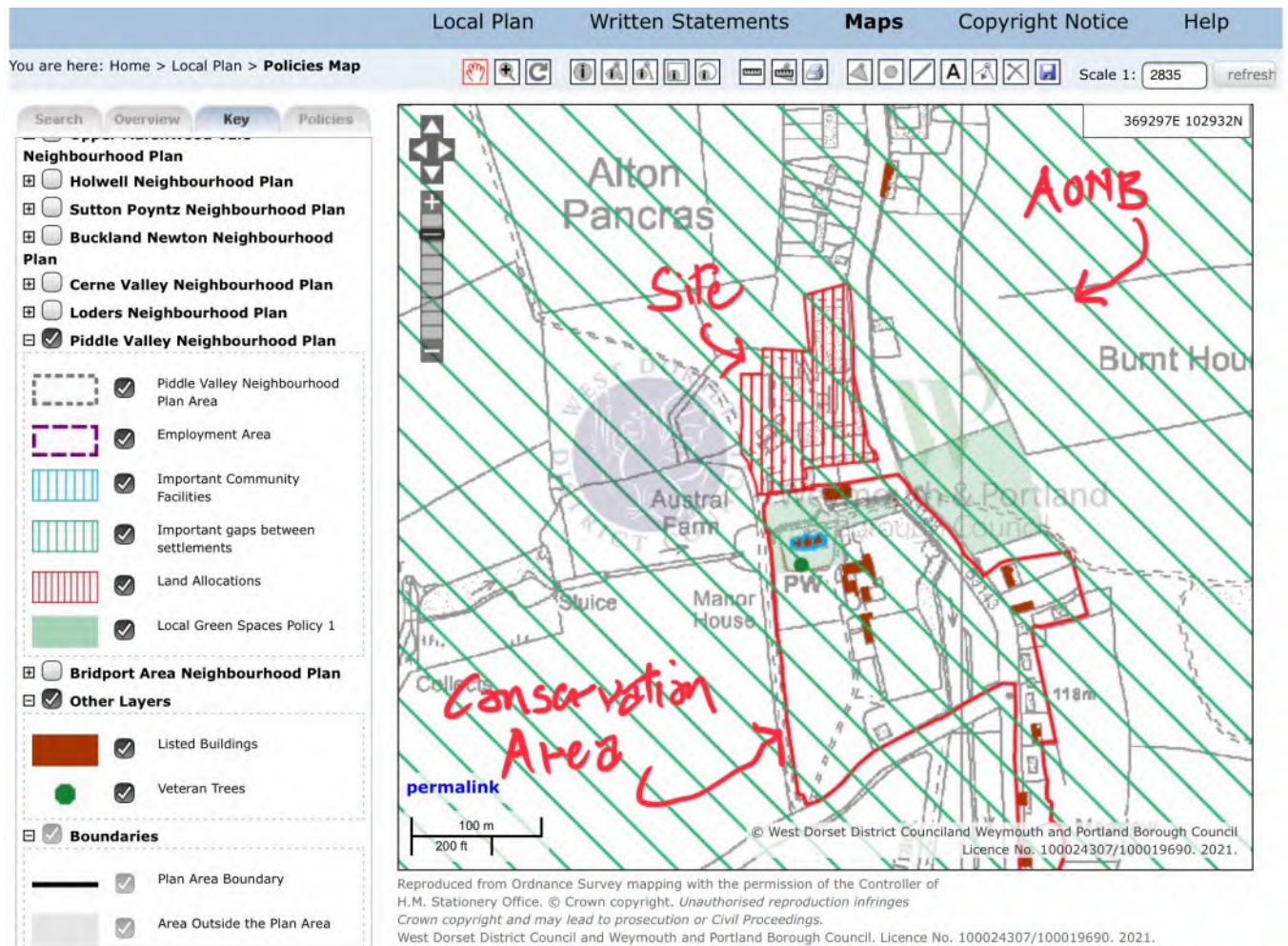
8.37 It is assessed that at year 10 of the operational phase of the proposed development, the visual effect would remain moderate neutral.

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**Figure 3: view of site from Public Right Of Way S5/9 (JPS Landscape Design)**



## Main issues (revised 02 December 2021)



**Figure 4:** West Dorset, Weymouth and Portland Local Plan 2015 Interactive Map

As **Figure 4** above shows Austral Farm is allocated as a mixed use site within the made Piddle Valley Neighbourhood Plan 2018 - 2033 with the stated aim of providing affordable and open market housing, small business units, offices and workshops so the principle of development is not disputed.

The main issues from a landscape and visual perspective are therefore:

- Whether the location and design of the proposed development would have an adverse impact on local landscape and visual character and the special qualities and natural beauty of the Dorset Area of Outstanding Natural Beauty and if so have appropriate measures to moderate any such adverse impacts been included in the proposals?
- Whether the development proposals would contribute positively to the maintenance and enhancement of local identity and distinctiveness through the retention and protection of trees, other features and the provision of sufficient hard and soft landscaping?
- Whether spaces within the development are well designed; would be safe and pleasant to use; are legible; are not dominated by roads and parking; prioritise pedestrian and cycle access; provide for public and private amenity; and reduce opportunities for, and the fear of crime?
- Whether the siting, alignment, design, scale, mass and materials used in the development complement the character of the surrounding area improve legibility and reinforce a sense of place ?

## The proposal (revised 02 December 2021)

The proposed development seeks to adaptively reuse the traditional farm buildings in the southern portion of the site to provide workshops, offices and a cafe; and to demolish the modern farm buildings in the northern portion of the site and replace them with workshops and residential units.



**Figure 5:** Location Plan E-100 - building retention/demolition (NDM Collins Architects)

The existing traditional courtyard buildings would be adaptively reused to create offices and a cafe; the large agricultural building in the north of the site would be demolished and replaced with a continuous terrace of 9No. two storey dwellings formed around a courtyard which would be open and accessible from its southern end; and the grain store, silage pit and Dutch barn etc. in the west of the site would be demolished and replaced with 2No. Workshop buildings.

Access, parking and hard surfacing would be created between and around the existing and proposed buildings. Access roads would be formed of porous tarmac or concrete; with parking areas of grid and gravel or permeable paving setts.

Since my previous landscape comments (File Ref: LAN WD-D-20-003302rev06092021 dated 06 September 2021) and as a comparison of **Figures 6** and **7** below will demonstrate Some additional tree and hedge planting has been indicated on the revised Proposed Site Plan.

However information with regard to existing vegetation has still been submitted though paragraph 9.8 of the submitted LVA states that "*The existing tree and hedgerow resource on the site would be removed*". Detailed hard and soft landscape proposals have still not been submitted despite paragraph 9.8 of the LVA stating that "*the proposals allow for new tree, shrub and hedgerow planting*".

Despite the additional planting indicated the impression conveyed by the revised proposed site plan is still of a predominantly hard surfaced public realm with extensive grassed areas and minimal amounts of tree and shrub planting.



Figure 6: Proposed Site Plan P-100 Rev E as per previous landscape comments 06/09/2021



Figure 7: Proposed Site Plan P-100 Rev J

## Comments on proposal (Revised 02 December 2021)

As noted in my previous comments (File Ref: LAN WD-D-20-003302rev06092021 dated 06 September 2021) a Landscape and Visual Appraisal has been submitted (JPS Landscape Design). It assesses the effects of the proposed development of landscape elements and features such as vegetation and topography, landscape character and visual amenity.

Paragraph 9.5 and 9.8 state that the loss of existing trees and hedgerows as a result of the development would have an important and major adverse effect.

Paragraph 9.7 notes that the topography would undergo a noticeable change as a result of the proposed development.

While I would still agree with the assertion made in paragraph 9.11 that the existing modern farm buildings and structures that would be removed as a consequence of the development *"make no appreciable positive contribution to the character of the landscape"* I am still not convinced that *"the proposed development would positively contribute to the character of the local landscape by retaining and re-using the older traditional buildings on the site and by introducing a style of new development, in the form of residential dwellings and office buildings which would represent high quality design"*.

The principle of redevelopment is not in question and I would support the retention and adaptive reuse of the traditional farm buildings. However the proposals still include a significant number of parking spaces (83No.) in and around the existing and proposed buildings and their use would still be likely to have a significant impact on the character and visual amenity of the site which does not appear to have been taken into account in the assessment.

Similarly while I would not dispute the the proposed residential dwellings and office buildings *"represent high quality design"* (para 9.11) I am not convinced that they *"positively contribute to the character of the local landscape"*.

I would continue to note that while the 'courtyard' form of the proposed residential development (see **Figure 8**) may echo the 'courtyard' form of earlier farm buildings on the site (see **Figure 9**) they have little if anything in common with the form this 'courtyard' of farm buildings took if what remains is representative of what has been removed (see **Figure 10**).

The elevation of the proposed residential buildings fronting the road would not be out of keeping with other residential development within the settlement which is varied in character (see **Figure 11**). However I continue to consider that their 'courtyard' form is not and nor is their east west depth of built form that would be visible from the B3143 due to the removal of boundary hedgerow and its replacement with low hedgerow that appears to contain no hedgerow trees and that does not extend along the whole of the sites eastern boundary adjacent to the residential dwellings. It would also be visible from the footpaths immediately to its north and south and it seems unlikely that the limited additional planting proposed would screen or filter these views to any significant extent.

given that the development would still appear to result in the significant remodelling of the field in which the residential development would be constructed and the introduction of a significant lengths of retaining wall I would continue to question the assertion in paragraph 9.13 that *"the proposals would be detailed so as to respond to the existing landform of the site"*.



Figure 8: proposed residential street elevations rev D (NDM Collins Architects)

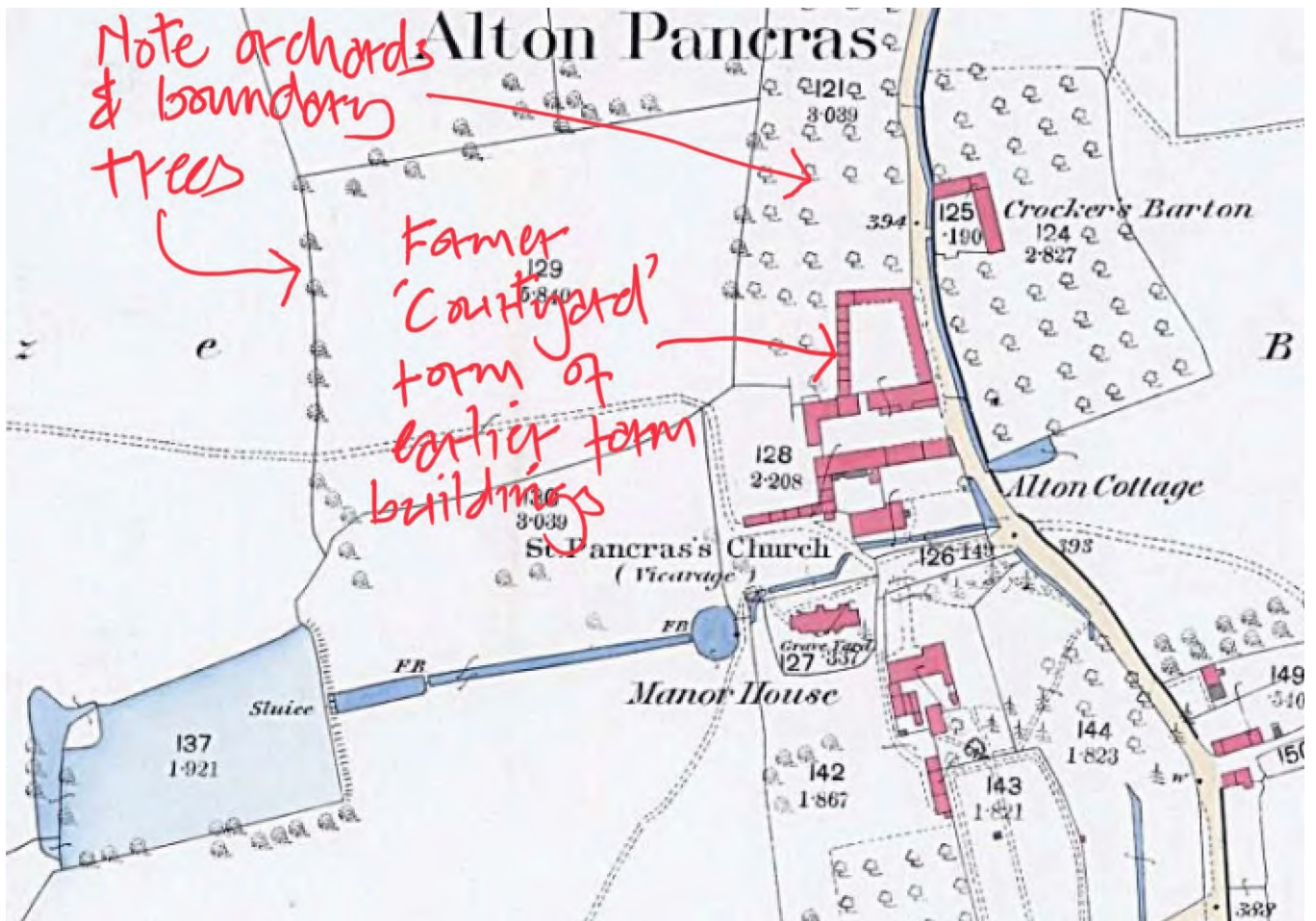


Figure 9: extract from 1888 OS first edition showing former 'courtyard' form of farm buildings



**Figure 10:** likely form of former ‘courtyard’ farm buildings (JPS Landscape Design)



**Figure 11:** existing varied linear development to the north of the site (Googlemaps)

I would also continue to note that despite paragraph 9.13 asserting that *“the generally poorer quality existing tree and hedgerow resource on the site would be replaced and enhanced through new tree, shrub and hedgerow planting”* no details of this planting have been submitted nor does there appear to be any evidence that *“once established, this new planting would begin to make a positive contribution to the site and the wider landscape”*.

Contrary to the assertion in paragraph 9.14 of the submitted LVA that *“overall, the physical characteristics of the surrounding wider landscape of the Dorset AONB beyond the site and its predominantly rural, farmed, nature would be materially unchanged with the proposed residential and office development in place”* I continue to think it likely that it would have a significant adverse landscape and visual effect which would require mitigation.

Furthermore evidence has still not been submitted to substantiate the assertion made in paragraph 9.18 of the LVA that “*where seen in its entirety, from more elevated vantage points, the proposed development would not be overtly prominent and would not be the dominant element or feature in the view*”. **Figure 3** above clearly demonstrates that from some vantage points the existing farm is clearly the “*dominant element in the view*” and it seems likely that the change in use from farm buildings to offices, workshops and dwellings with the associated substantial increase in the amount of vehicular parking and movement would have a significant impact on tranquility and landscape and visual character and quality.

I therefore do not accept that as asserted in paragraph 9.19 of the submitted LVA “*overall, it is considered that the proposed development would have a level of effect that would not bring about unacceptable harm to the visual amenity of the wider landscape beyond the site boundary*”.

Recent aerial imagery suggests the presence of mature trees and hedgerows both within and on the boundaries of the site so I would have expected the submission to include an arboricultural survey and impact assessment and if necessary a method statement.

I would also have expect the submission to include detailed hard and soft landscape proposals which show how the wider landscape and visual impacts of the scheme would be adequately mitigated and how the spaces between the proposed buildings would be set out to create a well designed public and private realm which would be legible; safe and pleasant to use; would not be dominated by roads and parking; would prioritise pedestrian and cycle access; would provide for public and private amenity; and would reduce opportunities for, and the fear of crime.

While the arrangement of the existing buildings is obviously fixed I am not presently convinced that the siting, alignment, design, scale, massing and materials proposed for the workshop and residential buildings would complement the character of the surrounding area, improve legibility or reinforce a sense of place indeed I think they would be likely to be visually intrusive as evidenced by **Figures 12 and 13**.

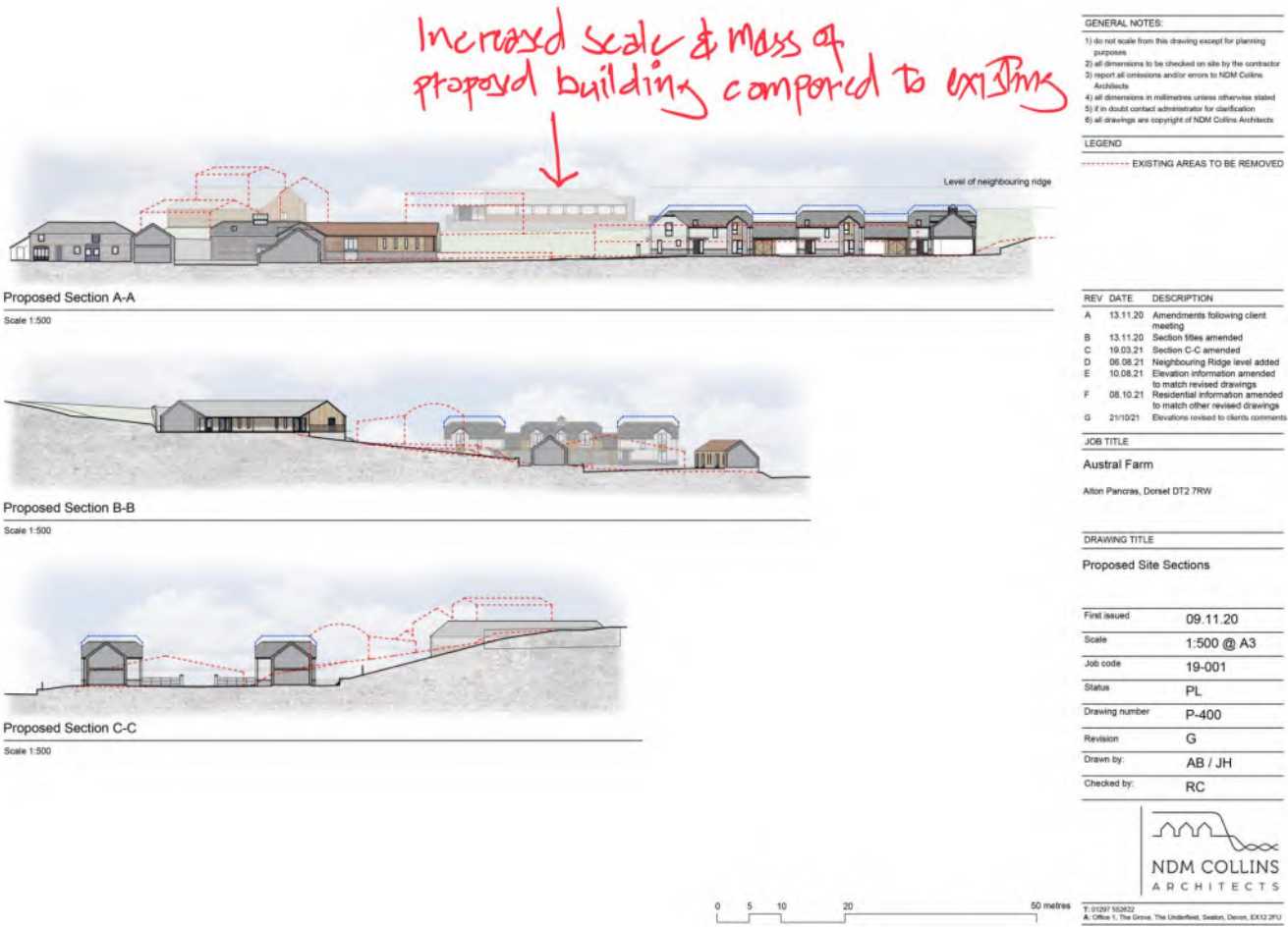
The scheme still appears to be dominated by hard surfacing and parking with very little in the way of soft landscape even in traffic free areas such as the ‘courtyard’.

Parking arrangements still appear to be ill-considered. Stacked parking has been frequent used as a solution while wide expanses of tarmac in excess of what would appear to be required for vehicle access and manoeuvring have been left unused. No tree or shrub planting has been shown within parking areas suggesting that the scheme will be car dominated and no attempt appears to have been made to mitigate the adverse landscape and visual impacts of this aspect of the sites significant change in character and use.

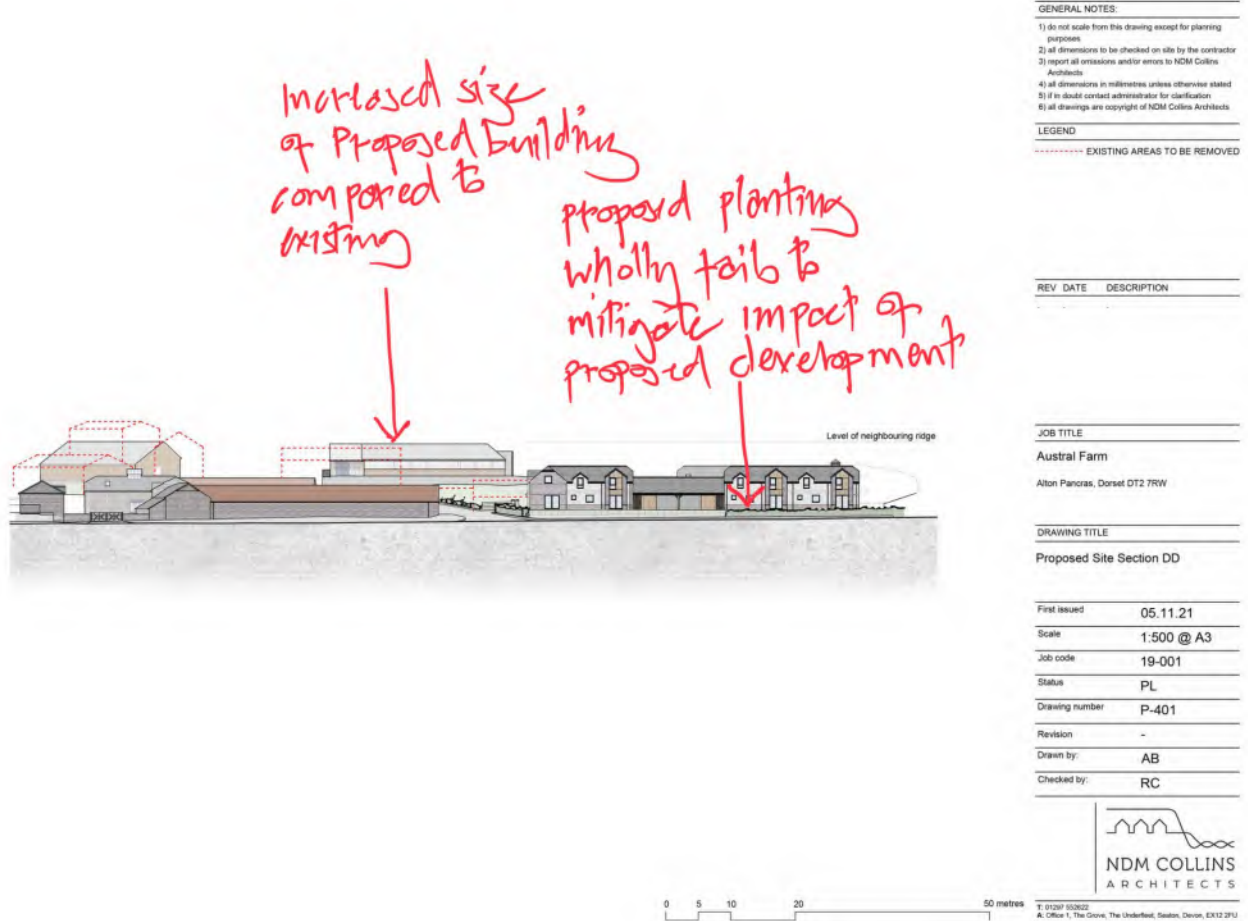
Similarly in the car free area of the ‘Courtyard’ large expanses of hard surfacing predominate and soft landscaping, seating, waste bins cycle parking etc. are limited or absent.

In the same way the square enclosed by the residential units is dominated by hard surfacing, access and parking with minimal areas of soft landscape public residential amenity space.

I continue to note that the scheme appears to include a significant amount of retaining structures notably surrounding the 9No. residential units and between the offices and the workshops. I have concerns with regard to the physical and visual impact of these structures and would wish to see them replaced where possible with graded natural landforms or softened with planting where this is not possible.



**Figure 12:** proposed site sections rev G (NDM Collins Architects)



**Figure 13:** proposed site section DD(NDM Collins Architects)

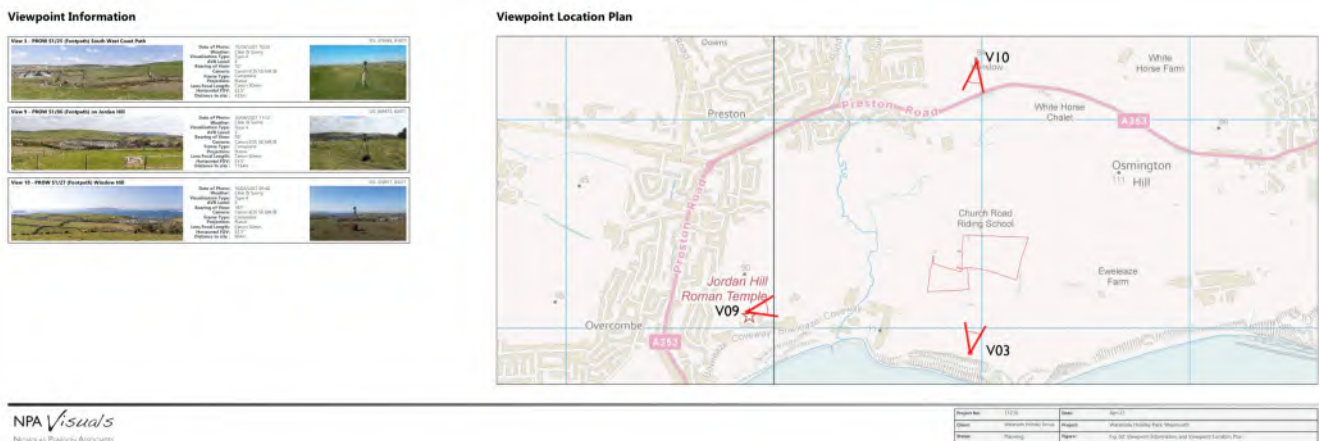


I also continue to consider the single stepped access from the car park between the proposed offices and the workshops to be an unacceptable solution in terms of accessibility.

In conclusion I continue to consider that the development proposals are not acceptable in their current form and that the following still need to be prepared and submitted before their suitability in landscape and visual terms can be properly assessed:

- Accurate Visual Representations (AVRs)/Visually Verified Montages (VVMs) from agreed viewpoints prepared in accordance with the Landscape Institutes Technical Guidance Note 06/19 “*Visual Representation of Development Proposals*” Type 4 Photomontage/photowire (survey/scale verifiable) imagery and complying with the London View Management Framework AVR Level 3 showing the location, size, degree of visibility, architectural form and the materials proposed.
- An Arboricultural Survey, Impact Assessment and if necessary Method Statement in accordance with the guidance contained in BS5837:2012 “*Trees in relation to demolition, design and construction - Recommendations*”.
- Hard and soft landscape proposals which include details of all trees and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed levels, walls, fences and other boundary treatment and surface treatment of the open parts of the site together with any lighting, street furniture, Sustainable Urban Drainage features and underground services.
- A Landscape Management Plan which demonstrates that appropriate measures are in place to secure the long term maintenance of any newly-planted trees and other hard and soft landscaping.

For the avoidance of doubt with regard to quality and presentation of AVRs/VVMs **Figures 12 to 17** below present an example of the desired standard and the document from which these images came is publicly available on the Dorset Council Planning Website (Planning Application WP/20/00756/FUL).



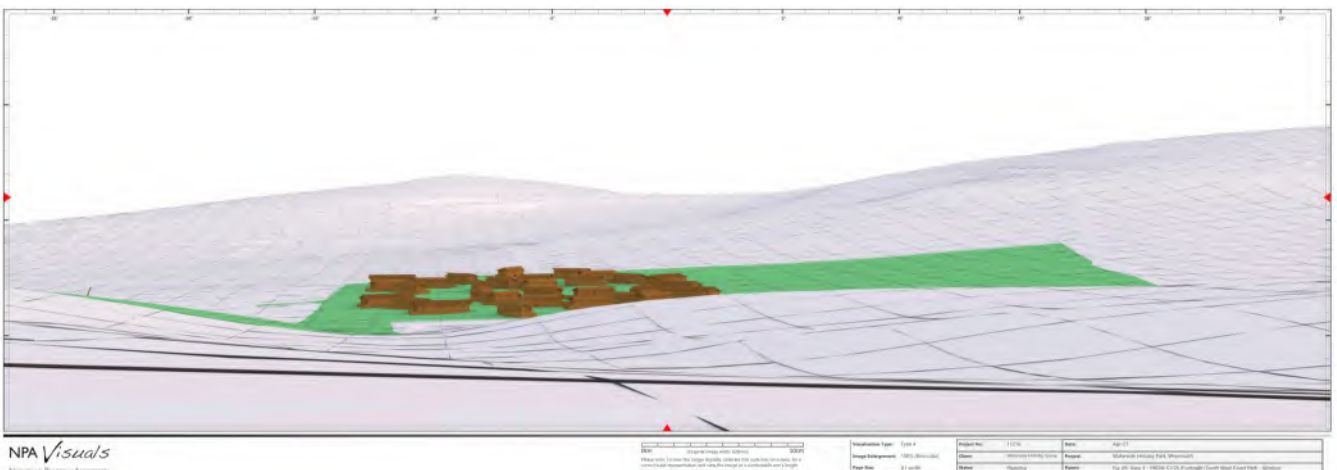
**Figure 12:** Example of a LI 06/19 Type 4 compliant data sheet (NTS)



**Figure 13:** Example of a LI 06/19 Type 4 compliant 100% monocular view (NTS)



**Figure 14:** Example of a LI 06/19 Type 4 compliant 150% enlarged binocular view (NTS)



**Figure 15:** Example of a LI 06/19 Type 4 compliant wireframe computer model (NTS)



**Figure 16:** Example of LI 06/19 Type 4 compliant photomontage to AVR level 3 (NTS) Yr1



**Figure 17:** Example of LI 06/19 Type 4 compliant photomontage to AVR level 3 (NTS) Yr10

As evidenced by **Figure 9** mature trees and hedgerows on field boundaries and orchards were a common feature within the landscape historically. I still consider that the reinstatement of such features could provide much needed landscape and visual mitigation and amenity value while being in keeping with historic landscape character and their reintroduction should therefore be considered.

Trees need an un-compacted available soil volume of a minimum depth of 600mm for an area roughly equivalent to their mature canopy spread if they are to have any hope of reaching maturity and their expected height and canopy spread. Trees also need a minimum distance from the facade of a building equal to at least one and a half times half their expected mature canopy spread to allow for canopy movement and light availability and to avoid or reduce conflicts and/or damage related to physical contact between the trees and the building.

It may be that the tree planting proposed within open ground or soft landscaped areas may have access to a sufficient volume of un-compacted soil though this still needs to be evidenced. However any trees proposed within hard surfaced courtyards would probably require the use of engineered tree pits such as the GreenBlue Urban ArborSystem (or similar and approved) to ensure the provision of adequate soil volumes and guard against the future deformation of paved surfaces as a result of tree root growth. Any future submission of detailed hard and soft landscape proposals therefore needs to include the specification and detailing of tree planting. Tree planting positions also need to be carefully coordinated with any proposed or existing street lighting and underground services to ensure that conflicts are avoided or resolved.

The GreenBlue Urban Arbor system also allows for engineered tree planting pits to act as Micro SuDs units and I would still expect to see these or similar and approved features incorporated into any future detailed hard and soft landscape scheme because of the clear benefits for the trees and for dealing with site surface water drainage at source.

My preference would be for the additional information outlined above to be submitted and the issues with regard to landscape and visual impact and its appropriate mitigation and management to be resolved prior to the determination of this application.

However If, on balance, the Case Officer is minded to permit the application prior to the submission of additional information and the resolution of these issues then I would wish to see the following conditions included in the notification of decision:

**Hard and soft Soft Landscaping (pre-commencement)**

No development shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed levels, walls, fences and other boundary treatment and surface treatment of the open parts of the site together with any lighting, street furniture and underground services and a programme of implementation.

Reason: to ensure that adequate mitigation for the landscape impact of the proposals and the provision of appropriate and viable hard and soft landscape scheme has been agreed prior to the commencement of the development.

**Landscape Management Plan (pre-commencement)**

No development shall commence until a Landscape Management Plan (LMP) has been submitted to, and approved in writing by the local planning authority. The LMP shall include details of how the hard and soft landscaped parts of the scheme are to be managed in the long term.

Reason: to ensure that arrangements for the long term management and maintenance of the agreed hard and soft landscaping scheme are approved prior to the commencement of the development

**Hard and Soft Landscape Implementation (pre-occupation)**

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the use of the site or in accordance with a programme agreed in writing with the Local Planning Authority.

Reason: to ensure that the agreed hard and soft landscape scheme is implemented.

**Hard and Soft Landscaping Maintenance to Completion (compliance)**

Any trees or other plants indicated in the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planing Authority. Hard and soft landscape features will be maintained for the lifetime of the scheme.

Reason: to ensure that the agreed hard and soft landscaping scheme is established and maintained.

**Relevant national policy - National Planning Policy Framework (NPPF) July 2021**

Paragraph 174 of the National Planning Policy Framework makes clear that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes; recognising the intrinsic character and beauty of the countryside; and minimising impacts on and providing net gains for biodiversity.

Paragraph 176 states that great weight should be given to conserving and enhancing the landscape and scenic beauty of Areas of Outstanding Natural Beauty.

Paragraph 130 asserts that policies and decisions should ensure that developments function well; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history including the surrounding built environment and landscape setting; establish and maintain a strong sense of place; optimise mixed development including green and other public space; and create places that are safe inclusive and accessible and which promote health and well being.

Paragraph 131 states that planning decisions should ensure that new streets are tree lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate), that opportunities are taken to incorporate trees elsewhere in developments (such as parks and **community orchards**), that appropriate measures are in place to secure the long term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

The above policies do not appear to be addressed within section 4.0 'Planning Policy Considerations' of the submitted Design and Access Statement. Though paragraph 131 is a new addition to the NPPF policies 174, 176 and 130 were contained within the previous iteration of the NPPF (February 2019) and policy 131 is relevant as the application has yet to be determined.

As noted above I still consider that insufficient evidence has been submitted to determine whether the proposed development meets the aspirations of the paragraphs above.

**Local Plan - West Dorset, Weymouth & Portland Local Plan 2015**

Policy ENV1 makes clear that development which would harm the character, special qualities or natural beauty of the Dorset Area of Outstanding Natural Beauty including its characteristic landscape quality and diversity, uninterrupted panoramic views, individual landmarks and sense of tranquility and remoteness will not be permitted.

The Policy also makes clear that development should be located and designed so that it does not detract from and, where reasonable, enhances the local landscape character and that development that significantly adversely affects the character or visual quality of the local landscape will not be permitted.

Finally the policy notes that appropriate measures will be required to moderate the adverse effects of development on the landscape.

As previously noted there is little or no evidence within the submitted documents that the developments location and design have been derived, at least in part, from a consideration of the development's impact on landscape character and visual quality; or that appropriate measures have been proposed to moderate any adverse effects that the development may have on the landscape.

Policy ENV10 makes clear that all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness; should be informed by the character of the site and its surroundings; should retain and protect trees and other features that contribute to the areas character; and should provide sufficient hard and soft landscaping to successfully integrate the development within its site and surroundings.

As previously noted in the absence of relevant arboricultural information and hard and soft landscape proposals containing sufficient detail I consider that it is not currently possible to determine whether the development as proposed would meet the requirements of condition ENV10.

Policy ENV11 states that development should ensure that streets and spaces are well defined, safe and pleasant to use; legible and easily navigable; not car or parking dominated; provide for pedestrian and cycle access; provide for public and private amenity, refuse, recycling and storage appropriate to the uses proposed and the character of the area; and are designed to reduce crime and the fear crime.

Again the lack of detailed hard and soft landscape proposals make it impossible to properly assess whether the requirements of this policy have been met by the development proposals.

Policy ENV12 makes clear that development will only be permitted where the siting, alignment, design, scale, mass and materials used complement and respect the character of the surrounding area meaning that the general design should be in harmony with adjoining buildings and features; their scale mass and position should reflect their purpose; the quality of the architecture should be appropriate; the materials should be sympathetic to the natural and built surroundings; alterations or extension should not be overly dominant; and housing should meet or exceed the minimum space standards.

Once again I would note that a lack of detailed information in the the form of AVRs/VVMs of the proposed development make compliance with this policy difficult to properly assess.

### **Neighbourhood Plan - Piddle Valley Neighbourhood Plan 2018 to 2033**

While Policy 8 within the plan identifies the site as being allocated as a mixed use site, to provide affordable and open market housing and small business units (office/workshop or flexible live-work units) it makes clear that the proposals should be heritage led with the preservation and enhancement of the heritage assets being the primary objective. It also makes clear that any new buildings should be sensitively located and modest in scale. The preamble states that *"it is not anticipated that this site will have significant development - whatever comes forward needs to respect what is a very sensitive historic environment, and also any housing will not exceed what would be sufficient to meet local needs as an rural exception site"*.

I can still find no evidence within the submission documents that the proposals has been tested with regard to this policy through public consultation at the local neighbourhood level.

**Officer:** Colm O'Kelly - BSc (hons), MPhil, CMLI, MBA, PGDip

**Job Title:** Senior Landscape Architect - Infrastructure and Delivery Team

**Date:** 02 December 2021

# Comment for planning application WD/D/20/003302

<b>Application Number</b>	<input type="text" value="WD/D/20/003302"/>
<b>Location</b>	<input type="text" value="AUSTRAL FARM, ALTON PANCRAS, DORCHESTER, DT2 7RW"/>
<b>Proposal</b>	<input type="text" value="Removal of modern buildings (including agricultural building, grain store, silage pit &amp; dutch barn etc). Conversion of traditional buildings into offices (Class B1 (a)) and a café (Class A3). Creation of 9no residential units (Class C3) &amp; 2no. workshop buildings (Class B2)."/>
<b>Case Officer</b>	<input type="text" value="Ross Cahalane"/>
<b>Organisation</b>	<input type="text" value=""/>
<b>Name</b>	<input type="text" value="Dorset AONB Team"/>
<b>Address</b>	<input type="text" value="County Hall, Dorchester DT1 1XJ"/>
<b>Type of Comment</b>	<input type="text" value="Comment"/>
<b>Type</b>	<input type="text" value="neighbour"/>
<b>Comments</b>	<input type="text" value="Having reviewed the amended plans in relation to the AONB Team's comments from March 2021, there are concerns regarding the extent of vegetation proposed for removal and the limited details of future planting. As indicated previously, the retention of the hedgerow along the eastern boundary of the site and the potential to augment this with further planting is an important design consideration that does not yet appear to have been addressed. Other impacts on existing vegetation across the site and proposed planting should also be clarified. Finally, the control of lighting across the site continues to be a matter that requires control through the use of a planning condition."/>
<b>Received Date</b>	<input type="text" value="22/11/2021 15:07:49"/>
<b>Attachments</b>	The following files have been uploaded: <ul style="list-style-type: none"><li>•</li></ul>

APS02

Paul Newman

Land & Planning Consultant



## planningpolicy

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**From:** PAUL NEWMAN [REDACTED]  
**Sent:** 06 June 2024 15:58  
**To:** planningpolicy  
**Subject:** Re: Draft Annual Position Statement - 5 year housing land supply - focused stakeholder engagement

Is that so you can make it up again, so it exceeds 5 years? Why do not just be honest with it for a change, as everyone knows, you are not close to it.

Paul Newman  
Land & Planning Consultant

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Tel: [REDACTED]

Tel: [REDACTED]

Email: [REDACTED]

---

**From:** planningpolicy <planningpolicy@dorsetcouncil.gov.uk>  
**Sent:** 06 June 2024 15:54  
**Subject:** Draft Annual Position Statement - 5 year housing land supply - focused stakeholder engagement

Dear Sir/Madam

As you may be aware, Dorset Council is seeking to confirm its 5 year housing land supply position for the period of 1 April 2023 to 31 March 2024 by producing an Annual Position Statement (APS).

This APS must be submitted to the Planning Inspectorate in July 2024. The Inspectorate will then provide their recommendation in October 2024 with the housing land supply position then being confirmed until October 2025. The government's published Planning Practice Guidance [sets out the process for confirming the housing land supply](#).

As part of this process, planning officers are now undertaking targeted stakeholder engagement with the development industry and other key stakeholders on a draft annual position statement. The draft APS has been produced with input from developers and landowners of specific sites, and this input can be found in the appendices of the report.

You can access the draft APS and submit your response via <https://www.dorsetcouncil.gov.uk/annual-position-statement>. Please submit your response through the online response pages wherever possible.

The engagement is now open and will last 4 weeks. Please submit your comments before midnight on **Thursday 4 July 2024**.

Please get in touch by reply if you have any questions.

**Strategic Planning Team**  
**Economic Growth and Infrastructure**  
**Dorset Council**

[planningpolicy@dorsetcouncil.gov.uk](mailto:planningpolicy@dorsetcouncil.gov.uk)  
[dorsetcouncil.gov.uk](http://dorsetcouncil.gov.uk)



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APS03

Emery Planning on behalf of Nightingale  
Land

Representations to Dorset's Draft Annual Position Statement  
For Nightingale Land | 24-351

At 1<sup>st</sup> April 2024 - Dorset HLS – Annual Position Statement.



**Project:** 24-351  
**Site Address:** Dorset HLS – Annual Position Statement  
**Client:** Nightingale Land  
**Date:** 03 July 2024  
**Authors:** Tom Smith and Ben Pycroft  
**Approved by:** Ben Pycroft

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# 1. Introduction and summary

- 1.1 Emery Planning is instructed by Nightingale Land to submit representations to Dorset's draft Annual Position Statement (APS), which is being consulted on until midnight on 4<sup>th</sup> July 2024.
- 1.2 From the outset, these representations have been made based on the draft APS and associated evidence base which have been uploaded to the Council's website as part of the consultation. Should the Council produce additional evidence to support its APS following the close of the consultation, then we respectfully request the opportunity to comment on it before the Inspector issues their recommendation.
- 1.3 Should a revised National Planning Policy Framework be published before the Inspector issues their recommendation, we also respectfully request the opportunity to comment on any implications this may have in relation to housing land supply calculations.

## Background

- 1.4 Emery Planning has extensive experience in dealing with housing supply matters and has prepared and presented evidence relating to five year housing land supply calculations at numerous Local Plan examinations and public inquiries and hearings across the country.
- 1.5 Our assessment is based on the latest position set out in the Council's Annual Position Statement – 5 year housing land supply (June 2024) which sets out the five year housing land supply (5YHLS) position at a base date of 1<sup>st</sup> April 2024 and a five year period to 31<sup>st</sup> March 2029.
- 1.6 The Council considers that at 1<sup>st</sup> April 2024 it can demonstrate a deliverable supply of 9,573 dwellings. Against the (capped) local housing need of 1,793 dwellings per annum, this equates to 5.34 years. The APS Inspector would need to find 608 dwellings (6% of the claimed supply) should not be included in the deliverable supply for there to be a shortfall in the Council's 5YHLS. As set out below, we conclude that 2,770 dwellings should be removed from the 5YHLS.
- 1.7 For the avoidance of doubt, Dorset must demonstrate a 5YHLS (rather than a 4YHLS). This has been confirmed by the Council in recent appeals. In a decision relating to an appeal by Paul Crocker against the decision of the Council to refuse to grant outline planning permission for 67 dwellings at land

between Salisbury Street, Tanzey Lane and Sodom lane, Marnhull<sup>1</sup> the Inspector concluded that a 5YHLS needed to be demonstrated for the reasons set out in paragraphs 29-35.

1.8 The Council has since accepted this is the case. For example, the Council confirmed this was the case at a hearing into Gladman’s appeal in relation to land north of Station Road, Stalbridge (PINS ref: 3333249). The hearing took place on 21<sup>st</sup> May 2024. Emery Planning gave the evidence on 5YHLS at that hearing on behalf of the Appellant. The appeal decision has not been issued at the time of writing.

## Summary

1.9 The following matters are agreed:

- In accordance with paragraph 77 of the Framework (20<sup>th</sup> December 2023) Dorset is required to identify a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against the local housing need.
- The base date is 1<sup>st</sup> April 2024. The relevant 5-year period for the determination of the appeal is 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2029.
- In accordance with paragraph 77 and footnote 42 of the Framework, the 5YHLS should be measured against the local housing need as calculated by the standard method set out in paragraph 2a-004 of the PPG. It is agreed that this is capped at 1,793 dwellings per annum.
- The latest HDT result is 97%. Accordingly, the 20% buffer does not apply.

1.10 On the supply side, the Council claims to have a deliverable supply of 9,573 dwellings. We have reviewed the supply and for the reasons set out in sections 9 to 13 of this statement, conclude that 2,556 dwellings should be removed from the Council’s supply.

1.11 Most of the deductions we have made are on sites which fall within category b) of the definition of “deliverable” as set out on page 69 of the Framework. These sites should only be included in the 5YHLS if the Council has provided “clear evidence” of deliverability. Whilst the Council has provided some “correspondence with developers of specific sites” (Appendix H of the draft APS), with reference to the definition of deliverable in the Framework, the associated guidance in chapter 68 of the PPG and the appeal decisions and another APS report we refer to, this is not clear evidence of deliverability. We respectfully invite the Inspector to compare the evidence in Appendix H with the evidence provided by Braintree, South Oxfordshire, West Oxfordshire and South Kesteven Councils which was found not to be clear evidence by the Secretary of State and Inspectors in those cases<sup>2</sup>.

---

<sup>1</sup> PINS ref: 3323727 – 8<sup>th</sup> May 2024 (re-issued 2<sup>nd</sup> July 2024) – Appendix **EP1**

<sup>2</sup> Appendices **EP5, EP7, EP9, EP10** and **EP12**



1.12 A list of the sites we dispute is set out in the table below.

**Table 1.1 – Disputed Sites**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites allocated within Local Plans (Appendix B of the draft APS)</b>					
BRID1	Vearse Farm (South East – Douglas Crammond)	80	20	0	-20
BRID3	Land east of Bredy Vets Centre	70	20	0	-20
CHIC2	Chickerell Urban Extension East	579	148	0	-148
CRS1	Land at Crossways	500	99	0	-99
DOR8	Four Paddocks – land south of St Georges Road, Dorchester	108	68	0	-68
LIS_F17	Land at Green Worlds	50	24	0	-24
LYMT3	Blarney’s Corner, Lytchett Matravers	25	25	0	-25
LYMT4	East of Flowers Drove, Lytchett Matravers	28	28	0	-28
LYMT2	East of Wareham Road, Lytchett Matravers	95	95	0	-95
CRS2	Redbridge Pit, Moreton Station	490	35	0	-35
No reference	Land at Policemans Lane, Upton (phase 2)	92	92	0	-92
WEY7	Council Offices, North Quay	75	75	0	-75
WOOL1	West of Chalk Pit Lane / Oakdene Road, Wool	320	120	0	-120

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
WOOL3	North of Railway Line, Wool	35	35	0	-35
WOOL1	North East of Burton Cross Roundabout	90	50	0	-50
WOOL1	North West of Burton Cross Roundabout	30	30	0	-30
	<b>Subtotal</b>		<b>964</b>	<b>0</b>	<b>-964</b>
<b>Sites allocated in Neighbourhood Plans (Appendix C of the draft APS)</b>					
NP_PV1	Austral Farm	10	10	0	-10
NP_BR01	Back Lane, Bere Regis	51	51	0	-51
NP_BR02	North Street, Bere Regis	15	15	0	-15
Policy BR7	Former School Site, Bere Regis	21	21	0	-21
Policy BR7	White Lovington, Bere Regis	17	17	0	-17
NP alloc 6	Clarkes Yard, Bath Road	30	30	0	-30
NP alloc 1	North of the Livestock Market	86	86	0	-86
H5	Westminster Road Industrial Estate	30	15	0	-15
	<b>Subtotal</b>		<b>245</b>	<b>0</b>	<b>-245</b>
<b>Specific large sites (these sites are listed in Appendix D of the draft APS)</b>					
6/2019/0639	Land North of West Lane, Stoborough	15	15	0	-15
P/FUL/2024/00233	Brewery site (Lot 2), Blandford St Mary	41	41	0	-41
LA/BLSM/003	Brewery site (Lot 4),	21	21	0	-21

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	Blandford St Mary				
P/OUT/2021/05309	Land Adjacent Broadmead, Broadmayne	80	80	0	-80
WD/D/17/000800	South of Fullers, Bridport Road, Broadwindsor	22	22	0	-22
WD/D/20/001242	Tennis Courts, Trinity St Carpark	15	15	0	-15
LA/SIXP/004	Land off Dean Lane	55	35	0	-35
LA/SIXP/005	Land off The Orchard	30	30	0	-30
P/FUL/2023/06544	Lakeside Superbowl, St Nicholas Street	65	65	0	-65
LA/COLE/022	Furzehill - Previous Council Offices	35	35	0	-35
	<b>Subtotal</b>		<b>359</b>	<b>0</b>	<b>-359</b>
<b>Rural exception sites (Appendix G of the draft APS)</b>					
No reference	Corfe Caste CLT	22	22	0	-22
	<b>Subtotal</b>		<b>22</b>	<b>0</b>	<b>-22</b>
<b>Sites with outline planning permission (these sites are listed in Appendix A – page 7 of the draft APS)</b>					
WD/D/19/000613	Land to the north and west of Cockroad Lane, Beaminster	58	58	0	-58
2/2017/1919/OUT	Lower Bryanston Farm, BSM	75	75	0	-75
1/D/11/002012	St Michaels Trading Estate	92	60	0	-60
P/RES/2022/04960	Ham Farm - Phase 1b	108	108	0	-108
P/RES/2023/05868	Ham Farm - Phase 3	151	68	0	-68

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
2/2019/0403/OUT	Land south of Milborne Business Centre, Blandford Hill, Milborne St Andrew	58	58	0	-58
WP/17/00270/OUT	Portland Lodge Hotel, Easton Lane	24	24	0	-24
2/2018/1773/OUT	Land south of A30	115	45	0	-45
2/2019/1799/OUT	Land South of Station Road	130	40	0	-40
2/2017/1912/OUT	Land At The Bull, Common Lane	17	17	0	-17
WP/19/00993/OUT	Land at Beverley Road	17	17	0	-17
P/OUT/2022/00852	Land at Newtons Road, Newtons Road, Weymouth (Former QinetiQ Site, Bincelaves)	164	131	0	-131
	<b>Subtotal</b>		<b>701</b>	<b>0</b>	<b>-701</b>
<b>Major sites with planning permission (these sites are listed in Appendix A of the draft APS)</b>					
P/RES/2021/04848	BRID1: Vearse Farm (Hallam Land)	793	420	320	-100
P/RES/2022/03505	Land East of New Road, West Parley (FWP6) - Phase 1	238	238	142	-96
P/RES/2021/01645	West of Frome Valley Road	140	140	100	-40
3/19/0019/RM	Land south of Howe Lane	29	29	0	-29
WP/19/00693/RES	Curtis Fields Phases 2A, 3A, 3B	298	214	0	-214
	<b>Subtotal</b>				<b>-479</b>

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	<b>Total</b>				<b>-2,770</b>

1.13 We therefore conclude that the deliverable supply at 1<sup>st</sup> April 2024 is 6,803 dwellings (i.e. 9,573 – 2,770 = 6,803). This equates to **3.79 years** against the local housing need, as shown in the following table:

**Table 1.2 – Dorset’s 5YHLS at 1<sup>st</sup> April 2024**

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,793	
B	Five year housing requirement (A X 5 years)	8,965	
	<b>Supply</b>		
C	5YHLS at 1 <sup>st</sup> April 2024	9,573	6,803
D	Supply in years (C / A)	<b>5.34</b>	<b>3.79</b>
E	Surplus / shortfall in 5YHLS (C – B)	<b>+608</b>	<b>-2,162</b>

## 2. Planning policy context

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (“the Framework”) is a material consideration, which is discussed below.

### Development Plan Context

#### Adopted development plan

- 2.2 Dorset Council covers the former districts / boroughs of East Dorset, North Dorset, Purbeck, West Dorset and Weymouth and Portland. On 1<sup>st</sup> April 2024, the adopted Local Plans covering these former local authority areas were more than 5 years old.
- 2.3 Of relevance to this statement is the fact that the housing requirement set out in adopted strategic policies is over five years old and therefore in accordance with paragraph 77 and footnote 42 of the Framework, the Council’s 5YHLS should now be measured against the local housing need calculated using the standard method set out in the PPG. At 1<sup>st</sup> April 2024, this is 1,793 dwellings per annum.

#### Emerging development plan

- 2.4 According to the Council’s Local Development Scheme (March 2024), formal work will commence on a Dorset-wide Local Plan in Quarter 3 of 2024, meaning that the emerging development plan is not at Regulation 18 stage.
- 2.5 The Dorset Council Local Plan Options Consultation took place between 18 January and 15 March 2021. Work done on this will carry forward into the plan preparation under the new Local Plan system.

### Other material considerations

#### Dorset Council’s Annual position statement – 5 year housing land supply (June 2024)

- 2.6 The Council’s Draft version Annual position statement (June 2024) states that at 1<sup>st</sup> April 2024, Dorset had a deliverable supply of 9,573 dwellings, which against the local housing need of 1,793 dwellings equates to **5.34 years**.

## National planning policy and guidance

### The National Planning Policy Framework (“the Framework”)

- 2.7 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021, September 2023, and most recently on 20<sup>th</sup> December 2023.
- 2.8 The relevant sections of the revised Framework in relation to this statement are:
- Footnote 8 which explains that the tilted balance to the presumption in favour of sustainable development applies where a) a local planning authority cannot demonstrate a 5YHLS (or 4YHLS if applicable as set out in paragraph 226 or b) where the Housing Delivery Test result is less than 75%;
  - Section 5: Delivering a sufficient supply of homes, including:
    - Paragraph 60, which refers to the Government’s objective of significantly boosting the supply of homes;
    - Paragraph 61, which explains that the minimum number of homes needed should be informed by a local housing need calculated using the standard method set out in the PPG. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area;
    - Paragraph 72, in relation to an allowance for windfall sites;
    - Paragraph 75, which states that strategic policies should include a trajectory illustrating the expected rate of delivery over the plan period. It states that local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies;
    - Paragraph 76, which states that local planning authorities are not required to demonstrate a 5YHLS where a) the adopted plan is less than five years old and the adopted plan identified a 5YHLS of specific, deliverable sites at the time the examination concluded. Transitional arrangements set out in footnotes 40 and 79 explain that this applies for applications made on or after 20<sup>th</sup> December 2023;
    - Paragraph 77, which explains that the requirement to demonstrate a 5YHLS (or in some circumstances a 4YHLS) is a *minimum* requirement and explains that the supply should be measured against either the housing requirement set out in adopted strategic policies, or the local housing need where the strategic policies are more than five years old. Footnote 42 explains that if the adopted housing requirement has been reviewed and found not to require updating, it should still be used. Footnote 42 also explains that where the local housing need is used it should be calculated using the standard method set out in the PPG. Paragraph 77 and footnote 43 also explain that a 20% buffer should apply where the latest HDT result is less than 75%. Finally, paragraph 77 of the Framework states that the PPG provides further information on

calculating housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed;

- Paragraph 78, which explains the circumstances in which a 5YHLS can be confirmed through an annual position statement; and
  - Paragraph 79, in relation to Housing Delivery Test Action Plans and the policy consequences for failing the HDT.
- Annex 1: Implementation, including:
    - Paragraph 226, which explains the circumstances when a local planning authority only has to demonstrate a 4YHLS i.e. where an authority has an emerging local plan that has either been submitted for examination or has reached regulation 18 or 19 stage and includes both a policies map and proposed allocations towards meeting housing need.
  - Annex 2: Glossary, including:
    - The definition of “deliverable” on page 69; and
    - The definition of “windfall sites” on page 76.

### **Planning Practice Guidance (PPG)**

2.9 The PPG was first published in March 2014 and has been updated since. The relevant chapters of the PPG in relation to this statement are:

- Chapter 2a - Housing and economic needs assessment;
- Chapter 3 – Housing and economic land availability assessments; and
- Chapter 68 – Housing supply and delivery.

2.10 Chapter 68 of the PPG was last updated on 5<sup>th</sup> February 2024 to reflect the revised Framework, which was published on 20<sup>th</sup> December 2023.



### 3. Assessment of the Council's housing supply

3.1 Our assessment of the Council's five year housing land supply is based on six key stages:

1. Identifying the base date and five year period;
2. Identifying the housing requirement;
3. Identifying the past shortfall or over-supply;
4. Identifying how the past over-supply should be addressed;
5. Applying the appropriate buffer; and
6. Identifying a Realistic and Deliverable Supply.

3.2 Each stage is addressed below.

## 4. Stage 1: Agreeing the base date and five year period

- 4.1 The base date is the start date for the five year period for which both the requirement and supply should relate.
- 4.2 The current housing land supply position statement has a base date of 1<sup>st</sup> April 2024 and a five year period to 31<sup>st</sup> March 2029. We have assessed the supply at 1<sup>st</sup> April 2024 as that remains the most up to date position.
- 4.3 The Council should not attempt to include any new sites, which are not already within its schedule of sites as being deliverable at the base date. This would effectively mean changing the base date to beyond 1<sup>st</sup> April 2024. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 4.4 In a decision in relation to an appeal made by Wavendon Properties Ltd against the decision of Milton Keynes Council to refuse to grant outline planning permission for a mixed use development including up to 203 dwellings at land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands<sup>3</sup>, the Secretary of State agreed with Inspector Gilbert-Wooldridge that whilst evidence which post-dated the base date was acceptable, this was only in relation to sites already in the schedule of sites. New sites should not be added after the base date<sup>4</sup>.
- 4.5 Similarly, in an appeal made by the Darnhall Estate against the decision of Cheshire West and Chester Council to refuse to grant residential development for up to 184 dwellings at land off Darnhall School Lane, Winsford<sup>5</sup>, the Secretary of State agreed with Inspector Middleton that it would be inappropriate for new sites to be included after the base date and that their insertion should await the next full review of the housing land supply position<sup>6</sup>.
- 4.6 We have therefore proceeded on the basis of the sites included in the Council's schedule at the base date.

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<sup>3</sup> PINS ref: 3169314 – 25<sup>th</sup> June 2020 - [Reference: APP/Y0435/W/17/3169314 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/y0435/w/17/3169314)

<sup>4</sup> Please see DL paragraph 12 and IR paragraph 12.12

<sup>5</sup> PINS ref: 2212671 – 4<sup>th</sup> November 2019 - [Reference: APP/A0665/W/14/2212671 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/a0665/w/14/2212671)

<sup>6</sup> Please see DL paragraph 15 and IR paragraph 344

## 5. Stage 2: Identifying the housing requirement

5.1 Given that the Local Plans that cover the former local authority areas which make up Dorset Council are now more than 5 years old, the Local Housing Need [LHN] is calculated using the Standard Method to establish the housing target.

5.2 In accordance with paragraph 77 and footnote 42 of the Framework, the five year housing land supply should be measured against the local housing need using the standard method set out in the PPG. Paragraph 2a-004 of the PPG<sup>7</sup> explains how local housing need is calculated. There are four steps:

- Step 1 – set the baseline by calculating the projected annual household growth over a 10 year period using the 2014-based household projections with the current year being used as the starting point. For Dorset, the annual household growth from 2024-34 is 1,281.
- Step 2 – make an adjustment to take account of affordability using the most recent median workplace-based affordability ratios. For Dorset, the most recent median workplace-based affordability ratio (published 25<sup>th</sup> March 2024) is 11.03. The affordability adjustment is 1.44. Therefore, the uncapped local housing need is 1,844 dwellings per annum.
- Step 3 – cap the level of any increase. For Dorset, the local housing need figure should be capped at 40% above the annual household growth of 1,281. This is 1,793 dwellings per annum.
- Step 4 – apply the cities and urban centres uplift – a 35% uplift is not applied because Dorset is not in the top 20 cities and urban centres list. This means that the local housing need is **capped at 1,793 dwellings per annum.**

5.3 The ‘base’ five year requirement is therefore 8,965 dwellings (i.e., 1,793 x 5 years = 8,965).

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<sup>7</sup> Paragraph: 004 Reference ID: 2a-004-20190220: “What is the standard method for assessing local housing need?”

## 6. Stages 3 and 4: Identifying the shortfall or oversupply and addressing it

### 6.1 Paragraph 68-031 of the PPG<sup>8</sup>: “How can past shortfalls in housing completions against planned requirements be addressed?” states:

“Where shortfalls in housing completions have been identified against planned requirements, strategic policy-making authorities may consider what factors might have led to this and whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure. Under-delivery may need to be considered where the plan being prepared is part way through its proposed plan period, and delivery falls below the housing requirement level set out in the emerging relevant strategic policies for housing.

Where relevant, strategic policy-makers will need to consider the recommendations from the local authority’s action plan prepared as a result of past under-delivery, as confirmed by the Housing Delivery Test.

The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.

Where strategic policy-making authorities are unable to address past shortfalls over a 5 year period due to their scale, they may need to reconsider their approach to bringing land forward and the assumptions which they make. For example, by considering developers’ past performance on delivery; reducing the length of time a permission is valid; re-prioritising reserve sites which are ‘ready to go’; delivering development directly or through arms’ length organisations; or sub-dividing major sites where appropriate, and where it can be demonstrated that this would not be detrimental to the quality or deliverability of a scheme.” (emphasis added)

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<sup>8</sup> Paragraph: 031 Reference ID: 68-031-20190722: “How can past shortfalls in housing completions against planned requirements be addressed?”

6.2 As in this case the five year housing land supply is to be measured against the local housing need, there is no requirement to specifically address under-delivery separately as this has been factored in as part of the affordability ratio under step 2 as highlighted in this part of the PPG.

## 7. Stage 5: Applying the buffer

### Housing Delivery Test

7.1 The Housing Delivery Test (HDT) is defined on page 71 of the Framework as follows:

“Housing Delivery Test: Measures net homes delivered in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England annually.”

7.2 The following consequences apply where the HDT results confirm delivery falls below specific thresholds.

7.3 Firstly, paragraph 79(a) of the Framework explains that where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years.

7.4 Secondly, paragraph 79(b) of the Framework explains that where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 77 of this framework, in addition to the requirement for an action plan.

7.5 Thirdly, paragraph 79(c) of the Framework explains that where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.

7.6 Guidance on the Housing Delivery Test is then provided in paragraphs 68-036 to 68-054 of the PPG, which should be read alongside the Housing Delivery Test measurement rule book.

7.7 The HDT Measurement Rule Book (July 2018) explains that HDT is calculated as a percentage of net homes delivered against the “number of homes required”. Paragraph 14 of the rulebook explains that where the latest adopted housing requirement is over five years old, unless the strategic policies have been reviewed and found not to require updating, the figure used for areas with a Local Plan will be the minimum annual local housing need figure.

7.8 The HDT results for 2022 were published on 19 December 2023. The result for Dorset is summarised in the table below:

**Table 7.1 – Published 2022 Housing Delivery Test Results**

	Number of homes required				Number of homes delivered				HDT %
	2019-20	2020-21	2021-22	Total	2019-20	2020-21	2021-22	Total	
Christchurch and East Dorset	712	537	816	2,065	774	448	629	1,851	90%
West Dorset and Weymouth & Portland	709	525	787	2,021	697	671	925	2,293	113%
North Dorset	261	204	332	797	96	201	298	595	75%
Purbeck	164	118	183	464	148	131	151	430	93%
<b>Total (Dorset Council area + Christchurch)</b>	<b>1,846</b>	<b>1,384</b>	<b>2,118</b>	<b>5,347</b>	<b>1,715</b>	<b>1,451</b>	<b>2,003</b>	<b>5,169</b>	<b>97%</b>

7.9 As can be seen from the table above, Dorset delivered 5,169 new homes over the last three years against the “number of homes required” over the same period of 5,347 dwellings. This results in a HDT measurement of 97% and means that the HDT has been passed. Consequently, the tilted balance set out in paragraph 11(d) of the Framework is not triggered because of the HDT result (although we conclude it is because of a 5YHLS shortfall), the buffer is not increased to 20% and an action plan is not required.

## 8. Stage 6: Identifying a Realistic and Deliverable Supply

8.1 On the supply side, the Council claims to have a deliverable supply at 1<sup>st</sup> April 2023 of 9,573 dwellings.

### What constitutes a deliverable site?

#### Previous National Planning Policy (2012) and Guidance (2014)

8.2 Footnote 11 of the 2012 Framework stated:

“To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”

8.3 Paragraph 3-031 of the previous PPG (dated 6<sup>th</sup> March 2014): “What constitutes a ‘deliverable site’ in the context of housing policy?” stated:

“Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (eg infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year housing supply.”



8.4 Therefore, under the 2012 Framework, all sites with planning permission, regardless of their size or whether the planning permission was in outline or in full were to be considered deliverable until permission expired unless there was clear evidence that schemes would not be “implemented” within five years. The PPG went further by stating that allocated sites “could” be deliverable and even non-allocated sites without planning permission “can” be considered capable of being delivered.

8.5 The Government consulted on the draft revised Framework between March and May 2018. The draft revised Framework provided the following definition of “deliverable” in the glossary:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Small sites, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

8.6 Question 43 of the Government’s consultation on the draft revised Framework asked: “do you have any comments on the glossary?”

8.7 There were 750 responses to question 43 of the consultation. Some of the points raised included:

**“Local authorities called for the proposed definition of ‘deliverable’ to be reconsidered, as it may result in them being unable to prove a five year land supply and place additional burdens on local authorities to produce evidence.** Private sector organisations were supportive of the proposed definition.” (emphasis added)

8.8 The government’s response was as follows:

“The Government has considered whether the definition of ‘deliverable’ should be amended further, but having assessed the responses it has not made additional changes. This is because **the wording proposed in the consultation is considered to set appropriate and realistic expectations for when sites of different types are likely to come forward.**” (emphasis added)

### Current National Planning Policy and Guidance

8.9 The definition of “deliverable” is set out on page 69 of the Framework (December 2023) and states:

“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

8.10 The definition of deliverable was not amended in the revised Framework published in December 2023.

8.11 The PPG was most recently updated on this issue on 22<sup>nd</sup> July 2019. Paragraph 68-007 of the PPG<sup>9</sup> provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;
- are allocated in a development plan;
- have a grant of permission in principle; or
- are identified on a brownfield register.

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s)

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<sup>9</sup> Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”

which confirms the developers' delivery intentions and anticipated start and build-out rates;

- firm progress with site assessment work; or
- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.”

### Assessment

- 8.12 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the current Framework is clear that only sites with detailed consent for major development should be considered deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.
- 8.13 As above, the PPG has been updated to provide some examples of the type of evidence which may be provided to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable.

### Relevant appeal decisions

- 8.14 There have been several appeal decisions which have considered the definition of “deliverable” as set out in the 2023 version of the Framework and whether “clear evidence” has been provided for the inclusion of sites which only have outline planning permission for major development or are allocated without planning permission. Whilst each appeal has been determined on a case by case basis on the evidence before the decision-maker, several themes have arisen in appeal decisions, which we discuss below.

#### The absence of any written evidence

- 8.15 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. For example:
- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich<sup>10</sup>, the Secretary of State removed 301 dwellings from Cheshire East Council's supply from sites including: “*sites with outline planning permission which had no*

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<sup>10</sup> PINS refs: 2197532 and 2197529 – 15<sup>th</sup> July 2020 – Appendix EP2

*reserved matters applications and no evidence of a written agreement*” (paragraph 21 of the decision letter dated 15<sup>th</sup> July 2020);

- In an appeal decision regarding land to the south of Cox Green Road, Surrey<sup>11</sup> an Inspector removed 563 dwellings on 24 sites from Waverley Council’s supply because the Council had not provided any evidence for their inclusion (paragraphs 22 to 24 of the appeal decision dated 16<sup>th</sup> September 2019);
- In an appeal decision regarding land at Station Road, Stalbridge, North Dorset<sup>12</sup> an Inspector removed 2 large sites from North Dorset’s supply (references A02 and A04) because the Council had not provided any up to date information from the developers for these sites and applications for reserved matters had not been made (paragraphs 53 and 57); and
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester<sup>13</sup>, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82).

### The most up to date evidence

8.16 Paragraph 68-004 of the PPG<sup>14</sup> explains that for decision-taking purposes, an authority will need to be able to demonstrate a five year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

- *“using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);*
- *‘confirming’ the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 78 of the National Planning Policy Framework).”*

8.17 As above, paragraph 68-007 of the PPG also states that *“robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions”*. It also states that the “current” planning status of a site is one example of the type of evidence that could be used to support the inclusion of category b) sites. Therefore, the latest available evidence should be used but this is only in relation to sites already in the supply.

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<sup>11</sup> PINS ref: 3227970 – 16<sup>th</sup> September 2019 - [Reference: APP/R3650/W/19/3227970 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/R3650/W/19/3227970)

<sup>12</sup> PINS ref: 3284485 – 20<sup>th</sup> June 2022 – Appendix EP3

<sup>13</sup> PINS ref: 3270721 – 27<sup>th</sup> May 2022 - [Reference: APP/L3815/W/21/3270721 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/L3815/W/21/3270721)

<sup>14</sup> Paragraph: 004 Reference ID: 68-004-20240205: *“How can an authority demonstrate a 5 year supply of deliverable housing sites?”*

8.18 In an appeal regarding land on the east side of Green Road, Woolpit<sup>15</sup>, the Inspector found Mid Suffolk Council’s approach in publishing its AMR and then retrospectively seeking evidence to justify its position “wholly inadequate”. Paragraph 70 of the appeal decision states:

“the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published.”

8.19 However, evidence can post date the base date to support the sites in the deliverable supply and not seek to introduce new sites. In an appeal regarding land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands (Milton Keynes)<sup>16</sup>, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability. Paragraph 12 of the Secretary of State’s decision letter dated 25<sup>th</sup> June 2020 states:

“For the reasons given at IR12.8-12.12 the Secretary of State agrees with the Inspector that it is acceptable that the evidence can post-date the base date provided that it is used to support sites identified as deliverable as of 1 April 2019 (IR12.11)”.

8.20 Similarly, in a decision regarding land off Darnhall School Lane, Winsford<sup>17</sup>, the Secretary of State agreed with Inspector Middleton that it is appropriate to take into account information received after the base date if it affects sites included in the deliverable supply<sup>18</sup>.

8.21 This means that where sites have not progressed as the Council’s trajectory claimed at the time the position statement was published, the supply should be reduced. In the Audlem Road appeal<sup>19</sup>, the Secretary of State removed from Cheshire East Council’s supply;

“a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress”. (paragraph 21 of the Decision Letter dated 15<sup>th</sup> July 2020)

8.22 Cheshire East Council’s Housing Monitoring Update (HMU) had a base date of 31<sup>st</sup> March 2019 and was published in November 2019. Representations by both parties on the HMU were received with the final

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<sup>15</sup> PINS ref: 3194926 – 28<sup>th</sup> September 2018 - [Reference: APP/W3520/W/18/3194926 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/w3520/w/18/3194926)

<sup>16</sup> PINS ref: 3169314 – 25<sup>th</sup> June 2020 - [Reference: APP/Y0435/W/17/3169314 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/y0435/w/17/3169314)

<sup>17</sup> PINS ref: 2212671 – 4<sup>th</sup> November 2019 - [Reference: APP/A0665/W/14/2212671 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/a0665/w/14/2212671)

<sup>18</sup> Paragraph 344 of the Inspector’s Report and paragraph 15 of the Decision Letter.

<sup>19</sup> PINS refs: 2197532 and 2197529 – Appendix **EP2**

comments received on 12<sup>th</sup> February 2020 (DL paragraph 7). Therefore, whilst the written evidence for this site explained a planning application would be made on this site in August 2019 because the application was not forthcoming by the time the decision was made and no other evidence of progress had been provided, the Secretary of State removed the site from the supply.

### The form and value of the evidence

- 8.23 In the Woburn Sands appeal decision referred to above, the Secretary of State agreed with the Inspector that a proforma can, in principle, provide clear evidence of a site's deliverability (please see paragraph 12 of the decision letter and paragraphs 12.13 to 12.15 of the Inspector's Report). However, the evidential value of the written information is dependent on its content. The Secretary of State and Inspectors have concluded that it is simply not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. The evidence needs to provide a realistic prospect that housing will be delivered on the site within five years.
- 8.24 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peveler<sup>20</sup>, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.
- 8.25 Braintree Council claimed that it could demonstrate a 5.29 year supply. In determining the appeal, the Secretary of State concluded that the Council could only demonstrate a 4.15 year supply. The reason for this is set out in paragraph 41 of the decision letter (page 7), which states:

“Having reviewed the housing trajectory published on 11 April, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission do not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years. He has therefore removed ten sites from the housing trajectory”

- 8.26 The ten removed sites are listed in a table provided at Annex D on page 24 of the Secretary of State's decision letter. Of the ten sites removed from Braintree's supply, 9 had outline planning permission and the remaining site was an allocated site with a hybrid planning application pending determination. For these sites, Braintree Council had submitted completed forms and emails from landowners, developers and their agents providing the timescales for the submission of reserved matters applications and anticipated build rates<sup>21</sup>. However, the Secretary of State removed these sites because he did not consider they met the definition of “deliverable” as set out in the Framework.

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<sup>20</sup> PINS ref: 3180729 – 8<sup>th</sup> July 2019 – Appendix EP4

<sup>21</sup> Appendix EP5

8.27 As part of its case in seeking to defend an appeal against its decision to refuse to grant outline planning permission for up to 140 no. dwellings at land off Popes Lane, Sturry<sup>22</sup>, Canterbury City Council claimed that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.

8.28 The Inspector, however, found that the Council could not demonstrate a five year housing land supply. The Inspector concluded that the deliverable supply was 4,644 dwellings, which equates to 4.8 years. The reason why the Inspector concluded that the deliverable supply was 1,811 dwellings (28%) less than the Council claimed was because he found that 10 sites should be removed from the supply because:

*“there is insufficient clear evidence to show that they meet the NPPF’s definition of deliverable. Sites which are not deliverable cannot be counted as part of the supply for the purposes of meeting the 5-year requirement.”* (paragraph 23)

8.29 In this case, Canterbury Council had provided statements of common ground between the Council and the developer or landowner to support the inclusion of several of the disputed sites. However, the Inspector found that the statements of common ground did not demonstrate that the development prospect was realistic. Paragraph 23 of the appeal decision states:

*“For a number of the disputed sites, the Council’s evidence is founded on site-specific SCGs which have been agreed with the developer or landowner of the site in question. I appreciate that the PPG refers to SCGs as an admissible type of evidence, and I have had full regard to that advice. But nevertheless, the evidential value of any particular SCG in this context is dependent on its content. In a number of cases, the SCGs produced by the Council primarily record the developer’s or landowner’s stated intentions. Without any further detail, as to the means by which infrastructure requirements or other likely obstacles are to be overcome, and the timescales involved, this type of SCG does not seem to me to demonstrate that the development prospect is realistic. In addition, most of the site-specific SCGs are undated, thus leaving some uncertainty as to whether they represent the most up-to-date position.”*

8.30 Similarly, as part of its case in seeking to defend an appeal made by Parkes Ltd against its decision to refuse to grant outline planning permission for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick<sup>23</sup>, Waverley Council claimed it could demonstrate a supply of 5,708 dwellings, which equated to just under 5.2 years against its housing requirement and buffer.

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<sup>22</sup> PINS ref: 3216104 – 3<sup>rd</sup> September 2019 - [Reference: APP/J2210/W/18/3216104 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk)

<sup>23</sup> PINS ref: 3227970 – 16<sup>th</sup> September 2019 - [Reference: APP/R3650/W/19/3227970 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk)

8.31 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a “deliverable” supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. We note that whilst Waverley Council’s assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site’s lead developer, the Inspector however considered that the details contained within it were “scant”. There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.

8.32 In an appeal decision dated 25<sup>th</sup> August 2022 regarding an appeal made by Salter Property Investments Ltd against the decision of Exeter City Council to refuse to grant outline planning permission for up to 93 dwellings at land off Spruce Close, Exeter<sup>24</sup>, the Inspector found:

- The pro-formas used by Exeter were undated, unsigned and deficient (paragraph 39);
- That 2 sites with outline planning permission and no reserved matters applications pending, and no clear evidence for their inclusion should be removed (paragraphs 40 and 41); and
- That even where reserved matters application had been made, where those applications are subject to outstanding objections and there is no written agreement with the developer, the sites should not be included because no clear evidence had been provided (paragraphs 42 and 43).

8.33 We now refer to two appeal decisions in Oxfordshire where the definition of “deliverable” and “clear evidence” were considered. For these cases we also append the clear evidence the Councils relied on.

#### Little Sparrows, Sonning Common (South Oxfordshire) Appeal Decision

8.34 At the time the South Oxfordshire Local Plan was examined, the Council’s 5YHLS position at 1<sup>st</sup> April 2020 was that it could demonstrate a 5.35 year supply. These claims were tested soon after the Local Plan was examined at an inquiry in relation to an appeal regarding Little Sparrows, Sonning Common<sup>25</sup>. In that case, the Inspector concluded that the Council could only demonstrate a 4.21 year supply.

8.35 Paragraph 18 of the appeal decision explains that at the inquiry, the Council’s case had fallen to 5.08 years. The Council’s case at that time was that it could demonstrate a deliverable 5YHLS of 5,785 dwellings and the Appellant’s case was that it could demonstrate a deliverable 5YHLS of 4,789 dwellings.

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<sup>24</sup> PINS ref: 3292721 – 25<sup>th</sup> August 2022 - [Reference: APP/Y1110/W/22/3292721 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/3292721)

<sup>25</sup> PINS ref: 3265861 – 25<sup>th</sup> June 2021 – Appendix EP6



The difference between the two positions was 996 dwellings on 15 sites as set out in table 3 of the SoCG for that case as referred to in paragraph 19 of the appeal decision.

8.36 Paragraphs 20 and 21 of the appeal decision then state:

“20. I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on ‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”

This advice indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. **Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.** (emphasis added)

8.37 This is relevant because in that case the Council had submitted emails from those promoting sites<sup>26</sup>. However, the Inspector in that case found that such emails were not clear evidence as set out in the paragraphs above.

8.38 Paragraph 22 of the appeal decision then stated:

“It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. **In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position.** For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its

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<sup>26</sup> Appendix EP7

case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. **There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years**” (emphasis added)

8.39 Paragraph 23 of the appeal decision states:

“Overall, I consider that the Appellant’s assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant’s approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times”

8.40 Finally, paragraph 25 of the appeal decision states:

“I consider that the Council’s supply figure should be reduced to reflect the Appellant’s position set out in Table 2 of SoCG 5. The Council’s supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to 4.21 years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.”

#### Land west of Wroslyn Road, Freeland (West Oxfordshire) appeal decision<sup>27</sup>

8.41 In this case, West Oxfordshire accepted that it could not demonstrate a deliverable 5YHLS. However, the extent of the shortfall was not agreed. Our evidence on behalf of the Appellant in that case was that 1,691 dwellings should be removed from West Oxfordshire’s 5YHLS. The Inspector found that the figure the 5YHLS was closer to our position of 2.5 years rather than the Council’s figure of 4.1 years (paragraph 59).

8.42 Paragraphs 50 to 57 of the appeal decision set out the Inspector’s findings on the disputed sites in that case. For the disputed sites, West Oxfordshire had provided emails and proformas to support the

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<sup>27</sup> PINS ref: 3301202 – 18<sup>th</sup> January 2023 – Appendix EP8

inclusion of the sites<sup>28</sup>. However, the Inspector concluded that this was not “clear evidence” and removed the sites from the deliverable supply.

## Annual Position Statements

8.43 Few authorities choose to have their 5YHLS confirmed through the Annual Position Statement (APS) route.

### South Kesteven – 2022 APS

8.44 South Kesteven submitted its APS for examination in July 2022. It claimed that at 1<sup>st</sup> April it had a deliverable supply of 4,770 dwellings, which equated to 6.1 years. Whilst Inspector John Felgate found the Council could demonstrate a 5YHLS, he removed 693 dwellings from 10 sites in the Council’s claimed supply and concluded the supply equated to 5.2 years.

8.45 Of the 10 sites, the Inspector reduced the number of dwellings that should be included in the 5YHLS on four sites and concluded that six sites should be removed from South Kesteven’s claimed supply. This was because the Council had not provided clear evidence for their inclusion and therefore these sites did not meet the definition of “deliverable”. Whilst the Council had provided “Housing Deliverability Forms” and emails provided by those promoting sites<sup>29</sup>, which included information such as when applications were going to be made and when a start on site could be expected, the Inspector found it was not clear evidence and removed the sites. The six removed sites were:

- APS007(S) Bridge End Road, Grantham (120 dwellings);
- APS011(S) Grantham Church High School, Queensway (40 dwellings);
- APS041 Main Road (South), Long Bennington (10 dwellings);
- APS043 Thistleton Lane/Mill Lane, South Witham (24 dwellings);
- APS045 Towngate West, Market Deeping (73 dwellings); and
- APS063(S) Land at Brittain Drive, Grantham (16 dwellings).

### South Kesteven – 2023 APS

8.46 South Kesteven then submitted its 2023 draft APS for assessment. It claimed that it had a deliverable supply at 1<sup>st</sup> April 2023 of 4,816 dwellings. Inspector Christina Downes found the Council could

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<sup>28</sup> Appendix EP9

<sup>29</sup> Appendix EP10

demonstrate a 5.01 year supply but concluded that 866 dwellings should be removed from the following 9 sites<sup>30</sup>:

**Table 8.1 – Deductions to South Kesteven’s 5YHLS at 1<sup>st</sup> April 2023**

Reference	Address	APS Inspector deduction	Reference in APS Inspector’s Report (EP11)
APS 017	Land north of Barnack Road, Stamford	110	Paragraphs 29-31, page 7
APS 023	Land north of Towngate East and south of Northfield Road, Market Deeping	120	Paragraph 32, pages 7 and 8
APS 041	Main Road (South), Long Bennington	39	Paragraphs 38-39, page 9
APS 043	Thistleton Lane and Mill Lane, South Witham	28	Paragraphs 40-42, pages 9-10
APS 045	Towngate West, Market Deeping	73	Paragraphs 43-44, page 10
APS 048	Rectory Farm (Phase 2 North West Quadrant), Grantham	100	Paragraphs 47-49, pages 10-11
APS 049	Prince William of Gloucester Barracks, Grantham	175	Paragraphs 50-52, pages 11-12
APS 054	Folkingham Road, Morton	71	Paragraphs 56-58, pages 12-13
APS 058	Stamford North	150	Paragraphs 59-62, pages 13-14
	<b>Total</b>	<b>866</b>	

8.47 Again, for these sites, South Kesteven provided Site Deliverability Information in the form of completed proformas. However, the Inspector did not find this was clear evidence for the inclusion of 866 dwellings in the claimed 5YHLS.

8.48 In summary, the above appeal decisions and APS Inspectors found that sites with outline planning permission for major development and allocated sites without planning permission should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required. In some cases those Councils had provided proformas and other evidence from those promoting sites, and Inspectors and the Secretary of State found this not to be clear evidence.

<sup>30</sup> Appendix EP11

8.49 As set out in the introduction to this statement, we respectfully invite the Inspector to compare the evidence in Appendix H with the evidence provided by Braintree, South Oxfordshire, West Oxfordshire and South Kesteven Councils which was found not to be clear evidence by the Secretary of State and Inspectors in those cases<sup>31</sup>.

8.50 We now set out our assessment of the Council's deliverable five year supply.

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<sup>31</sup> Appendices **EP5, EP7, EP9, EP10** and **EP12**

## 9. Sites allocated within Local Plans

9.1 The Council includes 964 dwellings on 16 no. large sites which did not have planning permission at the base date (of 1<sup>st</sup> April 2024) but were allocated in Local Plans. These 16 sites are listed in Appendix B of the draft APS: “Sites allocated within Local Plans”. We dispute the inclusion of all 16 sites as summarised in the following table.

**Table 9.1 – Disputed sites allocated within Local Plans**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites allocated within Local Plans (Appendix B of the draft APS)</b>					
BRID1	Vearse Farm (South East – Douglas Crammond)	80	20	0	-20
BRID3	Land east of Bredy Vets Centre	70	20	0	-20
CHIC2	Chickerell Urban Extension East	579	148	0	-148
CRS1	Land at Crossways	500	99	0	-99
DOR8	Four Paddocks – land south of St Georges Road, Dorchester	108	68	0	-68
LIS_F17	Land at Green Worlds	50	24	0	-24
LYMT3	Blarney’s Corner, Lytchett Matravers	25	25	0	-25
LYMT4	East of Flowers Drove, Lytchett Matravers	28	28	0	-28
LYMT2	East of Wareham Road, Lytchett Matravers	95	95	0	-95
CRS2	Redbridge Pit, Moreton Station	490	35	0	-35
No reference	Land at Policemans Lane,	92	92	0	-92

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	Upton (phase 2)				
WEY7	Council Offices, North Quay	75	75	0	-75
WOOL1	West of Chalk Pit Lane / Oakdene Road, Wool	320	120	0	-120
WOOL3	North of Railway Line, Wool	35	35	0	-35
WOOL1	North East of Burton Cross Roundabout	90	50	0	-50
WOOL1	North West of Burton Cross Roundabout	30	30	0	-30
	<b>Subtotal</b>		<b>964</b>	<b>0</b>	<b>-964</b>

9.2 We comment on these sites as follows.

### **BRID1: Vearse Farm (South East – Douglas Crammond) – Capacity = 80 dwellings, Council’s 5YHLS = 20 dwellings**

9.3 This site is listed in Appendix B (page 8 – 1<sup>st</sup> row). This part of the site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 20 dwellings in the 5YHLS, which it includes in year 5 (2028/29).

9.4 The Council relies on an e-mail from Doug Crammond dated 3<sup>rd</sup> May 2024 (Appendix H, pages 45-47). The email includes the promoter’s response to the Council’s proforma. It considers that 80 dwellings are deliverable (20 dwellings in year 3 – 2026/27, 40 dwellings in year 4 – 2027/28 and 20 dwellings in year 5 – 2028/29). Whilst the proforma provides these timescales and build out rates, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

- 9.5 As referred to in section 8 above, the evidence provided by Braintree, South Oxfordshire, West Oxfordshire and South Kesteven was more detailed than this and yet that was found not to be clear evidence of deliverability.
- 9.6 In addition, this site does not have vehicular access and is reliant on the development of the adjoining Vearse Farm allocation to provide access. Due to the phasing of the wider site, which has a 10+ year build programme, the delivery of the site will not be until the later phases, and will be subject to negotiation between the landowners / developers.
- 9.7 In the absence of clear evidence of deliverability, this site is not deliverable and **20 dwellings** should be removed from the Council's 5YHLS.

### **BRID3: Land east of Bredy Vets Centre – Capacity = 70 dwellings, Council's 5YHLS = 20 dwellings**

- 9.8 This site is listed in Appendix B (page 8 – 2<sup>nd</sup> row). This part of the site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 20 dwellings in the 5YHLS, which it includes in year 5 (2028/29).
- 9.9 The Council relies on an e-mail from AG Jessopp Limited dated 13<sup>rd</sup> May 2024 (Appendix H, pages 41-44). The email includes the promoter's response to the Council's proforma. It considers that 70 dwellings are deliverable (20 dwellings in year 3 – 2026/27, 25 dwellings in year 4 – 2027/28 and 25 dwellings in year 5 – 2028/29). Based on our client's experience with the planning department of Dorset Council, we consider that lengthy delays can be expected at all stages of the planning application process and it is highly unlikely that this site will be delivered in the anticipated timeframe.
- 9.10 Whilst the proforma provides these timescales and build out rates, it is scant in detail. It states:
- “The site has had ecological survey's and we are about to request pre app discussions with the development control team, to put in an application shortly after.”
- 9.11 It also states:
- “The submission of planning has been delayed by confusion caused by changes as to the biodiversity requirements”
- 9.12 This is not clear evidence of deliverability. In the absence of clear evidence of deliverability, this site is not deliverable and **20 dwellings** should be removed from the Council's 5YHLS.



## CHIC2: Chickerell Urban Extension East – Capacity = 579 dwellings, Council’s 5YHLS = 148 dwellings

9.13 This site does not have planning permission. However, a hybrid planning application was validated in November 2020 (over 3.5 years ago) for:

“Outline application for 393 dwellings with full details supplied in respect of 186 dwellings (Phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), details of the internal spine road, landscaping, drainage, car parking, golf ball fencing of various heights up to 30m, public open space, associated works and diversion of three public right of ways and with all matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space, landscaping, drainage and associated works.”

9.14 The application (LPA ref: WD/D/20/002569) remains undetermined. The Council’s Urban Design Officer has said that the proposals do not meet national or local policies relating to well-designed places. The Council’s Landscape Officer does not support the proposals. Chickerell Town Council has said that the application should be refused as no green space has been provided and Chickerell is severely lacking green space.

9.15 No information about the site or a proforma has been provided by the Council. Accordingly, there is no:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.16 No clear evidence of deliverability has been provided. It is unknown what the intentions of the promoter on this site are. **148 dwellings** should be removed from the Council’s 5YHLS.

## CRS1: Land at Crossways – Capacity = 500 dwellings, Council’s 5YHLS = 99 dwellings

9.17 This site does not have planning permission. However, a hybrid planning application was validated in April 2016 (over 8 years ago) for:

“A full planning application for the erection of 99 open market dwellings & affordable dwellings, a new doctors surgery, a replacement village hall, a car park, a new village green, new vehicular and pedestrian accesses and works to Warmwell Road. An outline application for the erection of 401 open market and affordable dwellings, the provision of 2.5ha of employment land, new vehicular and pedestrian accesses, roads, footpaths and cycleways, a car park for the proposed Site of Alternative

Natural Greenspace (SANG) and 2 pumping stations; and A full application for the change of use of 22.4ha of land to Site of Alternative Natural Greenspace (SANG).”

- 9.18 The application (LPA ref: WD/D/16/000378\_DP) remains undetermined.
- 9.19 The Council relies on an e-mail provided by Allenby Homes Limited dated 20<sup>th</sup> May 2024 (Appendix H, page 77). The email states:

“Thank you for your email. Given the current challenging housing market, it is difficult for us to provide a precise indication on housing delivery timelines, as our construction efforts are demand-driven”

- 9.20 The proforma has not been completed.
- 9.21 This is not clear evidence of deliverability. **99 dwellings** should be removed from the Council’s 5YHLS.

### **DOR8: Four Paddocks – land south of St Georges Road, Dorchester – Capacity = 108 dwellings, Council’s 5YHLS = 68 dwellings**

- 9.22 This site does not have planning permission. However, a full planning application was validated in August 2021 (**almost 3 years ago**) for the:

“Erection of 107 No. dwellings & associated works, including the formation of access, landscape & ecological enhancements”

- 9.23 The application (LPA ref: P/FUL/2021/02623) remains undetermined. Historic England has concerns about the application on heritage grounds. The National Trust has several serious concerns about the proposals. The Council’s Environmental Health department has noise concerns about the proposals and suggest that less properties are proposed to ensure that noise guidelines are met. Network Rail has serious concerns about the proposals and a potential impact on a level crossing. The Council’s Tree Officer has objected to the proposals due to several reasons. The Council’s Urban Design officer has objected to the proposals for a few reasons including that two thirds of the proposed dwellings would not meet nationally prescribed space standards. The Council’s Ecologist has concerns that bats will be forced along the A35.
- 9.24 No information about the site or a proforma has been provided by the Council.
- 9.25 No clear evidence of deliverability has been provided. **68 dwellings** should be removed from the Council’s 5YHLS.

## LIS\_F17: Land at Green Worlds – Capacity = 50 dwellings, Council’s 5YHLS = 24 dwellings

9.26 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 24 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on information provided by Adam Constantinou from Woolf Bond Planning who states that the development will be delivered in years 3 and 4 (2026/27 and 2027/28).

9.27 The Council relies on a partially completed pro-forma, with the only information being:

“Some limited tree clearance required. Following grant of planning permission, it is anticipated first delivery of new homes will occur in 2026/27.”

9.28 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.29 In the absence of clear evidence of deliverability, this site is not deliverable and **24 dwellings** should be removed from the Council’s 5YHLS.

## LYMT3: Blaney’s Corner, Lytchett Matravers – Capacity = 25 dwellings, Council’s 5YHLS = 25 dwellings

9.30 The Council includes 25 dwellings in the 5YHLS, which it includes in years 1 and 2 (2024/25 and 2025/26).

9.31 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspectors Report published in May 2024) it has not yet been adopted.

9.32 This site does not have planning permission. However, a full planning application was validated in February 2022 (**over 2 years ago**) to:

“Erect 25 dwellings (C3 use class), new vehicular and pedestrian access onto Wimborne Road and other associated works including landscaping and open space.”

9.33 The application (LPA ref: P/FUL/2022/01095) remains undetermined. Lytchett Matravers Parish Council has objected to the proposals due to the proposals being inappropriate development in the Green Belt.

The Council's Landscape Officer has objected to the application on the grounds of adversely affecting the openness of the green belt.

9.34 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 25 homes submitted February 2022. Determination is pending, subject to progress of the Purbeck Local Plan. Delivery programme is also contingent on resolution of nutrient neutrality requirements.”

9.35 Whilst the proforma provides the above information, it is scant in detail and the full planning application has been in the planning process for over 2 years and remains undetermined. This is one of our client's sites and we understand that due to lack of resources, the Council is not currently working on the above application; they are working on other applications; and the Council is unable to confirm when the application is due to go to planning committee.

9.36 In the absence of clear evidence of deliverability, this site is not deliverable and **25 dwellings** should be removed from the Council's 5YHLS.

#### **LYMT4: East of Flowers Drove, Lytchett Matravers – Capacity = 28 dwellings, Council's 5YHLS = 28 dwellings**

9.37 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector's Report published in May 2024) it has not yet been adopted.

9.38 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 28 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28).

9.39 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 28 homes is currently being prepared for submission Q3 2024. Delivery programme is subject to progress of the Purbeck Local Plan and resolution of nutrient neutrality requirements.”

9.40 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.41 In the absence of clear evidence of deliverability, this site is not deliverable and **28 dwellings** should be removed from the Council's 5YHLS.

### **LYMT2: East of Wareham Road, Lytchett Matravers – Capacity = 95 dwellings, Council's 5YHLS = 95 dwellings**

9.42 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector's Report published in May 2024) it has not yet been adopted.

9.43 The Council includes 95 dwellings in the 5YHLS, which it includes in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28).

9.44 This site does not have planning permission. However, a full planning application was validated in May 2021 (**over 3 years ago**) for the:

“Phased residential development of site for 95 dwellings, new vehicular and pedestrian access onto Wareham Road and other associated works including landscaping and open space.”

9.45 The application (LPA ref: 6/2021/0282) remains undetermined. The Campaign to Protect Rural England has objected to the proposals as it is premature and truly damaging which disregards the Green Belt and valued open countryside which has carbon capture potential. This is one of our client's sites and we understand that due to lack of resources, the Council is not currently working on the above application; they are working on other applications; and the Council is unable to confirm when the application is due to go to planning committee.

9.46 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 95 homes submitted May 2021. Determination is pending, subject to progress of the Purbeck Local Plan. Delivery programme is also contingent on resolution of nutrient neutrality requirements.”

9.47 Whilst the proforma provides the above information, it is scant in detail and the full planning application has been in the planning process for over 3 years and remains undetermined.

9.48 In the absence of clear evidence of deliverability, this site is not deliverable and **95 dwellings** should be removed from the Council's 5YHLS.

## CRS2: Redbridge Pit, Moreton Station – Capacity = 490 dwellings, Council’s 5YHLS = 35 dwellings

- 9.49 The site is a proposed allocation in the emerging Purbeck Local Plan, whilst this plan is at an advanced stage (Inspectors Report published in May 2024) it has not yet been adopted.
- 9.50 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in year 5 (2028/29). No justification has been provided for this.
- 9.51 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:
- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
  - Clear evidence of any site assessment work.
- 9.52 There are significant constraints to the delivery of this site. Current uses on this site include a caravan park and an active quarry. It is unclear when these tenancies will terminate. This site could only realistically be considered as a long term prospect for housing.
- 9.53 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

## No reference: Land at Policemans Lane, Upton (phase 2) – Capacity = 92 dwellings, Council’s 5YHLS = 92 dwellings

- 9.54 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.
- 9.55 The Council includes 92 dwellings in the 5YHLS, which it includes in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28). This is in accordance with information provided by Tim Hoskinson from Wyatt Homes.
- 9.56 This site does not have planning permission. However, a full planning application was validated in January 2020 (**over 4 years ago**) for the:
- “Erection of 92 Dwellings with access via Osprey Close, associated landscaping, drainage and footpaths onto Watery Lane.”
- 9.57 The application (LPA ref: 6/2019/0717) remains undetermined.

9.58 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 92 homes submitted in 2019, determination is pending, subject to progress of the Purbeck Local Plan. Delivery programme is also contingent on resolution of nutrient neutrality requirements.”

9.59 Whilst the proforma provides the above information, it is scant in detail and the full planning application has been in the planning process for over 4 years and remains undetermined. This is one of our client’s sites and we understand that due to lack of resources, the Council is not currently working on the above application; they are working on other applications; and the Council is unable to confirm when the application is due to go to planning committee.

9.60 In the absence of clear evidence of deliverability, this site is not deliverable and **92 dwellings** should be removed from the Council’s 5YHLS.

### **WEY7: Council Offices, North Quay – Capacity = 75 dwellings, Council’s 5YHLS = 75 dwellings**

9.61 An outline application for the ‘*Demolition of the existing office buildings and redevelopment with approximately 72 dwellings and approximately 216 sq. m. of commercial space (Outline)*’ was approved in July 2016 (WP/15/00031/OUT). No reserved matters applications have been made. Condition 2 of the above outline approval states that ‘*application for approval of any ‘reserved matter’ must be made not later than the expiration of three years beginning with the date of this permission., i.e. by July 2019.* Given that no reserved matters application had been made or approved by July 2019, **the permission has lapsed.**

9.62 This site is a longstanding allocation that has failed to deliver to date. This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 75 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on the trajectory provided by Craig Bates, the Council’s Interim Development Manager which states that the dwellings will be delivered in years 2 and 3 (2025/26 and 2026/27 – Appendix H, page 241).

9.63 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Instead, the Council’s Interim Development Manager has partially completed the proforma and stated:

“We expect to procure a development partner this year, subject to detailed planning consent. Final contract to be signed by May 2025 so they can start building late 2025.

As the scheme has yet to be determined I have estimated 75 units. It could be more.  
If the scheme is all flats then completion may not be until 26/27 with none in 25/26”.

9.64 The proforma is not completed by the developer and is partially completed by the Council. The proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.65 In the absence of clear evidence of deliverability, this site is not deliverable and **75 dwellings** should be removed from the Council’s 5YHLS.

### **WOOL1: West of Chalk Pit Lane / Oakdene Road, Wool – Capacity = 320 dwellings, Council’s 5YHLS = 120 dwellings**

9.66 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.

9.67 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 120 dwellings in the 5YHLS, which it includes in years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). No justification has been provided for this.

9.68 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.69 This site cannot be delivered in isolation as it relies on adjoining land for drainage.

9.70 In the absence of clear evidence of deliverability, this site is not deliverable and **120 dwellings** should be removed from the Council’s 5YHLS.



### WOOL3: North of Railway Line, Wool – Capacity = 35 dwellings, Council’s 5YHLS = 35 dwellings

- 9.71 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.
- 9.72 This site does not have planning permission. However, a full planning application was validated in April 2021 (**over 3 years ago**) for the:
- “Development of 35 new homes, together with the provision of associated pedestrian and vehicle access, infrastructure, drainage, open space, landscaping and ancillary and related development.”
- 9.73 The application (LPA ref: 6/2021/0045) remains undetermined. The LLFA has issued a holding objection to the proposals. Wool Parish Council has objected to the proposals for several reasons. Dorset Waste Partnership has objected to the proposals for a few reasons.
- 9.74 It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in year 4 (2027/28). No justification has been provided for this.
- 9.75 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma.
- 9.76 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

### WOOL1: North East of Burton Cross Roundabout – Capacity = 90 dwellings, Council’s 5YHLS = 50 dwellings

- 9.77 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.
- 9.78 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 50 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). No justification has been provided for this.
- 9.79 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.80 In the absence of clear evidence of deliverability, this site is not deliverable and **50 dwellings** should be removed from the Council's 5YHLS.

### **WOOL1: North West of Burton Cross Roundabout – Capacity = 30 dwellings, Council's 5YHLS = 30 dwellings**

9.81 The site is a proposed allocation in the emerging Purbeck Local Plan, whilst this plan is at an advanced stage (Inspectors Report published in May 2024) it has not yet been adopted.

9.82 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 30 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). No justification has been provided for this.

9.83 The developer has not provided any "clear evidence" of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.84 In the absence of clear evidence of deliverability, this site is not deliverable and **30 dwellings** should be removed from the Council's 5YHLS.

## 10. Sites allocated within Neighbourhood Plans

10.1 The Council includes 263 dwellings on 10 no. sites which did not have planning permission at the base date (of 1<sup>st</sup> April 2024) but were allocated in Neighbourhood Plans. These sites are listed in Appendix C of the draft APS: “Sites allocated in neighbourhood plans”. We dispute the inclusion of 245 dwellings on 8 of these sites as summarised in the following table.

**Table 10.1 – Disputed sites allocated in Neighbourhood Plans**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites allocated in Neighbourhood Plans (Appendix C of the draft APS)</b>					
NP_PV1	Austral Farm	10	10	0	-10
NP_BR01	Back Lane, Bere Regis	51	51	0	-51
NP_BR02	North Street, Bere Regis	15	15	0	-15
Policy BR7	Former School Site, Bere Regis	21	21	0	-21
Policy BR7	White Lovington, Bere Regis	17	17	0	-17
NP alloc 6	Clarkes Yard, Bath Road	30	30	0	-30
NP alloc 1	North of the Livestock Market	86	86	0	-86
H5	Westminster Road Industrial Estate	30	15	0	-15
	<b>Subtotal</b>		<b>245</b>	<b>0</b>	<b>-245</b>

10.2 We discuss these sites as follows.

## NP\_PV1: Austral Farm – Capacity = 10 dwellings, Council’s 5YHLS = 10 dwellings

10.3 This site does not have planning permission. However, a full planning application was validated in January 2021 (over 3 years ago) for:

“Removal of modern buildings (including agricultural building, grain store, silage pit & dutch barn etc). Conversion of traditional buildings into offices (Class E (g)) and a café (Class E (b)). Creation of 9no residential units (Class C3) & 2no. workshop buildings (Class B2).”

10.4 The application (LPA ref: WD/D/20/003302) remains undetermined. The Council’s Landscape Officer has objected to the application because supporting information is missing. The Council’s AONB team has concerns regarding the extent of vegetation proposed for removal and the limited details of future planting.

10.5 The Council relies on an e-mail provided by Carter Jonas dated 22<sup>nd</sup> April 2024. The email states:

“Planning hasn’t yet been approved for this site so we’re unsure of timescales.”

10.6 The proforma has not been completed.

10.7 This is not clear evidence of deliverability. **10 dwellings** should be removed from the Council’s 5YHLS.

## NP\_BR01: Back Lane, Bere Regis – Capacity = 51 dwellings, Council’s 5YHLS = 51 dwellings

10.8 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 51 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28). This information has been provided by Wyatt Homes.

10.9 The Council relies on a partially completed pro-forma, with the only information being:

“A full planning application is currently being prepared for submission Q2 2024. Delivery programme is subject to resolution of nutrient neutrality requirements.”

10.10 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made given that the Q2 2024 deadline has been missed; or
- Clear evidence of any site assessment work.

10.11 In the absence of clear evidence of deliverability, this site is not deliverable and **51 dwellings** should be removed from the Council's 5YHLS.

### **NP\_BR02: North Street, Bere Regis – Capacity = 15 dwellings, Council's 5YHLS = 15 dwellings**

10.12 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 15 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). This information has been provided by Wyatt Homes.

10.13 The Council relies on a partially completed pro-forma, with the only information being:

"A full planning application is currently being prepared for submission Q2 2024. Delivery programme is subject to resolution of nutrient neutrality requirements."

10.14 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made given that the Q2 2024 deadline has been missed; or
- Clear evidence of any site assessment work.

10.15 In the absence of clear evidence of deliverability, this site is not deliverable and **15 dwellings** should be removed from the Council's 5YHLS.

### **Policy BR7: Former School Site, Bere Regis – Capacity = 21 dwellings, Council's 5YHLS = 21 dwellings**

10.16 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 21 dwellings in the 5YHLS, which it includes in year 3 (2026/27). The Council relies on information provided by Chris McDermott, the Council's Senior Housing Enabling & Policy Officer which states that the dwellings will be delivered in year 2 (2025/26).

10.17 The developer has not provided any "clear evidence" of deliverability of the site, nor have they completed the proforma. Instead, the Council's Senior Housing Enabling & Policy Officer has partially completed the proforma and stated:

‘they are waiting on the Nutrient Neutrality to be sorted and then hopefully they can put in for planning permission’ and ‘school to be demolished. Depends when they can get planning permission as when this will happen’.

10.18 The proforma is not completed by the developer and is partially completed by the Council. The proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

10.19 In the absence of clear evidence of deliverability, this site is not deliverable and **21 dwellings** should be removed from the Council’s 5YHLS.

### Policy BR7: White Lovington, Bere Regis – Capacity = 17 dwellings, Council’s 5YHLS = 17 dwellings

10.20 This site does not have planning permission. However, a full planning application was validated in January 2020 (over 4 years ago) to:

“Erect 17 No. dwellings, create an access and associated parking and landscaping.”

10.21 The application (LPA ref: 6/2020/0013) remains undetermined. The Council’s Planning Policy department has objected to the proposals due to the lack of affordable housing, non-compliance with the Bere Regis Neighbourhood Plan and due to habitats regulations and biodiversity mitigation. Natural England has requested further information before it can form a view on the proposals. Bere Regis Parish Council has objected to the proposals for several reasons.

10.22 An email from Adam Bennett from Ken Parke Planning Consultants dated 22<sup>nd</sup> April 2024 states that the dwellings will be delivered in years 2 and 3 (2025/26 and 2026/27). The completed proforma provided by Adam Bennett states that:

“Delivery has been substantially delayed by the Nutrient Neutrality issue. The Application was originally recommended for approval in April 2021 by the Dorset Eastern Area Planning Committee.”

10.23 In relation to abnormal costs which may affect deliver, Adam Bennett states that:

“Confirmation awaited, due to the delay in permission being granted, whether there remains a requirement for a site specific Heathland Infrastructure Project (HIP) to be delivered in the short term.”

10.24 This is not clear evidence of deliverability. **17 dwellings** should be removed from the Council’s 5YHLS.

## NP alloc 6: Clarkes Yard, Bath Road – Capacity = 30 dwellings, Council’s 5YHLS = 30 dwellings

10.25 This site has a long planning history and to date, has been undeliverable due to viability issues. The Council first included this site in its housing land supply in 2008 (LPA ref: 2/54/0166).

10.26 An outline application to ‘develop land by the erection of 29 No. dwellings with associated parking and access (outline application to determine access, layout and scale). Demolish existing buildings.’ was approved in August 2017 (LPA ref: 2/2016/0788/OUT).

10.27 A reserved matters application to determine appearance and landscaping, following the grant of outline planning permission was approved in November 2021 (LPA ref: P/RES/2021/00696). Condition 1 of the above outline approval states that ‘the development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved’, i.e. by November 2023. Given that the development had not begun by November 2023, the permission has lapsed.

10.28 Accordingly, this site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 30 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29).

10.29 The proforma is partially completed by Simon Sharp from Boon Brown who states that ‘we are intending to submit a full application in Summer 2025 with sufficient information to avoid the need for pre-commencement conditions. A Housing Association is already secured to deliver the affordable housing’. However, the proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. There is no evidence provided that this will be Summer 2025; or
- Clear evidence of any site assessment work.

10.30 In the absence of clear evidence of deliverability, this site is not deliverable and **30 dwellings** should be removed from the Council’s 5YHLS.

## NP alloc 1: North of the Livestock Market – Capacity = 86 dwellings, Council’s 5YHLS = 86 dwellings

10.31 This site was allocated in the North Dorset Local Plan (2003) for residential development. The Council first included this site in its housing land supply in 2007.

10.32 This site does not have planning permission. However, a full planning application was validated in November 2023 for the:

“Erection of 86no. dwellings, formation of access, green space & associated infrastructure”.

10.33 The application (LPA ref: P/FUL/2023/06986) remains undetermined. The Council’s Tree Officer has concerns that trees are not being given the consideration they require and has placed a Tree Preservation Order (TPO) over several trees on the site. The Council’s Landscape Architect has objected to the proposals for several reasons. The LLFA has issued a holding objection to the application. There are ecological constraints associated with the site which would need to be addressed prior to the delivery of this site.

10.34 No information about the site or a proforma has been provided by the Council.

10.35 No clear evidence of deliverability has been provided. **86 dwellings** should be removed from the Council’s 5YHLS.

### **H5: Westminster Road Industrial Estate – Capacity = 30 dwellings, Council’s 5YHLS = 15 dwellings**

10.36 This site does not have planning permission. However, an outline application was validated in March 2022 to:

“Demolish the existing industrial unit at 1 Westminster Road, and erect 9 residential dwellings (Outline application with all matters reserved)”.

10.37 The application (LPA ref: P/OUT/2022/01345) remains undetermined. Natural England has objected to the proposals on the basis that there is insufficient information to confirm that adverse effects from increased levels of nutrients in Poole Harbour SPA/Ramsar have been avoided. The Council’s Housing Officer has objected to the proposals due to lack of affordable housing proposed. The site contains multiple occupants and is in multiple ownerships. The site is currently in use as an industrial estate.

10.38 No information about the site or a proforma has been provided by the Council. Accordingly, there is no:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

10.39 No clear evidence of deliverability has been provided. **15 dwellings** should be removed from the Council’s 5YHLS.



# 11. Specific Large Sites

11.1 The Council includes 426 dwellings on 14 large sites in its 5YHLS on “Specific Large Sites”. These sites are listed in appendix D of the draft APS: “Specific Large Sites”. The sites did not have detailed planning permission at the base date. We dispute the inclusion of the 359 dwellings on 10 of these sites as summarised in the following table.

**Table 11.1 – Disputed Specific Large Sites**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Specific large sites (these sites are listed in Appendix D of the draft APS)</b>					
6/2019/0639	Land North of West Lane, Stoborough	15	15	0	-15
P/FUL/2024/00233	Brewery site (Lot 2), Blandford St Mary	41	41	0	-41
LA/BLSM/003	Brewery site (Lot 4), Blandford St Mary	21	21	0	-21
P/OUT/2021/05309	Land Adjacent Broadmead, Broadmayne	80	80	0	-80
WD/D/17/000800	South of Fullers, Bridport Road, Broadwindsor	22	22	0	-22
WD/D/20/001242	Tennis Courts, Trinity St Carpark	15	15	0	-15
LA/SIXP/004	Land off Dean Lane	55	35	0	-35
LA/SIXP/005	Land off The Orchard	30	30	0	-30
P/FUL/2023/06544	Lakeside	65	65	0	-65

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	Superbowl, St Nicholas Street				
LA/COLE/022	Furzehill - Previous Council Offices	35	35	0	-35
	<b>Subtotal</b>		<b>359</b>	<b>0</b>	<b>-359</b>

11.2 We discuss these sites as follows.

**6/2019/0639: Land North of West Lane, Stoborough – Capacity = 15 dwellings, Council’s 5YHLS = 15 dwellings**

11.3 This site does not have planning permission. However, an outline application was validated in November 2019 (over 4 years ago) for:

“Up to 15 residential dwellings, site re-profiling and associated infrastructure, with all matters reserved apart from vehicular access from West Lane.”

11.4 The application (LPA ref: 6/2019/0639) remains undetermined.

11.5 Accordingly, this site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 15 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28).

11.6 The proforma is partially completed by Hayzee Pritchard who states that:

“Dorset Council resolved to approve outline planning application 6/2019/0639 in August 2021. The section 106 agreement was signed in March 2022 but the planning permission has not been able to be issued due to nutrient neutrality. A solution has, however, been identified and so we are hopeful that the planning permission will be issued by 1 June 2024. This will pave the way for a reserved matters application to be prepared and submitted.”

11.7 As above the outline application was not determined by 1<sup>st</sup> June 2024 and is still pending determination.

11.8 However, the proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a reserved matters application. There is no evidence when this will be; or
- Clear evidence of any site assessment work.

11.9 In the absence of clear evidence of deliverability, this site is not deliverable and **15 dwellings** should be removed from the Council's 5YHLS.

### **P/FUL/2024/00233: Brewery site (Lot 2), Blandford St Mary – Capacity = 41 dwellings, Council's 5YHLS = 41 dwellings**

11.10 A full planning application was validated in February 2024 (LPA ref: P/FUL/2024/00233) to:

“Convert buildings into 24 No. dwellings and erect 17 No. dwellings, form parking.”

11.11 The full planning application is still pending determination. Accordingly, this site does not have planning permission.

11.12 Dorset Police has concerns that the proposals are currently open to crime and disorder. The Council's Natural Environment Team has said that the proposals lack the recommended bat surveys. The LLFA has issued a holding objection to the proposals on grounds of surface water discharge. The Highway Authority has raised several concerns with the proposals. The Council's Tree Officer has said that the proposals are unsatisfactory and lack sustainability.

11.13 The Council considers that the proposals will be delivered in year 4 (2027/28). No proforma or information on deliverability has been provided by the developer.

11.14 In the absence of clear evidence of deliverability, this site is not deliverable and **41 dwellings** should be removed from the Council's 5YHLS.

### **LA/BLSM/003: Brewery site (Lot 4), Blandford St Mary – Capacity = 21 dwellings, Council's 5YHLS = 21 dwellings**

11.15 This site does not have detailed consent. An outline application was approved in February 2017 (LPA ref: 2/2015/1269/OUT) to:

“Develop land by the erection of residential development, comprising a mix of new buildings and restoration, extension and conversion of existing brewery buildings. Modify existing / create vehicular / pedestrian access points, access roads and car parking; ancillary engineering and other works including drainage proposals, raising ground levels, landscaping and elevation changes to existing brewery and commercial

buildings - outline application with access to be approved for whole site, together with scale, layout and appearance for the restoration, extension and conversion of existing brewery buildings for residential use and for elevation changes to existing brewery and commercial buildings (demolish existing buildings). (Outline application to determine access).”

11.16 No reserved matters application has since been submitted.

11.17 Accordingly, this site does not have detailed consent or a reserved matters application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 21 dwellings in the 5YHLS, which it includes in year 5 (2028/29). The Council relies on information provided by David Ramsay who has said that the dwellings will be delivered in year 2 (2025/26).

11.18 The proforma has not been completed. Accordingly, there is no:

- Clear evidence of firm progress towards the submission of a planning application. There is no evidence provided that this will be Summer 2025; or
- Clear evidence of any site assessment work.

11.19 In the absence of clear evidence of deliverability, this site is not deliverable and **21 dwellings** should be removed from the Council’s 5YHLS.

### **P/OUT/2021/05309: Land Adjacent Broadmead, Broadmayne – Capacity = 80 dwellings, Council’s 5YHLS = 80 dwellings**

11.20 This site does not have planning permission. However, an outline application was validated in December 2021 (**over 2 years ago**) for:

“Development of up to 80 residential dwellings, together with open space, allotments and enhanced drainage features (outline application to determine access only).”

11.21 The application (LPA ref: P/OUT/2021/05309) remains undetermined.

11.22 Accordingly, this site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 80 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on information provided by Brett Spiller who states that the dwellings will be delivered in years 3 and 4 (2026/27 and 2027/28).

11.23 The proforma is partially completed by Brett Spiller who states that there is a:

“Resolution to approve Outline Consent – subject to completion of S106 (and confirmation of offset phosphates mitigation strategy).”

11.24 However, the proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. There is no evidence when this will be; or
- Clear evidence of any site assessment work.

11.25 In the absence of clear evidence of deliverability, this site is not deliverable and **80 dwellings** should be removed from the Council’s 5YHLS.

### **WD/D/17/000800: South of Fullers, Bridport Road, Broadwindsor – Capacity = 22 dwellings, Council’s 5YHLS = 22 dwellings**

11.26 This site does not have planning permission. However, an outline application was approved in December 2018 (LPA ref: WD/D/17/000800) for the:

“Erection of up to 22 dwellings, formation of access, on-site parking provision and associated works (amended scheme).”

11.27 A full planning application was validated in January 2021 (LPA ref: WD/D/21/000123) to:

“Erect 22 dwellings and associated works, including the formation of access, surface water attenuation pond, landscape and ecological enhancements (AMENDED SCHEME).”

11.28 The full planning application is still pending determination. Accordingly, this site does not have planning permission.

11.29 Broadwindsor Group Parish Council has raised several concerns about the proposals. The Council’s Landscape Officer has concerns about the proposals. The Council’s Tree Officer requires updated arboricultural information prior to forming a view on the proposals. The Council’s Urban Design Officer has objected to the proposals because it represents such a departure from the approved plans of the outline approval. Broadwindsor Group Parish Council states that the proposals are not in accordance with the Broadwindsor Neighbourhood Plan. The Council’s Housing Enabling Team states that the proposals do not provide enough affordable housing and do not comply with relevant Local Plan policies.

11.30 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

11.31 In the absence of clear evidence of deliverability, this site is not deliverable and **22 dwellings** should be removed from the Council's 5YHLS.

### **WD/D/20/001242: Tennis Courts, Trinity St Carpark – Capacity = 15 dwellings, Council's 5YHLS = 15 dwellings**

11.32 A full planning application was validated in May 2020 (LPA ref: WD/D/20/001242) for the:

“Erection of 15no. one bedroom affordable flats, including one wheelchair accessible dwelling (revised scheme).”

11.33 The full planning application is still pending determination. In terms of ownership issues, the developer has said that an *'easement will be needed with Dorset Council. Negotiations underway'*.

11.34 Accordingly, this site does not have planning permission. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 15 dwellings in the 5YHLS, which it includes in year 5 (2028/29). An email from Robin James, East Boro Housing Trust, considers that the proposals will be delivered in year 4 (2027/28).

11.35 The only information provided by the developer is a partially completed proforma which states that the *'start has been delayed until at least 2026/27'* and the site is *'close to roman walls. Will need archaeological surveys during build'*.

11.36 In the absence of clear evidence of deliverability, this site is not deliverable and **15 dwellings** should be removed from the Council's 5YHLS.

### **LA/SIXP/004: Land off Dean Lane – Capacity = 55 dwellings, Council's 5YHLS = 35 dwellings**

11.37 This site is not allocated; it is outside of the current settlement boundary; and is located within Areas of Outstanding Natural Beauty (AONB). Progress of any future planning application on the site would be contingent upon a change in policy status.

11.38 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on information from Phillip Saunders, Wyatt Homes considers that the site will be developed in years 3, 4 and 5 (2027/28, 2028/29 and 2029/30).

11.39 The email from Phillip Saunders, Wyatt Homes states that:

“Housing delivery of c. 50 units (private and affordable) could take place towards the end of the 5 year trajectory period, and into the years beyond (please see table above). However, this would likely be subject to a housing allocation within the emerging Dorset Local Plan and a subsequent planning permission.”

11.40 The email is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

11.41 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

## LA/SIXP/005: Land off The Orchard – Capacity = 30 dwellings, Council’s 5YHLS = 30 dwellings

11.42 This site is not allocated; it is outside of the current settlement boundary; and is located within Areas of Outstanding Natural Beauty (AONB). Progress of any future planning application on the site would be contingent upon a change in policy status.

11.43 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 30 dwellings in the 5YHLS, which it includes in year 5 (2028/29). This is in accordance with information provided in an email from Richard Mears.

11.44 The Council relies on an email from Richard Mears which states that ‘30 units anticipated for delivery by 2028/29 or if later, by 2034. Build out could occur over a one to two year period’ and ‘abnormal costs have not be identified at this stage’.

11.45 The email is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this will be made; or
- Clear evidence of any site assessment work.

11.46 In the absence of clear evidence of deliverability, this site is not deliverable and **30 dwellings** should be removed from the Council’s 5YHLS.

## P/FUL/2023/06544: Lakeside Superbowl, St Nicholas Street – Capacity = 65 dwellings, Council’s 5YHLS = 65 dwellings

11.47 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 65 dwellings in the 5YHLS, which it includes in year 5 (2028/29). This is in accordance with the trajectory provided by Craig Bates, the Council’s Interim Development Manager.

11.48 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Instead, an email from the Council’s Interim Development Manager states:

‘The Weymouth Bowl site will be turned into a temporary car park once the buildings are cleared this year. No definite scheme has been decided yet but we expect procurement of a developer to take place within the next two years. Use of this site



will be influenced by other regeneration sites in Weymouth. The site could support 60-70 units’.

11.49 The proforma is not completed by the developer and is partially completed by the Council. The proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

11.50 In the absence of clear evidence of deliverability, this site is not deliverable and **65 dwellings** should be removed from the Council’s 5YHLS.

### **LA/COLE/022: Furzehill – Previous Council Offices – Capacity = 35 dwellings, Council’s 5YHLS = 35 dwellings**

11.51 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28). This aligns with the trajectory provided by Stella Yates, the Council’s Interim Lead Manager Developments.

11.52 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Instead, an email from the Council’s Interim Development Manager states that:

“The previously selected developer due to purchase the site at Furzehill withdrew over a year ago due to increased costs impacting the viability of their proposed scheme. In February 2024 the site was re-marketed with offers invited to purchase and develop the site. We are currently reviewing the offers received which are all subject to planning. From the returned offers a calculation of the number of housing units is assumed at this stage and equally the projected delivery dates.”

11.53 The email from the Council is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

11.54 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

## 12. Rural exception sites

12.1 The Council includes 56 dwellings on 6 rural exception sites as listed in Appendix G. We dispute the inclusion of 22 dwellings on the following site.

**Table 12.1 – Disputed rural exception site**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Rural exception sites (Appendix G of the draft APS)</b>					
No reference	Corfe Caste CLT	22	22	0	-22
	<b>Subtotal</b>		<b>22</b>	<b>0</b>	<b>-22</b>

12.2 We discuss this site as follows.

### **No reference: Corfe Castle CLT – Capacity = 22 dwellings, Council’s 5YHLS = 22 dwellings**

12.3 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 22 dwellings in the 5YHLS, which it includes in year 5 (2028/29).

12.4 The developer has not provided any “clear evidence” of deliverability of the site and has only partially completed the proforma, claiming that nutrient neutrality is delaying the delivery of the site (Appendix H, pages 65-67).

12.5 The partially completed proforma is scant in detail. As well as the nutrient neutrality issue, it also states that legal agreements are awaited on the site. The proforma has been completed by the Senior Housing Enabling & Policy Officer of the Council, Chris McDermott. It does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

12.6 This is not clear evidence of deliverability. In the absence of clear evidence of deliverability, this site is not deliverable and **22 dwellings** should be removed from the Council's 5YHLS.

## 13. Sites with outline planning permission

13.1 The Council includes 851 dwellings on 13 large sites which had outline planning permission at the base date. These 13 sites are listed at the end of Appendix A of the draft APS: “Sites with outline permission” (page7). We dispute the inclusion of 701 dwellings on the following 12 sites.

**Table 13.1 – Disputed sites with outline planning permission**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites with outline planning permission (these sites are listed in Appendix A – page 7 of the draft APS)</b>					
WD/D/19/000613	Land to the north and west of Cockroad Lane, Beaminster	58	58	0	-58
2/2017/1919/OUT	Lower Bryanston Farm, BSM	75	75	0	-75
1/D/11/002012	St Michaels Trading Estate	92	60	0	-60
P/RES/2022/04960	Ham Farm - Phase 1b	108	108	0	-108
P/RES/2023/05868	Ham Farm - Phase 3	151	68	0	-68
2/2019/0403/OUT	Land south of Milborne Business Centre, Blandford Hill, Milborne St Andrew	58	58	0	-58
WP/17/00270/OUT	Portland Lodge Hotel, Easton Lane	24	24	0	-24
2/2018/1773/OUT	Land south of A30	115	45	0	-45
2/2019/1799/OUT	Land South of Station Road	130	40	0	-40

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
2/2017/1912/OUT	Land At The Bull, Common Lane	17	17	0	-17
WP/19/00993/OUT	Land at Beverley Road	17	17	0	-17
P/OUT/2022/00852	Land at Newtons Road, Newtons Road, Weymouth (Former QinetiQ Site, Bincelaves)	164	131	0	-131
	<b>Subtotal</b>		<b>701</b>	<b>0</b>	<b>-701</b>

13.2 We discuss these sites as follows.

### WD/D/19/000613: Land to the north and west of Cockroad Lane, Beaminster – Capacity = 58 dwellings, Council’s 5YHLS = 58 dwellings

13.3 Outline planning permission was approved in April 2020 (LPA ref: WD/D/19/000613) for:

“Up to 58 residential dwellings (including 35% affordable housing), amenity area for recreational use, planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS), including demolition of agricultural structures. All matters reserved with the exception of access.”

13.4 A reserved matters application was validated in July 2022 (LPA ref: P/RES/2022/04434) for:

“The approval of layout, scale, appearance and landscaping (condition 2 - 'the reserved matters'), construction traffic management plan (condition 6), attenuation pond details (condition 9), finished floor levels (condition 10), tree protection details (condition 11), ground remediation scheme (condition 12), biodiversity mitigation and enhancement plan (condition 14), highway details (condition 17), bridge details (condition 18), electric vehicle charging points (condition 19) and travel plan (condition 20) pursuant to outline planning permission ref. WD/D/19/000613 for the erection of 58 No. dwellings and associated works (Amended plans/information).”

13.5 The reserved matters application is still pending determination almost **2 years** later. The Council’s landscape architect has objected to the application and requires changes to be made to the proposals. Beaminster Town Council has concerns regarding traffic, utility services infrastructure, the location of the

children’s play area and safety of the attenuation pond. The Council’s Rights of Way Officer has objected to the proposals on the grounds that not all public rights of way have been included in the proposals. The Council’s Urban Design Officer considers that the proposals lack an overall quality that is expected to meet the requirements of well-designed places as set out in the Framework and Local Plan policies.

13.6 Accordingly, this site does not have detailed consent. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 58 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29).

13.7 The proforma has been partially completed by Sarah Barney. Key points are:

- Start on site is estimated to be late 2024 / early 2025.
- The existing farm buildings will need to be cleared post any reserved matters approval.
- There are ongoing **viability issues** due to planning delays.

13.8 Viability is a reason why even sites with full planning permission may not be deliverable and therefore this is relevant information in terms of assessing deliverability of this site.

13.9 In the absence of clear evidence of deliverability, this site is not deliverable and **58 dwellings** should be removed from the Council’s 5YHLS.

### **2/2017/1919/OUT: Lower Bryanston Farm, BSM – Capacity = 75 dwellings, Council’s 5YHLS = 75 dwellings**

13.10 This site does not have planning permission. However, an outline application was approved in March 2022 (LPA ref: 2/2017/1919/OUT) to:

“Develop land by the erection of up to 80 No. dwellings, form new vehicular access from New Road, open space, landscaping, ecological mitigation, drainage works and other ancillary works. (Outline application to determine access).”

13.11 A reserved matters application was validated in June 2022 (LPA ref: P/RES/2022/03733) to:

“Erect 75 No. dwellings, form new vehicular access from New Road, open space, landscaping, ecological mitigation, drainage works and other ancillary works. (Reserved Matters application to determine appearance, landscaping, layout and scale, following the grant of Outline Planning Permission No. 2/2017/1919/OUT).”

13.12 The reserved matters application is still pending determination **2 years** later. The Council’s Ecology Officer has said that there remains outstanding ecological issues to be addressed. The Council’s Urban Design Officer is unable to support the scheme while key concerns and persistently flagged design issues

have not been addressed. The Council's Landscape Officer has several concerns about the proposals. The LLFA has raised a number of technical issues with the proposals.

13.13 Accordingly, this site does not have detailed consent. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 75 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The developer has not commented on when the dwellings will be delivered.

13.14 The only information provided by the developer is an email from Lucy Morgan, Savills, which states that an application to discharge condition 20 of the outline permission has been submitted and that the developer is keen to commence on sites towards the beginning of July. Given that the reserved matters application is still pending determination, a start on site in July is not realistic.

13.15 In the absence of clear evidence of deliverability, this site is not deliverable and **75 dwellings** should be removed from the Council's 5YHLS.

### **1/D/11/002012: St Michaels Trading Estate – Capacity = 92 dwellings, Council's 5YHLS = 60 dwellings**

13.16 This site is a longstanding allocation and a complex brownfield site that is currently in use as a trading estate with multiple tenants.

13.17 This site **does not have planning permission**. An outline application was validated in January 2012 (LPA ref: 1/D/11/002012) to:

"Develop land by the erection of 83 dwellings (48 houses and 35 apartments), new and refurbished commercial floor space, associated car parking and new vehicular and pedestrian accesses following demolition of some commercial units. Make repairs to flood wall immediately west of 'Tower Building'. Appearance and landscaping reserved for further approval. (Further revised scheme)."

13.18 The outline application is still pending determination.

13.19 A full planning application was validated in February 2017 (LPA ref: WD/D/16/002852) for the:

"Redevelopment, including part demolition of listed and unlisted structures and refurbishment of retained structures to provide: (a) 9 residential units (including refurbishment of one existing unit); and (b) a net decrease of 47 sq. m. of light industrial floorspace (Revised scheme)."

13.20 The full planning application is still pending determination. The Environment Agency has issued a holding objection, until points previously raised have been adequately addressed.

13.21 Accordingly, this site does not have planning permission. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 60 dwellings in the 5YHLS, which it includes in years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). The Council relies on information provided by Peter Atfield who has said that the dwellings will be delivered in years 2, 3, 4 and 5 (2025/26, 2026/27, 2027/28 and 2028/29).

13.22 The proforma has been partially completed by Peter Atfield. Key points are that the planning applications have been delayed because:

- Dorset Council lost parts of S106 Agreement following signature by the applicant.
- The Council failed to disclose the need to update the FRA to applicant for a 2-year period.
- The Environment Agency is refusing to meet with the applicant to swiftly progress a new FRA.

13.23 In the absence of clear evidence of deliverability, this site is not deliverable and **60 dwellings** should be removed from the Council’s 5YHLS.

### **P/RES/2022/04960: Ham Farm – Phase 1b – Capacity = 108 dwellings, Council’s 5YHLS = 108 dwellings**

13.24 This site does not have detailed consent. An outline application was approved in September 2021 (LPA ref: 2/2018/0036/OUT) to:

“Develop land by construction of an urban extension to the south of Gillingham between Shaftesbury Road (B3081) and New Road (B3092). The urban extension would comprise of up to 961 dwellings, up to 2,642 sq.m in a new local centre providing retail, community, health, and leisure uses, new and enhanced pedestrian/cycle routes, open spaces, roads, car parking and vehicular access. To include all ancillary works and associated infrastructure. (Outline application to determine access only).”

13.25 A reserved matters application was validated in August 2022 (LPA ref: P/RES/2022/04960) for the:

“Erection of 108 dwellings and associated infrastructure including informal and formal public open space pursuant, (reserved matters application to determine access, appearance, landscaping, layout and scale) following the grant of outline planning permission 2/2018/0036/OUT.”

13.26 The reserved matters application is still pending determination. Accordingly, this site does not have detailed consent. The Council’s Landscape Officer and the Council’s Urban Design Officer are unable to support the proposals. Gillingham Town Council has objected to the application due to inadequate green areas, lack of landscaping, lack of BNG, lack of renewable energy measures, lack of parking and other reasons.



13.27 The Council considers that the proposals will be delivered in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28). No proforma or information on deliverability has been provided by the developer.

13.28 In the absence of clear evidence of deliverability, this site is not deliverable and **108 dwellings** should be removed from the Council's 5YHLS.

### **P/RES/2023/05868: Ham Farm – Phase 3 – Capacity = 151 dwellings, Council's 5YHLS = 68 dwellings**

13.29 This site does not have detailed consent. However, an outline application was approved in September 2021 (LPA ref: 2/2018/0036/OUT) to:

“Develop land by construction of an urban extension to the south of Gillingham between Shaftesbury Road (B3081) and New Road (B3092). The urban extension would comprise of up to 961 dwellings, up to 2,642 sq.m in a new local centre providing retail, community, health, and leisure uses, new and enhanced pedestrian/cycle routes, open spaces, roads, car parking and vehicular access. To include all ancillary works and associated infrastructure. (Outline application to determine access only).”

13.30 A reserved matters application was validated in November 2023 (LPA ref: P/RES/2023/05868) for the:

“Erection of 151 dwellings and associated infrastructure - including informal and formal public open space. (Reserved matters application to determine access, appearance, landscaping, layout and scale following the grant of Outline planning permission 2/2018/0036/OUT).”

13.31 The reserved matters application is still pending determination. The Council's Urban Design Officer has said that the proposals do not meet national or local design policies. The Environment Agency has said that the proposals lack enough information for them to form a view on the proposals. Active Travel England has said that they are not currently in a position to support the application. The LLFA has issued a holding objection on the proposals. Accordingly, this site does not have detailed consent.

13.32 The Council considers that the proposals will be delivered in years 4 and 5 (2027/28 and 2028/29). No proforma or information on deliverability has been provided by the developer.

13.33 In the absence of clear evidence of deliverability, this site is not deliverable and **68 dwellings** should be removed from the Council's 5YHLS.

## 2/2019/0403/OUT: Land south of Milborne Business Centre, Blandford Hill, Milborne St Andrew – Capacity = 58 dwellings, Council’s 5YHLS = 58 dwellings

13.34 This site does not have detailed consent. An outline application was approved in August 2021 (LPA ref: 2/2019/0403/OUT) for the:

“Redevelopment, with the construction of a mixed housing, business and community use scheme including up to 61 residential units, business units and a pre-school nursery. Including a Suitable Natural Alternative Greenspace (SANG). (Outline Application to determine access).”

13.35 A reserved matters application was validated in January 2022 (LPA ref: P/RES/2021/05662) for the:

“Redevelopment, with the construction of a mixed housing, business and community use scheme including up to 61 residential units, business units and a pre-school nursery. Including a Suitable Natural Alternative Greenspace (SANG) (reserved matters application including 58 residential units to determine appearance, landscaping, layout & scale following the grant of outline planning permission number 2/2019/0403/OUT.”

13.36 The reserved matters application is still pending determination. The Council’s Urban Design Officer is unable to support the proposals and highlights that not even the basic of issues raised have been addressed by the applicant. The Council’s Landscape Officer raised concerns that significantly less tree planting is proposed than that shown at the outline stage.

13.37 Accordingly, this site does not have detailed consent. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 58 dwellings in the 5YHLS, which it includes in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28). This is in accordance with information provided by Richard Smith, Bracken Group.

13.38 The proforma has been partially completed by Peter Atfield. Key points are:

- Approval of the RM application and delivery of the site is stalled pending a resolution to the Poole Harbour nutrient neutrality issue.
- The cost of achieving nutrient neutrality credits is currently unknown.

13.39 In the absence of clear evidence of deliverability, this site is not deliverable and **58 dwellings** should be removed from the Council’s 5YHLS.

## WP/17/00270/OUT: Portland Lodge Hotel, Easton Lane – Capacity = 24 dwellings, Council’s 5YHLS = 24 dwellings

13.40 This site does not have detailed consent. However, an outline application was approved in December 2017 (LPA ref: WP/17/00270/OUT) for the:

“Demolition of existing building & erection of 24no. flats with associated parking & amenity.”

13.41 A reserved matters application was validated in December 2020 (LPA ref: WP/20/00932/RES) for the:

“Approval of reserved matters of access, appearance, landscaping, layout and scale of outline approval WP/17/00270/OUT.”

13.42 The reserved matters application is still pending determination. Accordingly, this site does not have detailed consent.

13.43 Natural England has objected to the application and has several concerns with the Habitats Regulations Assessment submitted by the applicant. The Council’s Landscape Officer has said that the design is poor on many levels, landscaping is limited / non-existent and the external areas are mainly hardstanding.

13.44 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

13.45 In the absence of clear evidence of deliverability, this site is not deliverable and **24 dwellings** should be removed from the Council’s 5YHLS.

## 2/2018/1773/OUT: Land south of A30 – Capacity = 115 dwellings, Council’s 5YHLS = 45 dwellings

13.46 An outline application was appealed against the non-determination of the application in February 2021 and allowed at appeal February 2022 (LPA ref: 2/2018/1773/OUT) to:

“Develop land by the erection of up to 135. No. dwellings, industrial starter units, primary school, flexible commercial uses including a combination of a hotel and non-food retail or residential care home, modify vehicular access, form car parking, sports pitches, public open space and associated works. (Outline application to determine access).”

13.47 A reserved matters application was validated in October 2023 (LPA ref: P/RES/2023/05407) to:

“Erect 115 No. dwellings, garages and electricity substation. Form roads, car parking, public open space and carry out ancillary development. (Reserved Matters

application to determine Access (in relation to accessibility and circulation within the site), Appearance, Landscaping, Layout and Scale; following the grant of Outline Planning Permission No. APP/D1265/W/20/3259308 (LPA Ref. 2/2018/1773/OUT)).”

13.48 The reserved matters application is still pending determination. Accordingly, this site does not have planning permission.

13.49 Dorset Police has concerns about the proposals and strong recommends that they meet the standards set out in Secured by Design Homes 2023. The Council’s Natural Environment Officer has stated that Biodiversity Net Gain (BNG) trading rules are not met as the loss of woodland is not being adequately mitigated against. The Council’s Housing Enabling Team is concerned that the affordable housing proposed is far too heavily weighted towards cheaper flatted accommodation.

13.50 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

13.51 In the absence of clear evidence of deliverability, this site is not deliverable and **45 dwellings** should be removed from the Council’s 5YHLS.

### **2/2019/1799/OUT: Land South of Station Road – Capacity = 130 dwellings, Council’s 5YHLS = 40 dwellings**

13.52 This site does not have detailed consent. However, an outline application was refused by the Council in September 2021 and allowed at appeal June 2022 (LPA ref: 2/2019/1799/OUT) to:

“Develop land by the erection of up to 130 No. dwellings (including affordable housing), form vehicular access from Station Road, public open space, landscaping and sustainable drainage system (SuDS). (Outline application to determine access).”

13.53 A reserved matters application was validated in October 2023 (LPA ref: P/RES/2023/05768) to:

“Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref.2/2019/1799/OUT)).”

13.54 The reserved matters application is still pending determination. Accordingly, this site does not have planning permission.

13.55 The Council’s Landscape Officer is unable to support the proposals and has recommended that they are referred to the Design Review Panel. The LLFA has issued a holding objection on the application. The Highway Authority has several issues with the proposals.

13.56 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

13.57 In the absence of clear evidence of deliverability, this site is not deliverable and **40 dwellings** should be removed from the Council's 5YHLS.

### **2/2017/1912/OUT: Land At The Bull, Common Lane – Capacity = 17 dwellings, Council's 5YHLS = 17 dwellings**

13.58 This site does not have detailed consent. However, an outline application was approved in July 2021 (LPA ref: 2/2017/1912/OUT) to:

“Develop land by the erection of up to 17 No. dwellings, form new vehicular access, car parking, extended garden and associated works relating to The Bull Tavern, with roads, parking, landscaping and ancillary works. (Outline application to determine access, layout and scale).”

13.59 A reserved matters application was validated in May 2024(LPA ref: P/RES/2024/02595) to:

“Erect 17 No. dwellings, form new vehicular access, car parking, extended garden and associated works relating to The Bull Tavern, with roads, parking, landscaping and ancillary works. (Reserved Matters Application to determine appearance and landscaping; following the grant of Outline Planning Permission No. 2/2017/1912/OUT).”

13.60 The reserved matters application is still pending determination. Accordingly, this site does not have planning permission.

13.61 The Highway Authority has said that there are a number of amendments which need to be made before the proposals can be considered to provide safe and suitable access for all road users. The LLFA has issued a holding objection to the proposals, in part, due to a lack of a fully substantiated surface water drainage strategy. The Council's Housing Enabling Team has said that the proposed affordable housing mix does not comply with Local Plan policies.

13.62 No proforma or information on deliverability has been provided by the developer, aside from an email from Paul Harrington, Morgan Carey Architects, who considers that the proposals will be delivered in year 1 (2024/25), whereas the Council consider that the proposals will be delivered in year 5 (2028/29).

13.63 In the absence of clear evidence of deliverability, this site is not deliverable and **17 dwellings** should be removed from the Council's 5YHLS.

## WP/19/00993/OUT: Land at Beverley Road – Capacity = 17 dwellings, Council’s 5YHLS = 17 dwellings

13.64 This site does not have detailed consent. An outline application was approved in December 2021 (LPA ref: WP/19/00993/OUT) for the:

“Erection of 17no. dwellings with associated access.”

13.65 No reserved matters application has since been submitted.

13.66 It is a category b) site requiring “clear evidence” of deliverability. The Council includes 17 dwellings in the 5YHLS, which it includes in year 5 (2028/29). No justification has been provided for this.

13.67 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma.

13.68 In the absence of clear evidence of deliverability, this site is not deliverable and **17 dwellings** should be removed from the Council’s 5YHLS.

## P/OUT/2022/00852: Land at Newtons Road, Newtons Road, Weymouth (Former QinetiQ Site, Bincelaves) – Capacity = 164 dwellings, Council’s 5YHLS = 131 dwellings

13.69 This is a complex brownfield site with significant constraints including the need for new seawall defences and cliff stabilisation works, along with flood risk and viability considerations.

13.70 This site does not have detailed consent. However, an outline application was approved in March 2024 (LPA ref: P/OUT/2022/00852) for:

“Mixed use development comprising up to 141 dwellings (Use Class C3) and 60 bed care home (Use Class C2), with up to 340 sqm associated leisure floorspace comprising gym, swimming pool / spa (Sui Generis); up to 1,186 sqm office /light industrial floorspace (Use Class E(g)); up to 328 sqm restaurant floorspace (Class E(b)); with associated car parking, public open space, public realm, cliff stabilisation & sea defence works, with vehicular and pedestrian access from Newton’s Road & associated infrastructure - some matters reserved (appearance & landscaping).”

13.71 No reserved matters application has since been submitted.

13.72 Accordingly, this site does not have detailed consent or a reserved matters application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 131 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). This is in contrast

to information provided by Hayzee Pritchard who has said that the dwellings will be delivered in years 2 and 3 (2025/26 and 2026/27).

13.73 The proforma is partially completed by Hayzee Pritchard who states that *'currently have outline planning consent and are looking to commence early 2025. By July / August 2024 we aim to have submitted and signed off all pre commencement conditions'*. In terms of abnormal costs, Hayzee Pritchard notes the need to *'install and upgrade to sea defence works. Estimated costs circa £6 million. Construction of this to begin early 2025'*.

13.74 However, the proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a reserved matters application. There is no evidence provided that this will be Summer 2025; or
- Clear evidence of any site assessment work.

13.75 In the absence of clear evidence of deliverability, this site is not deliverable and **131 dwellings** should be removed from the Council's 5YHLS.

# 14. Sites with detailed planning permission

14.1 We dispute the inclusion of the following sites, which are listed in appendix A of the draft APS.

**Table 14.1 – Disputed sites with detailed planning permission**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Major sites with planning permission (these sites are listed in Appendix A of the draft APS)</b>					
P/RES/2021/04848	BRID1: Vearse Farm (Hallam Land)	793	420	320	-100
P/RES/2022/03505	Land East of New Road, West Parley (FWP6) - Phase 1	238	238	142	-96
P/RES/2021/01645	West of Frome Valley Road	140	140	100	-40
3/19/0019/RM	Land south of Howe Lane	29	29	0	-29
WP/19/00693/RES	Curtis Fields Phases 2A, 3A, 3B	298	214	0	-214
	<b>Subtotal</b>				<b>-479</b>

14.2 We discuss these sites as follows.

**P/RES/2021/04848: BRID1: Vearse Farm (Hallam Land) – Capacity = 793 dwellings, Council’s 5YHLS = 420 dwellings**

14.3 This site has planning permission. An outline application was approved in May 2019 (LPA ref: WD/D/17/000986) for the:

“development of up to 760 dwellings, 60 unit care home (Use Class C2), 4 hectares of land for employment (Use Classes B1, B2, B8), mixed use local centre (Use Classes A1, A2, A3, A4, A5, B1, C3 and D1), primary school and associated playing fields (Use Class



D1), areas of public open space and allotments, drainage works, the formation of new vehicular accesses to West Road and the formation of new pedestrian and cycle links.”

14.4 A reserved matters application was approved in June 2023 (LPA ref: P/RES/2021/04848) for the:

“Construction of 760 dwellings, public open space (including play space and landscape planting), allotments, an orchard, sports pitch provision, with associated changing rooms and car parking, pedestrian, cycle and vehicular links, drainage works and associated infrastructure (Reserved matters application to determine appearance, landscaping, layout and scale following the grant of Outline planning permission number WD/D/17/000986) - Amended scheme.”

14.5 The Council consider that 20 dwellings will be delivered in year 1 (2024/25) and 100 dwellings will be delivered in each of years 2, 3, 4 and 5 (2025/26, 2026/27, 2027/28 and 2028/29). However, we consider that no dwellings will be delivered in year 1 (2024/25), 20 dwellings will be delivered in year 2 (2025/26) and 100 dwellings will be delivered in each of years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). The justification for this is because significant junction improvements are required to be undertaken prior to the site being delivered for housing. These works comprise the construction of a new roundabout at the A35 trunk road Miles Cross junction, the works have been delayed, the works are yet to be tendered, the start date is yet to be confirmed, and the build programme will be at least a year.

14.6 Accordingly, **100 dwellings** should be removed from the Council’s 5YHLS.

### **P/RES/2022/03505: Land East of New Road, West Parley (FWP6) - Phase 1 – Capacity = 238 dwellings, Council’s 5YHLS = 238 dwellings**

14.7 This site has planning permission. An outline application was approved in February 2021 (LPA ref: 3/17/3609/OUT) for:

“Outline application (All matters reserved except for access and associated link road); with up to 386 dwellings (Class C3); up to 1000sqm of retail units (Classes A1-A5); up to 900sqm of offices (Class B1) and up to 2200sqm of foodstore (Class A1); together with accesses, a link road and associated highway works, public open space including SANG, allotments, landscaping and associated works.”

14.8 A reserved matters application was approved in November 2022 (LPA ref: P/RES/2022/03505) for a:

“Reserved Matters submission comprising layout, scale, appearance and landscaping pursuant to condition 1 of outline permission ref. 3/17/3609/OUT for Phase 1 comprising 238 dwellings (Use Class C3) with public open space, SANG, allotments and landscaping. Vehicular access off Christchurch Road and New Road as approved in the outline planning permission.”

14.9 The Council consider that 72 dwellings will be delivered in year 1 (2024/25), 70 dwellings will be delivered in year 2 (2025/26), 70 dwellings will be delivered in year 3 (2026/27) and 26 dwellings will be delivered in year 4 (2027/28).

14.10 However, in 2023/24 just 4 dwellings had been completed on this site. This site was recorded as being under construction at 1<sup>st</sup> April 2023 in the East Dorset Housing Land Supply Report (published January 2024). Indeed, as above, the reserved matters was approved in November 2022. At a recent public inquiry into an appeal made by Dudsbury Homes regarding land to the south of Ringwood Road, Alderholt (PINS ref: APP/D1265/W/23/3336518), which took place in July 2024, the Appellant explained that there had been slower than expected sales rates at this site and concluded that 96 dwellings from the Council's 5YHLS as a result.

14.11 We agree. We have applied a build rate of around 28 dwellings per annum to reflect the low build rate experienced on this site to date. This means that 142 dwellings should be included in the 5YHLS; a reduction of **96 dwellings** in the 5YHLS.

### **P/RES/2021/01645: West of Frome Valley Road – Capacity = 140 dwellings, Council's 5YHLS = 140 dwellings**

14.12 This site has planning permission. An outline application was approved in March 2019 (LPA ref: WD/D/17/003036) for:

“Residential development of up to 140 residential dwellings (including up to 35% affordable housing) together with associated infrastructure, access onto Frome Valley Road, children's play space, landscaping and creation of a Suitable Alternative Natural Green Space ("SANGS")(means of access to be determined only).”

14.13 A Section 73 application was approved in December 2019 (LPA ref: WD/D/19/001447) for:

“Residential development of up to 140 residential dwellings (including up to 35% affordable housing) together with associated infrastructure, access onto Frome Valley Road, children's play space, landscaping and creation of a Suitable Alternative Natural Green Space ("SANGS")(means of access to be determined only) (with variation of condition 17 of planning permission WD/D/17/003036 - to amend the wording of the condition).”

14.14 A Section 73 application was approved in October 2020 (LPA ref: WD/D/20/000673) for:

“Residential development of up to 140 residential dwellings (including up to 35% affordable housing) together with associated access onto Frome Valley Road, children's play space, landscaping and creation of a Suitable Alternative Natural Green Space ("SANGS") (means of access to be determined only) (with variation of

conditions 9 and 10 of planning permission WD/D/19/001447 - to amend the wording of the conditions).”

14.15 A reserved matters application was approved in October 2021 (LPA ref: P/RES/2021/01645) for:

“approval of reserved matters of appearance, landscaping, layout and scale of Outline approval WD/D/20/000673.”

14.16 The Council considers that 20 dwellings will be delivered in year 2 (2025/26) and 40 dwellings will be delivered in each of years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). However, we consider that 20 dwellings will be delivered in year 3 (2026/27) and 40 dwellings will be delivered in years 4 and 5 (2027/28 and 2028/29). The justification for this is because the conditions of the permission have been amended to allow for a phased development. There is also an issue with downstream sewer capacity and a condition requires a scheme for improvement to be submitted and approved prior to development of any phase.

14.17 Accordingly, **40 dwellings** should be removed from the Council’s 5YHLS.

### **3/19/0019/RM: Land south of Howe Lane – Capacity = 29 dwellings, Council’s 5YHLS = 29 dwellings**

14.18 An outline application was refused by the Council in February 2015 and allowed at appeal in January 2016 (LPA ref: 3/13/0674/OUT) to:

“Construct residential development of 29 homes comprising 15x4 bedroom houses, 7x3 bedroom houses, 2x2 bedroom houses, 2x2 bedroom flats and 3x1 bedroom flats with access from Howe Lane as amended by plans rec 25th Nov 13 and amended application form rec 14.02.14 and as amended by plans rec'd 8.3.14.”

14.19 A reserved matters application was approved in July 2019 (LPA ref: 3/19/0019/RM) for the:

“Approval for Reserved Matters of Landscape, Appearance and layout. Application 3/13/0674/OUT (granted on appeal) for construction of 29 residential dwellings.”

14.20 Condition 1 of the reserved matters approval states that *‘the development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission’*, i.e. by July 2022. Given that the development has not commenced, the permission has lapsed.

14.21 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council considers that 15 dwellings will be delivered in year 3 (2026/27) and 14 dwellings in year 4 (2027/28). However, given that the site does

not have planning permission or a planning application pending determination, we consider that the site should be removed from the Council's housing land supply.

14.22 The developer has not provided any "clear evidence" of deliverability of the site, nor have they completed the proforma. The following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

14.23 The site is also constrained by a belt of trees on the site.

14.24 Accordingly, **29 dwellings** should be removed from the Council's 5YHLS.

### **WP/19/00693/RES – Curtis Fields – Phases 2A, 3A, 3B – Capacity = 298 dwellings , Council's 5YHLS = 214 dwellings**

14.25 This site has planning permission. However, an application was made to modify the S106 agreement for phases 2-4 to reduce the affordable housing from 30% to 26.24%. (LPA ref: P/MPO/2023/03270). The reason given by the Applicant was that it was not viable to provide 30% affordable housing at the site. The report for the application states:

"An approach was made to the applicant to consider the request of the planning committee to consider what other options had been considered to make the scheme viable as it seemed appropriate for the Council to give the applicant that opportunity to respond before a decision is taken by the Committee and to ensure that Members are satisfied that all avenues have been explored.

The applicant has responded that in terms of negotiation, *'during the consultation stage of this application, Chesters Commercial and the District Valuer (DV) met to negotiate the costs the applicant presented. At that stage the DV would not accept the reduction the applicant originally specified but after lengthy discussion agreed that a reduction to 26.24% was necessary given the unexpected costs Betterment were faced with.'* The applicant puts forward that this was a negotiation and therefore other options to increase the viability and therefore for the percentage of affordable housing have already been carried out."

14.26 Officers recommended that the application to modify the S106 be made. However, members voted against the recommendation and concluded that the application be refused. The decision notice was issued on 20<sup>th</sup> June 2024.

14.27 The reason for refusal states:

“Having regard to Policy HOUS1 (iii) of the West Dorset, Weymouth & Portland Local Plan (2015) and the information submitted with the application, it is considered that requiring 30% affordable housing and financial contributions in accordance with the extant permission and legal agreement would not make the development economically unviable and hence the proposal is contrary to Policy HOUS1 of the adopted local plan”

14.28 At the base date, whilst the site had permission, it was not viable. An application to modify the S106 due to viability (as a result of unforeseen circumstances relating to contamination which impacted on development costs) was made on 2<sup>nd</sup> June 2023 and was pending determination. This application has subsequently been refused and therefore the developer’s position remains that this site is not viable.

14.29 The definition of deliverable explains that viability is a reason why sites with planning permission should not be considered deliverable. Unless and until this matter is resolved and the permission is viable, the site should not be included in the 5YHLS and **214 dwellings** should be removed.

## 15. Lead in times

15.1 There has been much debate on lead in times and delivery rates. In their latest Insight report (November 2021), “Feeding the Pipeline”, Lichfields, commissioned by the Land Promoters and Developers Federation (LPDF) and Home Builders Federation (HBF), have undertaken research into the pipeline of sites for housing set against what might be needed to achieve the Government target of 300,000 homes per annum across England. Lichfield’s advise:

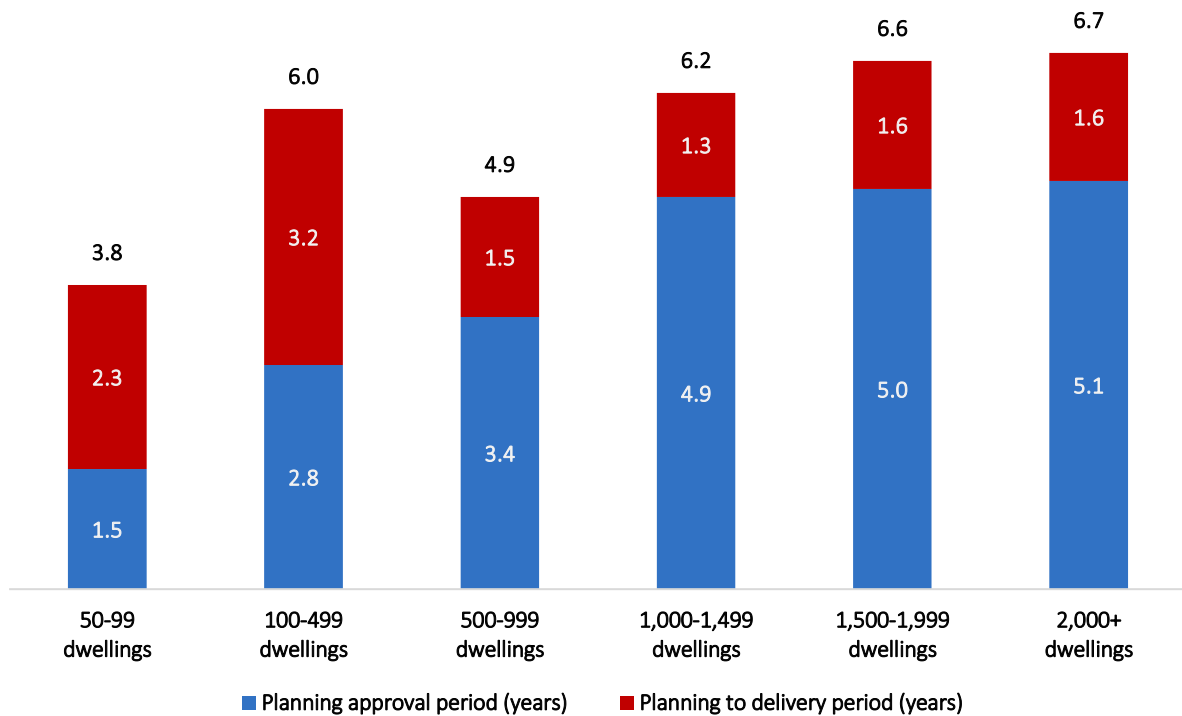
“Increasing the number of ‘outlets’ – the active sites from which homes are completed – and doing so with a wide variety of different sites, is key to increasing output, with each housebuilder outlet delivering on average 45 homes each year.”

15.2 Lichfield’s stark conclusion is that for every district in England a further 4-5 medium sites a year or 4-5 larger sites over the next 5 years (or 1-2 medium sites per annum or 1-2 large sites over the next 5 years and 12 or 13 smaller sites per annum) is needed to achieve Government policy on housing delivery over and above the usual number of permissions granted each year. With regard to the pipeline of developers and the rate of delivery they note that:

““Housebuilders in buoyant conditions may be able to increase build out rates from their existing pipelines, and this might be welcomed. However, it would still necessitate more implementable planning permissions coming through the system to both increase outlets (alongside those existing outlets delivering more quickly) as well as to top-up already short pipelines that would otherwise be exhausted more quickly. Quite simply, without adding more permissions, there is no business rationale for housebuilders to build-out from their pipelines more quickly as the risks associated with topping up their pipeline in time would not be compatible with business resilience.”

15.3 Lichfields’ Insight report in March 2024 ‘Start to Finish’ (third edition) considered what factors affect the buildout rates of large-scale housing sites. They outlined six key conclusions. First, that only sites below 100 dwellings on average begin to deliver within a five-year period from validation of an outline application. Second, that the average build-out rates on large scales sites are lower than previous years. Third, tough market conditions mean a likely slowing in build-out rates and house building overall. Fourth, demand is key to maximising build-out rates. Fifth, additional outlets on site have a positive impact on build-out rates. Sixth, large-scale apartment schemes on brownfield land are less predictable forms of supply.

Figure 15.1 – Median average timeframes from validation of the first application to completion of the first dwelling according to the Lichfields’ study



15.4 The figure above shows the planning approval period and planning to delivery period for a range of site sizes (based on the number of dwellings). Data is taken from Lichfields’ ‘Start to Finish’ report. The planning approval period is the time taken from the validation of the first application (such as an outline application) to obtaining permission for the first detailed permission (such as a reserved matters application). The planning to delivery period includes typical actions such as discharging pre-commencement planning conditions, amending proposals, securing statutory approvals, signing-off details, resolving land ownership and legal hurdles, through to delivering their first dwelling on site.

15.5 Lichfields’ research shows that a site of 100-499 dwellings will, on average, have a planning approval period of 2.8 years and a planning to delivery period of 3.2 years and an overall lead-in time of 6.0 years, i.e. beyond an immediate five-year period for land supply calculations.

15.6 Putting this into practice, as an example, for the WOOL1: West of Chalk Pit Lane / Oakdene Road, Wool site, which includes 320 proposed dwellings, set out in Section 9 above, the site does not have planning permission or a planning application pending determination. The Council includes delivery in years 3, 4 and 5 of its housing land supply, without justification, nor any input from the developer. Based on Lichfields’ research, the West of Chalk Pit Lane / Oakdene Road site will take 6.0 years for the first dwelling to be delivered on the site, which is outside of the Council’s five year housing land supply

period. This creates doubt around the Council's lead in times utilized, particularly those where there has been no input from the developer.

- 15.7 We have also highlighted in the above sections where planning applications have been submitted and still not determined several years after they have been validated. We respectfully request this is considered when considering the realistic prospect that sites without even a planning application pending determination should be included as being deliverable in the 5YHLS.



## 16. Summary of deductions

16.1 In summary, we conclude that 2,770 dwellings should be removed from the Council's supply, as summarised in the following table.

**Table 16.1 – Summary of deductions**

Source of supply	Appendix to the draft APS	EP deduction
Allocated sites without planning permission	B	-964
Neighbourhood Plan allocated sites	C	-245
Specific large sites	D	-359
Rural exception sites	G	-22
Sites with outline planning permission	A (page 7)	-701
Sites with detailed planning permission	A	-479
<b>Total</b>		<b>-2,770</b>

16.2 We therefore conclude that the deliverable supply at 1<sup>st</sup> April 2024 is 6,803 dwellings (i.e., 9,573 – 2,770 = 6,803).

## 17. Conclusions in relation to 5YHLS

17.1 We therefore conclude that the 5YHLS at 1<sup>st</sup> April 2024 is 6,803 dwellings (i.e.  $9,573 - 2,770 = 6,803$ ). Against the Local Housing Need, this equates to **3.79 years** as shown in the following table:

**Table 17.1 – Dorset’s 5YHLS at 1<sup>st</sup> April 2024**

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,793	
B	Five year housing requirement (A X 5 years)	8,965	
	<b>Supply</b>		
C	5YHLS at 1 <sup>st</sup> April 2024	9,573	6,803
D	Supply in years (C / A)	<b>5.34</b>	<b>3.79</b>
E	Surplus / shortfall in 5YHLS (C – B)	<b>+608</b>	<b>-2,162</b>

# 18. Appendices

- EP1.** Marnhull appeal decision
- EP2.** Nantwich appeal decision
- EP3.** Stalbridge appeal decision
- EP4.** Braintree appeal decision
- EP5.** Braintree proformas and evidence
- EP6.** Sonning Common appeal decision
- EP7.** South Oxfordshire proformas and evidence
- EP8.** Freeland appeal decision
- EP9.** West Oxfordshire proformas and evidence
- EP10.** South Kesteven 2022 proformas and evidence
- EP11.** South Kesteven 2023 APS Report
- EP12.** South Kesteven 2023 proformas and evidence

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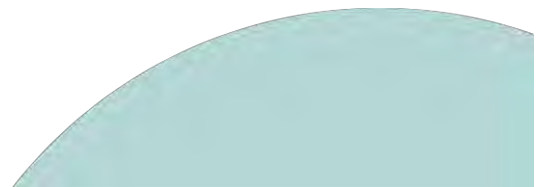
Appendices to Representations to Dorset's Draft Annual Position  
Statement

24-351

At 1<sup>st</sup> April 2024 - Dorset HLS – Annual Position Statement.

# Appendices

- EP1.** Marnhull appeal decision
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- EP9.** West Oxfordshire proformas and evidence
- EP10.** South Kesteven 2022 proformas and evidence
- EP11.** South Kesteven 2023 APS Report
- EP12.** South Kesteven 2023 proformas and evidence



EP1

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# Appeal Decision

Hearing held on 27 & 28 March 2024

Site visit made on 28 March 2024

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2024

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Appeal Ref: APP/D1265/W/23/3323727

Land between Salisbury Street, Tanzey Lane and Sodom Lane, Marnhull, Dorset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Paul Crocker against Dorset Council.
  - The application Ref is P/OUT/2023/00627.
  - The development proposed is up to 67 dwellings.
- 

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 8<sup>th</sup> May 2024.

## Decision

1. The appeal is allowed and planning permission is granted for up to 67 dwellings at Land between Salisbury Street, Tanzey Lane and Sodom Lane, Marnhull, Dorset in accordance with the terms of the application, Ref P/OUT/2023/00627, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The Hearing related to this appeal and another elsewhere in Marnhull, reference APP/D1265/W/23/3323728. That appeal is the subject of a separate Decision.
3. The appeal relates to an application for outline planning permission. Approval is sought for access at this stage with all other matters being reserved for subsequent consideration. Plans have been provided showing a possible layout for the development, which I have treated as illustrative.
4. A unilateral undertaking has been provided. There is no dispute that the planning obligations therein, satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). There is no reason for me to conclude otherwise, so I find that the tests are met and I have taken the undertaking and obligations into account in determining the appeal.

## Main Issues

5. The main issues in this appeal are:



- a) Whether the site is in an appropriate location with regard to local planning policy controlling the location of development and accessibility;
- b) Whether surface water can be adequately controlled and the effect of the development on flood risk; and
- c) Whether there are any other material considerations that might indicate otherwise that the development should be permitted, with particular regard to the supply of housing land.

## Reasons

### *Location and accessibility*

6. Policies 2, 6 and 20 of the North Dorset Local Plan Part 1 2016 (LP) seek to control the location of development. Collectively, they identify four main towns as the main service centres and focus for growth. Stalbridge and eighteen larger villages are identified as the focus for growth to meet local needs outside these towns.
7. In locations outside the defined boundaries of the above settlements, which includes the appeal site, development should not be permitted unless there is an overriding need for it to be located in the countryside or it is to enable essential rural needs to be met. The supporting text to Policy 20 suggests that **'overriding' needs relate to development that requires a countryside location** rather than addressing generic needs for housing that are unable to be met within settlements and there is no compelling evidence to lead me away from that position.
8. Marnhull is the largest of the 18 identified villages. It benefits from a modest range of services and facilities, although I understand that **the appellant's list** overstates the situation. There are some, albeit fairly poor, public transport links to destinations beyond the village. Moreover, the local services and facilities that are present in Marnhull are not particularly close to the site. The existing highway network via Crown Road and Sodom Lane do not provide safe walking or cycling routes to them.
9. Alternatively, a path crosses the field beyond Tanzey Lane that adjoins the site. It leads to Ashley Road, where there is a more extensive footpath network, but the field path is unsurfaced and steep in places. That field has planning permission for residential development (the Crown Road site), but there is no clear intention or requirement to upgrade the path as part of the development. Once built, the estate road of the Crown Road site would provide a safe paved link to the village. Despite minor obstructions on egress, the link to Ashley Road was deemed suitable for the Crown Road site. However, there is currently no timetable for its delivery.
10. These characteristics are such that walking or cycling between the site and the main part of Marnhull would not presently be an attractive option for all people nor at all times of the day or year. There is, scope for some journeys to be made by foot or the limited bus connections which can be conveniently accessed from the site. However, future residents would likely be reliant upon private cars to meet their needs for most services.
11. That said, there is a further part of Marnhull, within a settlement boundary, at Corner Close and Stoneylawn that are further from the main part of the

- settlement and its facilities than the appeal site. But for a narrow strip of allotments and Salisbury Street itself, these areas border the site. They are separate from the main part of Marnhull, and subject to a settlement limit. The presence of a settlement limit, while tightly drawn, indicates that housing development would be generally deemed appropriate there.
12. LP Policy 6 sets out that Stalbridge and the 18 villages will receive at least 825 dwellings. However, while some growth was, therefore, anticipated in Marnhull, there are no specific site allocations and the boundary appears to be fairly tightly drawn for the entire settlement. It is not clear how any anticipated development needs would be met without the release of land outside the various parts of the settlement limit. Locations next to settlement limits, which for the above reasons include the appeal site, would be the most logical.
  13. The 825 figure has already been exceeded and the Council anticipates that over 1800 homes will have been delivered in these locations by the end of the plan period. Of these, I heard at the Hearing that Marnhull has received proportionally more than the other villages. Dividing the anticipated growth across Stalbridge and the 18 villages in proportion to the relative pre-LP size of the settlements, Marnhull can be seen to have received around 3 times its anticipated growth. The figure was said to be around double in the other settlements.
  14. I can see that calculating relative proportions of development for the settlements may have been a useful community planning tool. However, the LP does not set individual targets for the various settlements and my attention has not been drawn to any other policy basis for such a division. As Marnhull is the largest and best served of the settlements, there may well be a logic to it taking a greater proportion than the others, even accounting for the lack of employment opportunities and the view of the Council and local residents that it is accommodating **more than its 'fair share'**. Moreover, LP Policy 6 provides the 825 figure as a minimum and the supporting text clarifies that it should not be seen as a cap on development.
  15. There is, however, already significant development commitment in Marnhull which, with this proposal, would result in a significant proportional growth in population across the plan period. This would likely go beyond meeting the needs of the local population in terms of market and affordable housing provision. The LP is clear that the focus in Stalbridge and the villages should be on meeting local, rather than strategic, needs. Such an approach would allow communities to adapt more gradually and would minimise the need to travel beyond the settlement.
  16. The historic roads around Marnhull were never intended to accommodate the traffic and pedestrian flows arising from modern living and travel patterns. Residents are concerned about safety from conflicting vehicle and pedestrian movements throughout the village, especially around the school. The increase in traffic around the village that would result from the development, especially in combination with other development, would exacerbate this situation. However, the Council has raised no specific safety concern about traffic around Marnhull in general.
  17. Aside from the effects on the highway network, the main effects of the greater than anticipated growth would be on the village infrastructure and services. Extensive planning obligations would be secured to mitigate the effects on a

number of services and facilities, including education, healthcare and recreation. Despite the levels of growth, therefore, I have no substantive evidence that material harm would arise to the community.

18. Nevertheless, while there may be little tangible adverse effects on various discrete matters and while Marnhull is identified for some growth, it is a clear aim of the above policies to meet local rather than strategic needs, so general housing development on the cumulative scale proposed is not supported by the development plan. Therefore, the proposal would be in conflict with the aims of LP Policies 2, 6 and 20 insofar as they seek to control the broad location of development.

#### *Drainage and flood risk*

19. Following additional submissions from both parties, the remaining dispute is, in essence, whether a suitable connection can be made to an appropriate surface water discharge point. 5 options have been presented by the appellant, 3 of which would see connections to sewers that either are, or feed, combined foul and surface water sewers. In turn, they would convey water to sewage treatment works (STWs).
20. I understand that it is the policy of Wessex Water to resist additional flows to STWs, although I have been presented with no planning policy support for this position. There is also no substantive evidence that the STWs could not cope with additional flows. Nevertheless, I can see that increasing surface water flows would be undesirable in the context of aims to improve the water quality eventually discharging from STWs, especially given the anecdotal evidence that I have about previous overflows at the STWs.
21. For the two other schemes, there is a dearth of information. It is unclear as to where road gullies in Sodom Lane adjacent to the site lead and whether they flow to a dedicated highway drain or a culverted watercourse. If it is the former, then connection may not be permitted by the local highway authority. Either way, although they sometimes become overloaded, the gullies must drain somewhere, suggesting that some fall in levels towards a watercourse from Sodom Lane, and therefore the site, must exist.
22. On this basis, the appellant's favoured solution would be to construct a ditch over adjoining agricultural land in his control. There appears to be little gradient between Sodom Lane and the watercourse, which calls into question the ability for water to flow across this land. However, at the Hearing, the Council did not dispute that, even where there was a minimal fall along a ditch, the effect of a **'hydraulic gradient'** would mean that the ditch would fill and then gradually drain into the existing watercourse.
23. The land on which the ditch would be constructed on the opposite side of Sodom Lane is at risk of surface water flooding. Indeed, there was extensive rainfall during the second day of the Hearing, and by the time I visited the site that evening, large parts of the land over which the ditch would be constructed, and Sodom Lane itself, were underwater. The potential for the adjoining land to already be inundated, calls into question the ability of a ditch across it to adequately deal with surface water discharge from the site.
24. However, I heard that the site currently drains naturally across this adjoining land. Surface water attenuation could be provided as part of the development

such that rates and volumes discharging at peak times would result in no greater flows from the site than the current situation. If the discharge system were exceeded, then I was told that it would follow its existing course and, once again, mimic the surface water flooding that I witnessed. Therefore, I have no reason to believe that such a situation would necessarily increase flood risk elsewhere.

25. The Council has suggested that **the development's reliance on a ditch** on land at risk of flooding should mean that the whole development should be subject to the flood risk sequential test. However, given that other options may also be available, I find that the development is not, necessarily, reliant on this land. The site itself is not at risk of flooding and, therefore, the sequential test does not need to be considered.
26. Clearly, further work is required to demonstrate that the preferred, or indeed any other, option is achievable and would not lead to increased flood risk elsewhere. At this stage in proceedings, this is an undesirable situation. However, a range of options have been presented and a final scheme could be secured by planning condition. If this were a pre-commencement condition, then it would provide sufficient safeguard to ensure that development could not proceed in the face of unacceptable schemes that would increase flood risk elsewhere. If the required works were so extensive or significant to require a separate grant of planning permission in their own right, that would adequately safeguard the interests of neighbouring land owners, who may wish to be consulted on such a scheme.
27. To that end, my findings set out above, should not be taken to indicate that any one of the presented schemes is definitely available. Rather, I do not believe that there is no prospect at all of an acceptable scheme coming forward within the lifetime of any planning permission that I may grant.
28. Therefore, I find that finalisation of a suitable drainage scheme can be the subject of a planning condition. With such a condition in place, there would be no conflict with LP Policies 3 and 13 that require development to make provision for dealing with flood risk.

#### *Housing land supply*

29. The Council believes that applying the temporary arrangements set out at Framework paragraph 226, there is only a need to demonstrate a 4 year supply of housing land. Those temporary arrangements apply to local planning authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 stage, as set out in the Town and Country Planning (Local Planning) (England) Regulations 2012, including both a policies map and proposed allocations towards meeting housing need.
30. Following the formation of Dorset Council, there has been a Regulation 18 consultation on a Dorset Local Plan that the parties agree included a policies map **and proposed allocations**. However, a report to the Council's Cabinet (the Cabinet Report) on 12 March 2024 indicated that it would not be possible to submit that plan for examination by the anticipated cut-off date of 30 June 2025 under transitional arrangements to a new plan-making system introduced by the Levelling Up and Regeneration Act 2023 (LURA).

31. The Cabinet Report went on to explain that for this and some other reasons, it was necessary for the Council to move across to the new plan-making system and to formally start preparing a new-style local plan later this year. It describes the new 30 month timetable stemming from the LURA and sets out in a revised Local Development Scheme (LDS) how this timetable will start in November 2024.
32. At the Hearing, it was **suggested that a choice of the words 'the official start of the new plan preparation process'** were unfortunate, given that **the Council's** officers intend the actual process to be more of a continuation of the existing draft Dorset Local Plan. However, it was also undisputed that the ultimate plan will need to cover a different local plan period.
33. There may be an ability to use a lot of the background information that informed the Dorset Local Plan, including that gained through the previous Regulation 18 consultation. Nevertheless, it appears to me that the resultant local plan, which will have to go through all stages of the new plan-making process will, in effect, be an entirely new plan. That process will start, from the beginning, in earnest, later this year. Formal consultation will likely be required in accordance with yet-to-be-published new regulations. There is no reference to plans prepared in this way within Framework paragraph 226, only to the Regulations 18 and 19 stages **of the 'old'** system, which the ultimate Dorset Local Plan will not be required to pass through.
34. I acknowledge the undeniable position that there is a plan that has passed through the Regulation 18 stage that has not been formally withdrawn or abandoned. However, the reality of the situation is that the plan in the form that it was at that time will not progress. On the basis of the LDS now, no plan will be adopted before end of the temporary arrangements and I, therefore, conclude that the need to demonstrate only a 4 year supply of housing land in the circumstances set out in Framework paragraph 226 does not apply in this case. Demonstration of a 5 year supply is required.
35. **The Council's latest published housing** supply report shows that there is a 5.02 year supply of housing. Numerically, that is just 9 units above the required 5 year supply. The appellant submits that 3 of the sites **within the Council's** trajectory do not meet the definition of deliverable set out in the Framework and should not be included. Two of the three sites have outline planning permission for major development. The other is allocated in a neighbourhood plan. In accordance with the Framework, these sites should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years. I consider these below.

Lower Bryanstone Farm, Blandford St Mary

36. A reserved matters application was submitted for the site in June 2022. There has been continuous dialogue between the Council and applicant, but there are outstanding issues relating to housing mix, landscaping and urban design. The **Council's additional statement** on this issue suggests that an acceptable scheme should be achievable (my emphasis) and at the Hearing, the Council emphasised that the site was in a visually sensitive location.
37. It was further confirmed at the Hearing that drainage matters were not fully resolved at outline stage. This has resulted in the applicant having to undertake additional work and alter the site design. At the time of the Hearing,

further consultation, including with the Lead Local Flood Authority was ongoing. **The application may be presented to the Council's planning committee** in June, but that is not certain, nor is the ultimate decision.

38. I understand that the applicant has been seeking approval for various pre-commencement conditions, that initial site works in preparation for the site access have been undertaken and initial marketing advertisements have been placed at the site. However, at the present time, there is still uncertainty about the acceptability of the scheme before the Council.
39. Following reserved matters approval, development would usually have to commence within 2 years. There is no formal evidence of an intent to start work promptly. The Council explained at the Hearing that they would usually expect to see the first completions around 12 months after commencement.
40. Taking this into account, even if reserved matters approval is given soon, there is no clear evidence that there would be any commencement before spring 2026, with the first completions likely around a year later. **The Council's** trajectory currently shows 40 completions forecast for 2026/27, but the evidence does not support this.
41. I, therefore, find that the site should not feature in the deliverable supply at all, but even taking an optimistic view that approval may be forthcoming soon, the 40 units forecast for 2026/27 should certainly be removed.

#### Ham Farm and Newhouse Farm

42. The site is within the Gillingham southern extension. Following a Housing Infrastructure Fund loan, a new principal street through the development has been completed. Drainage infrastructure has also been installed. The first phase of 34 dwellings has full planning permission and the second phase (1b) by the same developer has outline permission with reserved matters approval pending. At the Hearing, the appellant accepted that this second (1b) phase is now deliverable.
43. Dispute remains over the next phase (known as phase 2) for up to 280 dwellings, of which 225 are included in the 5 year supply. At the Hearing, the Council explained that their main concerns with the application had been resolved and that they expected reserved matters approval to be given at the latest at the June planning committee, if not under delegated authority beforehand. Given the outstanding issues described, this seems a realistic assumption.
44. However, notwithstanding the considerable investment in upfront infrastructure, it appears that the phase 2 site is dependent on the phase 1b site for a connection to the principal street. I was told that the two developers are working together but there is no substantive evidence of this and there appears to be no formal trigger for the delivery of the highway infrastructure.
45. The Council confirmed at the Hearing that the applicant for the site had suggested that it would deliver 30 dwellings in the year 2024/25, with 65 in each of the subsequent years. However, given that completions would usually be at least 12 months after commencement, they would not occur in the year 2024/25, even if the developer is poised to start now. The Council has also taken the **developer's** suggestion that 65 dwellings can be completed each year

without evidence, while accepting that this is at the higher end of the normal delivery rates, and on a site that also has another outlet.

46. I, therefore, cannot accept the forecast delivery rates. Although I find the site to be deliverable, there is no clear evidence to support the expected delivery timetable. While I have concerns about the suggested 65 dwellings per year rate, any reduction would be arbitrary and baseless. However, at least 30 dwellings for the year 24/25 should be removed from the supply.

#### Land east of Franwill Industrial Estate

47. It was undisputed at the Hearing that the Council has been considering a full application for 15 dwellings since July 2021. New information was submitted in February this year and the Council explained that various design issues are still unresolved. The new information being provided so long after the original submission, demonstrates a lack of any particular urgency on the part of either main party to move matters forward. There is also a draft planning obligation which could be completed reasonably quickly once heads of terms were agreed, but there is no clear evidence that such agreement has been reached.
48. The Council also confirmed that the applicant is the land owner and a trustee, not a developer. There is no clear evidence of any developer involvement now. While, being a small site, it could probably be built out fairly quickly. However, it would appear that land transactions may also have to take place following any grant of permission. There is no clear evidence as to when planning permission will be granted, nor when a commencement is likely. Therefore, these 15 dwellings should be removed from the supply.

#### Small sites

49. There are a number of small sites with planning permission that, in accordance with the Framework, should be considered deliverable unless there is clear evidence that the homes will not be delivered within five years. **A number of Council's apply a 'non-implementation' or 'lapse rate' to such sites but there is no policy requirement to do so.**
50. There is no dispute that some planning permissions lapse, but other unexpected sites may also gain planning permission. There is no substantive evidence concerning the numerical difference between the lapses and new permissions in the North Dorset area before me. Given this and the definition of **'deliverable' set out in the Framework, I have** no reason to discount the small sites with planning permission from the supply.

#### The resulting supply

51. In light of the above findings, at least 85 dwellings should be removed from the 5 year deliverable housing supply. **Based on the Council's latest published position**, that leaves 2162 dwellings in the deliverable supply against an agreed requirement of 2238 including the relevant buffer. That equates to, at best, a 4.83 year supply. The implication of this shortfall is that the benefits associated with the supply of housing receive substantial weight and that the policy set out in Framework paragraph 11(d) falls to be considered. I turn to that below.

## Other matters

52. The site would see a suburban-style expansion of the existing settlement into a landscape recognised for its attractiveness and cultural associations with Thomas Hardy. Along with the Crown Road site, it would result in a significant incursion into the countryside. Nevertheless, the site would be seen within the context of other surrounding development that is already visible from some key surrounding footpaths and routes. The overall character of Marnhull is varied, but the closest existing parts of the settlement, including that around Ashley Road, Stonelawn and Corner Close are distinctly suburban in form. The first of these is also street-lit.
53. The Council accepts that, with a more carefully considered layout than shown on the illustrative plans, harm to the character and appearance of the area would not be significant. While the density would be higher than at the Crown Road site, given the context, I have no reason to disagree or find that any significant additional harmful light spillage would result from the development. There is also no reason that a layout could not be produced that avoided harm to the living conditions of existing nearby residents.
54. Grade II listed Laburnum Cottage sits on Tanzey Lane close to the appeal site. Its significance derives from its interest as a 17<sup>th</sup> century coarsed rubble **agricultural worker's cottage**. Thus, its significance is enhanced by its stand-alone location at the edge of the adjoining field, allowing its purpose to be understood in its original context. The ultimate layout could pay better respect to the setting of Laburnum Cottage than that shown in the indicative plans. Nevertheless, development of the site for large-scale housing, especially in combination with the Crown Road site would still diminish this wider rural landscaped setting and cause less than substantial harm to **the Cottage's** significance.
55. Nash Court was formerly a single 16/17<sup>th</sup> century single house, listed at grade II for its architectural and historic interest and as the home of the Hussey family. The Council has explained that the site would be visible from the south façade and the immediate setting of Nash Court. There are strong historical links to the land around Marnhull and the appeal site is part of the field system, along with Laburnum cottage, that was formerly part of the estate. As such, **Nash Court's setting** extends to some distance. The presence of built form within the field system would diminish, to a small degree, the extensive agrarian landscape setting and understanding of the importance of the house within Marnhull. Such, would result in less than substantial harm to its significance.
56. The Council has confirmed that the settings and significance of other listed buildings within the locality would not be harmed by the development and I have no reason to disagree. **The Council's** position is also that the less than substantial harm to the significance of Laburnum Cottage and Nash Court would be outweighed by the public benefits of boosting housing supply.
57. While the conservation of heritage assets is of great weight, I have also ascribed substantial weight to the benefits of increased housing supply. In addition, the planning obligation would secure 40% of the dwellings as affordable housing. While there may be a perception that any need particular to Marnhull will be addressed by existing permissions, there is evidence of a high need across the wider Dorset area and so the significant affordable housing



contribution would also be a substantial benefit. I find that these benefits outweigh the harm to the heritage assets.

58. The site may result in the loss of grade 3a agricultural land, but not the highest grades 1 and 2. Grade 3a is still considered to be the best and most versatile agricultural land, but the Council is not aware of any other land of a lesser grade that is available in the locality. As such, if housing in this general area was found to be needed, this matter would not be determinative.
59. Notwithstanding the characteristics of Salisbury Street and the close proximity of the proposed access to that which would serve the Crown Road site, the Council has confirmed that the local highway network can safely accommodate the additional vehicular traffic likely to be generated.
60. There is some concern about pedestrian safety where people would emerge from the proposed pedestrian link onto Tanzey Lane to join the footpath across the Crown Road site. However, while some traffic, particularly delivery vehicles following satellite navigation, may use Tanzey Lane as a cut through, traffic volumes are low and speeds would necessarily be very low due to the width and alignment of the road. The details and position of the link are not finalised and, while there may be some associated visual effects, the Council confirmed at the Hearing that a safe egress can be provided.
61. There is also concern about pedestrian safety on Sodom Lane in the event that an emergency access shown on the indicative plans is delivered. The Highway Authority comments on the matter are couched in the terms 'if the link is provided'. Thus, there is no particular evidence that such a link is a necessary part of the development or, if it is, that it needs to be provided to Sodom Lane. In any case, there is no obvious reason that a link direct to Sodom Lane would more greatly encourage walking on Sodom Lane than the proposed link to the northern reaches of Tanzey Lane.
62. Moreover, given the safety concerns noted above, and while some people would be unable to do so, I find it more likely that people would take the cross-field route through the Crown Road site than use Sodom Lane. Indeed, I passed people walking on this route, even in the falling light levels and inclement weather at my site visit. Therefore, I find the resulting effects to be more closely aligned with accessibility and a deterrent to walking or cycling than to highway safety concerns.

#### Planning balance

63. The conflict with the settlement strategy and associated shortcomings in accessibility that I have identified bring the proposal into conflict with the development plan, read as a whole. Moreover, the poor connectivity may be most strongly felt by elderly or disabled future occupiers. Such residents would share protected characteristics as defined in the Equality Act 2010 (the EA).
64. The public sector equality duty (PSED) outlined within the EA requires me to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct, advance equality of opportunity, and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The potential for the access to services to be more challenging to the elderly and disabled would not advance equality of opportunity for accessing new homes.

65. However, the housing land supply situation is such that the provisions of Framework paragraph 11 d) need to be considered. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
66. Of benefit, is the sizable supply of homes, including a substantial affordable housing contribution that would help to meet the **Council's housing supply** requirements. While I understand that delivery rates have increased significantly in recent years, and the trajectory appears on paper to be optimistic for the remainder of the plan period, there is, nevertheless insufficient supply to meet the expectations set out in the Framework at the present time.
67. While the main towns would, undoubtedly provide better locations for growth in terms of accessibility there is no particular evidence that these preferred locations can be relied upon to produce the additional housing required in the near future. My conclusions in respect of housing land supply indicate that they are not doing so now. Therefore, some reliance on the less desirable locations, such as Marnhull must be expected.
68. The Framework is clear that planning policies and decisions should aim to achieve healthy, inclusive and safe places, including through developments that allow for easy pedestrian and cycle connections. I have found that the safety concerns with the walking routes add to the deterrent rather than being demonstrable harm. This development would fall short on that basis, especially compared to well-connected urban locations, but the Framework is clear that decision making should take account of variation in the ability to maximise sustainable transport solutions between urban and rural areas.
69. There would also be some harm to the character and appearance of the area, and a small loss of agricultural land that may fall into the best and most versatile category. However, in the context that some presently undeveloped land will be required to meet housing needs such harm will likely occur somewhere. The harm in this case, is not significant. There is less than substantial harm to the significance of two listed buildings, but I have already found that to be outweighed by the benefits and so those policies of the Framework relating to heritage matters do not weigh against the proposal.
70. I do understand the concerns that the resultant, cumulative level of growth may change the character of Marnhull to some degree. However, there is no substantive evidence of adverse effects on the highway network beyond the immediate environs of the site. Unmitigated adverse effects on other village facilities have similarly not been substantiated. Some change to the character of Marnhull as a settlement as a whole might well be noticeable, but not necessarily harmful, especially as the development would adjoin the part of the village that already exhibits a more suburban character.
71. On this basis, I find that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole. The proposal, therefore, benefits from the presumption in favour of sustainable development outlined at Framework paragraph 11 and this weighs very strongly in favour of granting permission.

72. In this case, while having due regard to the disadvantage that may be caused to some people with protected characteristics in terms of their choice to live in this particular development of new housing, I find that the policies of the Framework indicate that a decision should be taken otherwise than in accordance with the development plan and planning permission should be granted.

#### Conditions

73. In addition to the standard conditions controlling submission of reserved matters and the time for implementation of the permission, a condition is required listing the access plans which are being approved now, in the interests of certainty.

74. To ensure satisfactory surface and foul water drainage schemes are provided and to avoid any increase in flood risk off-site, full details of a surface water drainage scheme and maintenance strategy, and foul drainage scheme must be agreed prior to the commencement of any development. To protect biodiversity and environmental interests, conditions are required to secure a final biodiversity plan, a construction environmental management plan, and any unexpected land contamination must be remediated. To secure appropriate archaeological records at the site, a scheme of archaeological investigation is required.

75. In the interests of highway safety, pedestrian connectivity, and reducing travel demand as far as possible, details of a footpath link to the route across the Crown Road site must be submitted, the footway along Salisbury Street between the site access and Tanzey Lane must be widened, and a travel plan implemented. Details of the site access must be finalised, visibility splays provided, and a construction traffic management plan submitted and implemented.

76. The Council suggested a number of other conditions that are not necessary. A condition limiting the number of dwellings that can be constructed at the site is not needed as the **description of development is for 'up to' 67 dwellings, and 'layout' and 'scale' are reserved matters in any event. Building heights, landscaping and tree protection measures, as well as ongoing management of any landscaping, details of the internal highway layout and construction, including vehicle and cycle parking could be agreed, controlled and secured as part of the reserved matters approval process. The parties agreed at the Hearing that electric vehicle charging would be secured through the Building Regulations and did not require a planning condition.**

77. **Some of the Council's conditions included reasons for their imposition, lists of details to be submitted or reference to other approval processes, guidance and legislation. My conditions focus on the actions required to be taken in the interests of precision, and I have omitted generic lists so that the parties can agree the relevant factors for this site, in accordance with prevailing guidelines at the relevant time. I have made some other changes to the Council's suggested conditions in the interests of consistency and clarity, and to ensure compliance with the Framework and Planning Practice Guidance.**

#### Conclusion

78. For the reasons given above, the appeal is allowed.

*M Bale*

INSPECTOR

## SCHEDULE – Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: 22039/P001; 106.0027-0001 Rev P01; 106.0027-0002 Rev P01; 106.0027-0003 Rev P01.
5. No development shall commence until a detailed surface water management scheme for the site and connection to an agreed discharge point, based upon the hydrological and hydrogeological context of the development, including clarification of how surface water is to be managed during construction, and a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. The surface water management scheme shall be fully implemented in accordance with the submitted details and approved timetable and thereafter maintained as such.
6. No development shall commence until details of the maintenance and management of both the surface water management scheme and any receiving system for the lifetime of the development, and any arrangements to secure the ongoing operation of the scheme have been submitted to and approved in writing by the Local Planning Authority. The surface water management scheme shall thereafter be maintained and managed in accordance with the approved details.
7. No development shall commence until a detailed foul drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development must be carried out in accordance with the agreed details prior to the occupation or use of any dwelling hereby permitted and shall thereafter be maintained as such.
8. No development shall commence until a final biodiversity plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and implemented in full in accordance with the timescales within the biodiversity plan and any features specified for ongoing retention shall be thereafter maintained as such.
9. No development shall commence until details of a programme of archaeological work in accordance with a written scheme of investigation have been submitted to and approved in writing by the Local Planning Authority. The scheme must cover archaeological fieldwork, together with post-excavation work and publication of the results. Thereafter, the archaeological works shall be carried out in accordance with the approved details.

10. No development shall commence until details of the footpath link between the development site and public right of way N47/34 have been submitted to and approved in writing by the Local Planning Authority. The link shall be delivered in accordance with the approved details prior to the occupation of any dwelling on the site and thereafter maintained as such.
11. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved CTMP.
12. No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved CEMP.
13. Prior to the first occupation of any dwellings hereby permitted, a replacement 2 metre wide footway shall be provided along the northern side of Salisbury Street from the main site access to the junction with Tanzey Lane in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided, the footway shall thereafter be maintained as such.
14. Prior to the first occupation of any dwellings hereby permitted, the first 15.00 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing), shall have been laid out and constructed to a specification that shall previously have been submitted to and approved in writing by the Local Planning Authority and shall thereafter be maintained as such.
15. Prior to the first occupation of any dwellings hereby permitted the visibility splay areas as shown on drawing number 106.0027-0003 Rev P01 must be cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.
16. Prior to the first occupation of any of the dwellings hereby permitted the Travel Plan dated February 2023 shall be implemented. Within 6 calendar months of 50% occupation of the development hereby approved, a baseline travel survey shall be carried out and the results submitted to the Local Planning Authority in an updated version of the Travel Plan. Thereafter, on an annual basis for a period of 5 years a monitoring travel survey shall be carried out and submitted to the Local Planning Authority in a monitoring report. The survey shall confirm whether or not the objectives of the Travel Plan have been achieved and shall contain, where necessary, recommendations for amendments or improvements to the Travel Plan.
17. In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified, it must be reported in writing immediately to the Local Planning Authority along with a timetable for remediation. An investigation, risk assessment and remediation strategy shall be submitted to and approved by the Local Planning Authority and

implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

End of conditions

## APPEARANCES<sup>1</sup>

### FOR THE APPELLANT:

Paul Cairnes KC  
Counsel, instructed by Chapman Lily Planning Ltd  
Clare Spiller BSc (Hons) PG Dip TP MRTPI  
Associate Director, Chapman Lily Planning Ltd  
Jeff Richards BA (Hons) MTP MRTPI  
Senior Director, Turley  
Caitlin Turley BEng (Hons) MCIHT  
Associate, Paul Basham Associates  
Steve Millard IEng MICE  
Director PFA Consulting Ltd  
Paul Crocker  
Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Rob McDonald  
Case officer  
Hannah Smith  
Northern Team Area Manager  
Philip Reese  
Senior Planning Policy Officer  
Sara Hardy  
Senior Planning Policy Officer  
Steve Savage  
Transport Development Manager  
Alister Trendell  
Lead Local Flood Authority Project Engineer  
Cass Worman  
Case Officer  
Tobias Carleton-Prangnell  
Conservation Officer

### INTERESTED PARTIES:

Julie Bartlett	Terry Rickeard
Lucy Bowden	Jenifer Selim
Stephen Boyce	Tim Selim
Rob Cullender	Mark Turner
K Emery	Peter Watts
Ros Eveleigh	Steve Winder
Terry Howells	

### DOCUMENTS SUBMITTED AT THE HEARING

1. LP Policy 24 – Design, including supporting text and figures

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<sup>1</sup> Persons who appeared at the Hearing, whether or not they spoke in connection with this appeal.



EP2



Ministry of Housing,  
Communities &  
Local Government

Patrick Downes  
Harris Lamb Ltd  
75-76 Francis Road  
Birmingham  
B16 8SP

Our ref: APP/R0660/A/13/2197532  
APP/R0660/A/13/2197529

15 July 2020

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY MULLER PROPERTY GROUP  
LAND OFF AUDLEM ROAD/BROAD LANE, STAPELEY, NANTWICH AND LAND OFF  
PETER DE STAPELEIGH WAY, NANTWICH  
APPLICATION REFS: 12/3747N AND 12/3746N**

1. I am directed by the Secretary of State to say that consideration has been given to the report of David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC, who held a public local inquiry on 20-24 February 2018 into your client's appeal against the decision of Cheshire East Council to refuse your client's application for outline planning permission for Appeal A: Proposed residential development for up to a maximum of 189 dwellings; local centre (Class A1 to A5 inclusive and D1) with a maximum floor area of 1,800 sq.m Gross Internal Area (GIA); employment development (B1b, B1c, B2 and B8) with a maximum floor area of 3,700 sq. m GIA; primary school site; public open space including new village green, children's play area and allotments, green infrastructure including ecological area; access via adjoining site B (see below) and new pedestrian access and associated works; and against the failure of Cheshire East Council to determine your client's application for Appeal B: Proposed new highway access road, including footways and cycleways and associated works, in accordance with applications 12/3747N and 12/3746N.
2. The Secretary of State issued his decisions in respect of the above appeals by way of his letters dated 17 March 2015 and 11 August 2016. Those decisions were challenged by way of an application to the High Court and were subsequently quashed by orders of the

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Court dated 3 July 2015 and 14 March 2017. The appeals have therefore been redetermined by the Secretary of State following a new inquiry into this matter. Details of the original inquiry are set out in the 17 March 2015 and 11 August 2016 decision letters.

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeals be allowed and planning permission should be granted.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeals and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural matters**

5. The Secretary of State notes that, prior to the opening of the Inquiry the appellant submitted a revised layout of the proposals which omitted the proposed access off Audlem Road and that this has necessitated an amendment to the description of development to reflect the changes (IR7). The Secretary of State also notes that the Inspector subsequently received comments on the revisions following consultation by the appellant. For the reasons given in IR7-8, the Secretary of State agrees with the Inspector that the proposed revisions should be taken into account in the determination of this case and he is satisfied that no interests have thereby been prejudiced.
6. The Secretary of State has noted that a reference to policy RG6 of the Cheshire East Local Plan Strategy (CELPS) in IR424 should refer to policy PG6.

### **Matters arising since the close of the inquiry**

7. On 21 February 2019, the Secretary of State wrote to the main parties to afford them an opportunity to comment on:
  - The Written Ministerial Statement on housing and planning, issued on 19 February 2019.
  - The publication, on 19 February 2019, of the 2018 Housing Delivery Test (HDT) measurement by local planning authorities and a technical note on the process used in its calculation.
  - The Government's response to the technical consultation on updates to national planning policy and guidance, published 19 February 2019.
  - The revised National Planning Policy Framework, published on 19 February 2019.
  - Updated guidance for councils on how to assess their housing needs.

The representations that were received in response were circulated to the main parties on 11 March 2019. Further representations were subsequently received, including an assessment of the 5-year housing land supply submitted on 23 April 2019 by Harris Lamb on behalf of the appellant and the Cheshire East Annual Housing Monitoring Update Report (HMU) (Base Date March 2018) received on 24 April 2019 submitted by Cheshire East Council. Further representations were received in response to the HMU 2018.

Subsequently the Cheshire East Annual Housing Monitoring Update Report (Base Date March 2019) was submitted by Cheshire East Council on 8 November 2019. Representations received were circulated with the final correspondence received on 12 February 2020. All representations are listed at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

8. The 2019 Housing Delivery Test results were published on 13 February 2020. The Council's score was assessed as 230%, requiring no further action. The Secretary of State is satisfied that this does not affect his decision and does not warrant further investigation or a referral back to parties.

### **Policy and statutory considerations**

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of the Cheshire East Local Plan Strategy 2010 – 2030, adopted July 2017 (CELPS), the Stapeley and Batherton Neighbourhood Plan, made in 2018 (S&BNP) and the saved policies from Crewe and Nantwich Replacement Local Plan (February 2005) (CNLP). The Secretary of State considers that relevant development plan policies include those set out in paragraph 5.1 of the Planning Statement of Common Ground (IR26).
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as those listed in IR28-29. The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.

### **Main issues**

12. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR380-381.

#### *Character and appearance*

13. For the reasons given in IR382-387 and IR418 the Secretary of State agrees with the Inspector at IR388 that the proposals are in conflict with the letter and principles of Policies PG6, SD1 and SD2 of the CELPS, Policy RES5 of the CNLP and Policy GS1, H1 and H5 of the S&BNP. However, he also agrees that the appeal sites are now effectively bordered on three sides by existing and emerging development. The Secretary of State also agrees with the Inspector that the rural hinterland, anticipated by the plan vision has, in the circumstances of these cases, been extensively eroded. The Secretary of State agrees with the Inspector that the degrees of harm to visual amenity here, because of the very specific urbanised context of the site and the contribution green space makes to the scheme, would, in actuality, be limited in extent (IR418). Overall the Secretary of State affords the harm to character and appearance, and visual amenity, limited weight in the planning balance.

#### *BMV Agricultural land*

14. As set out in IR389-390 and IR419 the Secretary of State agrees with the Inspector that the proposed development would result in the loss of best and most versatile agricultural land and is contrary to Policy SE2 of the CELPS. The Secretary of State further agrees that the area of land is modest and predominantly at lower grade, and that its loss cannot be judged significant. He agrees it merits only modest weight against in the planning balance.
15. The Secretary of State notes that no other substantive harms have been identified and agrees with the Inspector that the other effects of the development can be effectively mitigated through the provisions of the section 106 obligations, thus rendering them neutral in the planning balance (IR419).

#### *Highway safety*

16. The Secretary of State acknowledges that there was a significant degree of apprehension amongst local residents over any increase in traffic numbers in the locality as a result of the development proposed. For the reasons given in IR391–392 and IR416 the Secretary of State agrees with the Inspector that such concerns must be afforded no more than very limited weight.

#### *Housing land supply*

17. The Secretary of State has considered the Inspector's assessment of housing land supply at IR393-409 and has also taken into account the revised Framework, Housing Delivery Test (HDT) and material put forward by parties as part of the reference back processes set out in paragraph 7 of this letter. As part of this, the Council submitted their Annual Housing Monitoring Update Report (HMU) (base date March 2019) which concludes that the Council can demonstrate 7.5 years of housing land supply, assessed from 2019-2024. The appellant disagrees with this figure and concludes that the Council can demonstrate 4.72 years of housing land supply.
18. For the reasons given in IR393 the Secretary of State agrees that the basic housing requirement for Cheshire East Council is 1800 dwellings per annum (9000 over 5 years) and notes that this was agreed in a statement of common ground between the parties and was also set out in the CELPS. The shortfall to be addressed is now 3582 dwellings, which is set out in the Council's HMU 2019 and also referred to in the appellant's correspondence of 4 December 2019. The Secretary of State, therefore, uses this figure of 3582 dwellings as the shortfall rather than 5635 dwellings set out in IR393. For the reasons given in IR397-398, the Secretary of State agrees with the Inspector that any backlog should be made up within the first 8 years of the plan period as determined by the CELPS and the Examining Inspector, and that this 8-year period should not be rolled forward. As the 8-year period began on 1 April 2016, and concludes on 31 March 2024, the shortfall of 3582 should therefore be made up in the 5-year period on which the current HMU is based, with the housing requirement at this stage of the calculation being 12,582.
19. The Secretary of State notes that since the closure of the Inquiry the revised Framework and updated HDT 2019 figures have been published. The HDT figures mean that the Council is only required to add a 5% buffer in line with paragraph 73 of the Framework rather than the 20% buffer that was required at the time of the Inquiry. Including this buffer, the housing requirement is 13,211.

20. The Secretary of State considers that the Inspector's assessment of housing supply at IR400-409 is now out of date given the new information that has been submitted by parties since the end of the Inquiry.
21. The Secretary of State has reviewed the information submitted by the parties, in particular the sites where deliverability is in dispute between the appellant and the Council. The Secretary of State agrees with the appellant that some of the sites identified by the Council, at the time the evidence was submitted, may not meet the definition of deliverability within the Framework. He considers that, on the basis of the evidence before him, the following should be removed from the supply: sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement; a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress; and a site where the agent in control of the site disputes deliverability. He has therefore deducted 301 dwellings from the supply of housing figures.
22. The Secretary of State also considers that there are further sites where the evidence on deliverability is marginal but justifies their inclusion within a range of the housing supply figures. This group includes sites where the Council has a written agreement with an agent or developer and this indicates progress is being made, or where there is outline planning permission or the site is on a brownfield register and the Secretary of State is satisfied that there is additional information that indicates a realistic prospect that housing will be delivered on the site within 5 years. The Secretary of State considers that in total the number of dwellings within this category is 2,234.
23. Applying these deductions to the Council's claimed deliverable supply figure of 17,733, the Secretary of State is satisfied therefore, on the basis of the information before him, that the Council has a 5 year deliverable supply of between 15,198 dwellings and 17,432 dwellings. As the Secretary of State also considers that the Council has a total 5 year requirement of 13,211 dwellings, he is satisfied that the Council is able to demonstrate a supply of housing sites within the range of 5.7 years to 6.6 years. The Secretary of State has considered the Inspector's comments in IR423-425, and considers that in the light of his conclusion that there is a 5 year housing land supply, the presumption in favour of sustainable development does not apply in this case.

#### *Need for a mixed use development*

24. The Secretary of State agrees with the Inspector at IR410 that the right approach is to consider the proposal as a whole, as to do otherwise would be to invite independent evaluation of the constituent elements across the board.

#### *Distortion of the Council's spatial strategy*

25. For the reasons given in IR411, the Secretary of State agrees with the Inspector that the development proposed here cannot be considered of such a magnitude as to distort the spatial vision. He therefore agrees with the Inspector that there is no breach of policies PG2 and PG7 of the CELPS.

#### *The benefits of the scheme*

26. For the reasons given in IR412 and IR421, the Secretary of State agrees with the Inspector that the proposal would bring economic benefits, in terms of direct and indirect

employment during its construction and expenditure into the local economy. The Secretary of State also agrees with the Inspector that the site is in a sustainable location and notes that Nantwich is one of the preferred locations for development in the CELPS. He agrees that these benefits should be afforded medium weight.

27. For the reasons given in IR413 and IR421, the Secretary of State agrees with the Inspector that there will be a number of social benefits including extensive areas of public open space embracing a new village green and an enlarged Landscape and Nature Conservation Area, the scope for the development of a further primary school and improvements to sustainable transport connectivity. He agrees that these would represent significant additional social benefits, not just to new occupiers of the development, but to those in the locality as well. He also agrees with the Inspector that these benefits should be afforded medium weight.
28. For the reasons given in IR414 and IR420 the Secretary of State agrees with the Inspector that the delivery of significant numbers of market housing in a sustainable location is a significant benefit. Whilst the Secretary of State has concluded that the Council can demonstrate a 5 YHLS, he has taken into account that nationally it is a government policy imperative to boost the supply of housing, as set out at paragraph 59 of the Framework, and he considers that this benefit should be afforded significant weight.
29. The Secretary of State also agrees with the Inspector at IR415 and IR420 that the scheme will include 30% affordable homes which will help meet the need in Cheshire East. The Secretary of State agrees that this is a tangible benefit and merits significant weight.

### **Planning conditions**

30. The Secretary of State has given consideration to the Inspector's analysis at IR368-372, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.
31. Having had regard to the Inspector's analysis at IR373-378, the planning obligation dated 2 March 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR374-378 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

### **Planning balance and overall conclusion**

32. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with PG6, SD1, SD2, SE2 of the CELPS, Policy RES5 of the CNLP and Policies G5, H1 and H5 of the S&BNP and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

33. Weighing against the proposal, the harm to character and appearance, and visual amenity, is afforded limited weight and the loss of BMV agricultural land is afforded modest weight. Any concerns due to increase in traffic are afforded only very limited weight. No other substantive harms have been identified.
34. Weighing in favour of the proposal, the provision of market housing in a sustainable location is afforded significant weight. The provision of affordable housing to help meet a need in Cheshire East is also given significant weight. The economic benefits in terms of direct and indirect employment during its construction and expenditure into the local economy of the proposal are given medium weight. The social benefits, including extensive areas of public open space, the scope for the development of a further primary school and improvements to sustainable transport connectivity are given medium weight.
35. The Secretary of State has found that the Council can now demonstrate a 5 year housing land supply. However, having carefully taken into account the factors weighing for and against this scheme, he considers that the overall balance of material considerations in this case indicates a decision which is not in line with the development plan – i.e. a grant of permission for both proposals.
36. The Secretary of State therefore concludes that the appeals should be allowed and planning permission should be granted.

### **Formal decision**

37. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeals and grants planning permission subject to the conditions set out in Annex B of this decision letter for Appeal A: Proposed residential development for up to a maximum of 189 dwellings; local centre (Class A1 to A5 inclusive and D1) with a maximum floor area of 1,800 sq.m Gross Internal Area (GIA); employment development (B1b, B1c, B2 and B8) with a maximum floor area of 3,700 sq. m GIA; primary school site; public open space including new village green, children's play area and allotments, green infrastructure including ecological area; access via adjoining site B (see below) and new pedestrian access and associated works; and Appeal B: Proposed new highway access road, including footways and cycleways and associated works, in accordance with applications 12/3747N and 12/3746N.
38. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### **Right to challenge the decision**

39. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
40. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.



41. A copy of this letter has been sent to Cheshire East Council, Stapeley and District Parish Council and Nantwich Town Council.

Yours faithfully

*Jean Nowak*

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Annex A – List of representations

Annex B – List of Conditions

## Annex A

### Representations received in response to the Secretary of State's Rule 19 letters of 12 April 2017 and 10 May 2017

<b>Party</b>	<b>Date</b>
Cheshire East Council	5 May 2017
Patrick Cullen	5 May 2017
John Davenport	8 May 2017
Stapeley & District Parish Council	9 May 2017
Hill Dickinson (on behalf of Muller Property Group)	19 May 2017
Patrick Cullen	7 June 2017
Muller Property Group	9 June 2017

### Secretary of State's letter: 21 February 2019

<b>Party</b>	<b>Date</b>
Cheshire East Council	5 March 2019
Knights plc (on behalf of Muller Property Group)	6 March 2019

### Circulation of responses of 11 March 2019

Harris Lamb (on behalf of Muller Property Group)	15 March 2019
Cheshire East Council	18 March 2019

### Letter from Planning Casework Unit: 19 March 2019

Hill Dickinson	22 March 2019
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### Letter from Planning Casework Unit: 27 March 2019

Harris Lamb	23 April 2019
Cheshire East Council	24 April 2019
Nantwich Town Council	23 April 2019

### Circulation of responses: 30 April 2019

Cheshire East Council	1 May 2019
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### Variation of timetable: 2 May 2019

Harris Lamb	29 May 2019
Cheshire East Council	29 May 2019

### Circulation of responses: 4 June 2019

Hill Dickinson	6 June 2019
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**Letter from Planning Casework Unit: 12 June 2019**

Hill Dickinson	25 June 2019
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**Circulation of Hill Dickinson letter: 26 June 2019**

Cheshire East Council	4 July 2019
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**Response to Cheshire East Council and circulation: 9 July 2019**

Harris Lamb	11 July 2019
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Cheshire East Council	8 November 2019
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**Circulation of documents received from Cheshire East Council 13 November 2019**

Harris Lamb	4 December 2019
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**Circulation of Hill Dickinson response: 9 December 2019**

Cheshire East Council request for extension	10 December 2019
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Cheshire East Council	13 January 2020
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**Circulation of Cheshire East Council response: 14 January 2020**

Hill Dickinson	31 January 2020
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**Circulation Hill Dickinson response: 4 February 2020**

Hill Dickinson	7 February 2020
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Cheshire East Council	12 February 2020
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**Note: Entries in bold indicate letters/circulation of information by the Secretary of State**

## **Annex B**

### **Schedule of Conditions**

#### **Appeal A**

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

3. This permission shall refer to the following drawing numbers unless any other condition attached to the permission indicates otherwise:

Mixed Use and Access Applications Diagram – dwg SK15 Rev C  
(11 November 2017)

Mixed Use and Access Applications Diagram – dwg SK16 Rev C  
(11 November 2017)

Mixed Use and Access Applications Diagram – dwg SK17 Rev C  
(11 November 2017)

Mixed Use and Access Applications Diagram – dwg SK19 Rev D  
(11 November 2017)

4. No development shall commence until details of a scheme for the disposal of foul and surface water from the development has been submitted to and approved in writing by the LPA. The scheme shall make provision, inter alia for the following:
  - a. this site to be drained on a totally separate system with all surface water flows ultimately discharging in to the nearby watercourse
  - b. a scheme to limit the surface water run-off generated by the proposed development
  - c. a scheme for the management of overland flow
  - d. the discharge of surface water from the proposed development to mimic that which discharges from the existing site.
  - e. if a single rate of discharge is proposed, this is to be the mean annual run-off (Qbar) from the existing undeveloped greenfield site. For discharges above the allowable rate, attenuation for up to the 1% annual probability event, including allowances for climate change.
  - f. the discharge of surface water, wherever practicable, by Sustainable Drainage Systems (SuDS).
  - g. Surface water from car parking areas less than 0.5 hectares and roads to discharge to watercourse via deep sealed trapped gullies.

- h. Surface water from car parking areas greater than 0.5 hectares in area, to have oil interceptor facilities such that at least 6 minutes retention is provided for a storm of 12.5mm rainfall per hour.

The development shall not be occupied until the approved scheme of foul and/or surface water disposal has been implemented to the satisfaction of the LPA.

5. No development shall commence until a scheme for the provision and management of an 8 metre wide buffer zone alongside the watercourse on the northern boundary measured from the bank top (defined as the point at which the bank meets the level of the surrounding land) has been submitted to and approved in writing by the LPA. The scheme shall include:

- plans showing the extent and layout of the buffer zone
- details of any proposed planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.

This buffer zone shall be free from built development other than the proposed access road. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the LPA.

6. No development shall commence within the application site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the LPA.

7. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the LPA. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:

- a. the hours of construction work and deliveries
- b. the parking of vehicles of site operatives and visitors
- c. loading and unloading of plant and materials
- d. storage of plant and materials used in constructing the development
- e. wheel washing facilities
- f. measures to control the emission of dust and dirt during construction.
- g. details of any piling operations including details of hours of piling operations, the method of piling, duration of the pile driving operations (expected starting date and completion date), and prior notification to the occupiers of potentially affected properties

- h. details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint
  - i. control of noise and disturbance during the construction phase, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes
  - j. waste management: there shall be no burning of materials on site during demolition/construction.
8. No development shall take place on the commercial and retail element until a detailed noise mitigation scheme to protect the proposed dwellings from noise, taking into account the conclusions and recommendations of the Noise Report submitted with the application, shall be submitted to and agreed in writing by the LPA. The approved mitigation measures shall be implemented before the first occupation of the dwelling to which it relates.
9. Prior to the commencement of development:
- a. A contaminated land Phase 2 investigation shall be carried out and the results submitted to, and approved in writing by the LPA.
  - b. If the Phase 2 investigations indicate that remediation is necessary, a Remediation Statement including details of the timescale for the work to be undertaken shall be submitted to, and approved in writing by, the LPA. The remedial scheme in the approved Remediation Statement shall then be carried out in accordance with the submitted details.
  - c. Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.
10. No development shall commence until a scheme of destination signage to local facilities, including schools, the town centre and railway station, to be provided at junctions of the cycleway/footway and highway facilities shall be submitted to and agreed in writing by the LPA. The approved scheme shall be provided in parallel with the cycleway/footway and highway facilities.
11. No development shall commence until schemes for the provision of MOVA traffic signal control systems to be installed at the site access from Peter Destapleigh Way and at the Audlem Road/Peter Destapleigh Way traffic signal junctions, has been submitted to and approved in writing by the LPA . Such MOVA systems shall be installed in accordance with approved details prior to the first occupation of the development hereby permitted.
12. The Reserved Matters application shall include details of parking provision for each of the buildings proposed. No building hereby permitted shall be occupied until the parking and vehicle turning areas for that building have been

constructed in accordance with the details shown on the approved plan. These areas shall be reserved exclusively thereafter for the parking and turning of vehicles and shall not be obstructed in any way.

13. Prior to the first occupation of the development hereby permitted a Travel Plan shall be submitted to and approved in writing by the LPA. The Travel Plan shall include, inter alia, a timetable for implementation and provision for monitoring and review. None of the building hereby permitted shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation after or before occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review, as long as any part of the development is occupied.
14. No development shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the LPA. The approved scheme shall be implemented and retained as operational thereafter.
15. Prior to first occupation of each unit, Electric Vehicle Infrastructure shall be provided to the following specification, in accordance with a scheme, submitted to and approved in writing by the LPA which shall including the location of each unit:
  - A single Mode 2 compliant Electric Vehicle Charging Point per property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kV charging.
  - 5% staff parking on the office units with 7KV Rapid EVP with cabling provided for a further 5% (to enable the easy installation of additional units).

The EV infrastructure shall be installed in accordance with the approved details and thereafter be retained.

16. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey shall be carried out by a suitably qualified person to check for nesting birds and the results submitted to the LPA. Where nests are found in any hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to LPA before any further works within the exclusion zone take place.
17. Prior to the commencement of development detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds shall be submitted to and approved in writing by the LPA. The approved features shall

be permanently installed prior to the first occupation of the development hereby permitted and thereafter retained, unless otherwise agreed in writing by the LPA.

18. The reserved matters application shall be accompanied by a detailed Ecological Mitigation strategy including a great crested newt mitigation strategy informed by the recommendations of the submitted Protected Species Impact Assessment and Mitigation Strategy dated 2013 prepared by CES Ecology (CES:969/03-13/JG-FD). The development shall be implemented in accordance with the measures of the approved ecological mitigation strategy.
19. Prior to the commencement of each phase of development details of the proposed lighting scheme should be submitted to and approved in writing by the Local Planning Authority.
  - a) The details shall include the location, height, design and luminance and ensure the lighting is designed to minimise the potential loss of amenity caused by light spillage onto adjoining properties. The lighting shall thereafter be installed and operated in accordance with the approved details.
  - b) The scheme should include dark areas and avoid light spill upon bat roost features, boundary hedgerows and trees. The scheme should also include details of: Number and location of proposed luminaires; Luminaire light distribution type; Lamp type, lamp wattage and spectral distribution; Mounting height; Orientation direction; Beam angle; Type of control gear; Proposed lighting regime; and Projected light distribution maps of each lamp. The lighting scheme shall be installed in accordance with the approved details.
20. All trees with bat roost potential as identified by the Peter Destapleigh Way Ecological Addendum Report 857368 (RSK September 2017) shall be retained, unless otherwise agreed in writing by the Local Planning Authority
21. The first reserved matters applications shall include a Design Code for the site and all reserved matters application shall comply with provisions of the Masterplan submitted with the application and the approved Design Code.
22. Prior to the commencement of each phase of development a scheme for landscaping shall be submitted to the Local Planning Authority and approved in writing. The approved landscaping scheme shall include details of any trees and hedgerows to be retained and/or removed, details of the type and location of Tree and Hedge Protection Measures, planting plans of additional planting, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes and proposed numbers/densities and an implementation programme.

The landscaping scheme shall be completed in accordance with the following:-

- a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of



the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.

- b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428 (1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
  - c) All new tree plantings shall be positioned in accordance with the requirements of Table 3 of British Standard BSD5837: 2005 Trees in Relation to Construction: Recommendations.
  - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
23. An Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations shall be submitted in support of any reserved matters application which shall evaluate the direct and indirect impact of the development on trees and provide measures for their protection.
  24. No phase of development shall commence until details of the positions, design, materials and type of boundary treatment to be erected have been submitted to and approved in writing by the LPA. No building hereby permitted shall be occupied until the boundary treatment pertaining to that property has been implemented in accordance with the approved details.
  25. The Reserved Matters application for each phase of development shall include details of bin storage or recycling for the properties within that phase. The approved bin storage facilities shall be provided prior to the first occupation of any building.
  26. Notwithstanding the details shown on plan reference no. BIR.3790.09D (September 2012) access to the development herein permitted shall be exclusively from Peter Destapeleigh Way as shown on plan reference no. dwg SK16 Rev C (11 November 2017)
  27. Unless otherwise agreed in writing, none of the dwellings hereby permitted shall be first occupied until access to broadband services has been provided in accordance with an action plan that has previously been submitted to and approved in writing by the LPA.

## **Appeal B**

1. The development hereby approved shall commence within three years of the date of this permission.

2. This permission shall refer to the following drawing numbers unless any other condition attached to the permission indicates otherwise:
  - a. Site Location Plan reference no. BIR.3790\_13
  - b. Site Access General Arrangement Plan reference no. SCP/10141/D03/Rev D (May 2015).
3. No development shall commence until there has been submitted to and approved by the LPA a scheme of landscaping and replacement planting for the site indicating inter alia the positions of all existing trees and hedgerows within and around the site, indications of those to be retained, also the number, species, heights on planting and positions of all additional trees, shrubs and bushes to be planted.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the LPA gives written consent to any variation.
5. Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction : Recommendations, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the Local Planning Authority.
  - (a) No development or other operations shall take place except in complete accordance with the approved protection scheme.
  - (b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
  - (c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
  - (d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
6. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

7. Prior to development commencing, a detailed Ecological Mitigation strategy including a great crested newt mitigation strategy informed by the recommendations of the submitted Protected Species Impact Assessment and Mitigation Strategy dated MARCH 2013 REVISION) prepared by CES Ecology (CES:969/03-13/JG-FD) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the measures of the approved ecological mitigation strategy.
8. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey shall be carried out by a suitably qualified person to check for nesting birds and the results submitted to the LPA. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to LPA before any further works within the exclusion zone take place.
9. Prior to the commencement of development details of the proposed lighting scheme should be submitted to and approved in writing by the Local Planning Authority. The scheme should include dark areas and avoid light spill upon bat roost features, boundary hedgerows and trees. The scheme should also include details of: Number and location of proposed luminaires; Luminaire light distribution type; Lamp type, lamp wattage and spectral distribution; Mounting height; Orientation direction; Beam angle; Type of control gear; Proposed lighting regime; and Projected light distribution maps of each lamp. The lighting scheme shall be installed in accordance with the approved details.
10. Prior to the commencement of development, and to minimise the impact of the access road on potential wildlife habitat provided by the existing ditch located adjacent to the southern site boundary, the detailed design of the ditch crossing shall be submitted to and approved in writing by the LPA. The access road shall be constructed in full accordance with the approved details.
11. No development shall commence on site unless and until a Deed of variation under s106A TCPA 1990 (as amended) has been entered into in relation to the S106 Agreement dated 20 March 2000 between Jennings Holdings Ltd (1), Ernest Henry Edwards, Rosemarie Lilian Corfield, James Frederick Moss, Irene Moss, John Williams and Jill Barbara Williams (2), Crewe and Nantwich BC (3) and Cheshire County Council (4) to ensure that the Local Nature Conservation Area is delivered, maintained and managed under this permission.

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# Report to the Secretary of State for Housing, Communities and Local Government

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC  
an Inspector appointed by the Secretary of State

Date: 14 January 2019

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Town and Country Planning Act 1990

Appeals by Muller Property Group

Cheshire East Council

Inquiry Held on 20-24 February 2018

Land off Audlem Road/Broad Lane, Stapeley, Nantwich, Cheshire  
Land off Peter Destapeleigh Way, Nantwich, Cheshire

File Ref(s): APP/R0660/A/13/2197532 & APP/R0660/A/13/2197529



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## List of Abbreviations

5YS	5 year housing land supply
appx	Appendix
AF	Adrian Fisher – 5YS witness for CEC
BMV	Best and most versatile agricultural land
b/p	bullet point
CEC	Cheshire East Council
Cllr	Councillor
CNRLP	Crewe and Nantwich Revised Local Plan 2006
DPD	Development Plan Document
FN	Footnote
FOI	Freedom of Information
GLVIA	Guidelines for Landscape and Visual Assessment (3rd edition)
HMU	Housing Monitoring Update 2017, published Aug 2017 with a base date of assessment at 31/3/17
JB	Jon Berry – landscape architect for Appellants
LCA	landscape character area
LCT	landscape character type
LDS	Local Development Scheme
LHA	Local Highway Authority
LP	Local Plan
LPA	Local Planning Authority
LPI	Local Plan Inspector – Stephen Pratt
LPS	Local Plan Strategy
LPpt2	Emerging Local Plan Part 2 – containing allocations and development management policy synonymous with the SADPPD
LVIA	Landscape and Visual Impact Assessment
MW	Matt Wedderburn – 5YS witness for the Appellant
NP	Neighbourhood Plan
NPPG	National Planning Practice Guidance
OAN	Objectively Assessed Needs (usually housing)
OPP	Outline Planning Permission
PD	Pat Downes – planning witness for Appellant
PoE	Proof of evidence
PP	Planning Permission
PTQC	Paul G Tucker QC – counsel for the Applicants
PPG	Planning Policy Guidance
ReX	re-examination
RfR	reason for refusal
rNPPF	revised National Planning Policy Framework
RJ	Reasoned Justification of the Development Plan
RM	reserved matters
RTQC	Reuben Taylor QC – counsel for LPA
RT	Richard Taylor – planning witness for the LPA
SADPD	the Site Allocations and Development Plan D (aka LP pt2)
SHLAA	strategic housing land availability assessment
SOCG	statement of common ground
SoS	the Secretary of State for the Ministry of Housing Communities and Local Government
SPB	Spatial Planning Board – <b>CEC’s planning committee</b>

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SPD Supplementary Planning Document  
TA Transportation Assessment – here undertaken by SCP  
XC examination in chief  
XX cross examination  
**XX'd cross examined**  
WB William Booker – the **Appellant's highway consultant**  
WMS Written Ministerial Statement



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Appeal A: File Ref: APP/R0660/A/13/2197532  
Land off Audlem Road/Broad Lane, Stapeley, Nantwich,  
Cheshire CW5 7DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
- The appeal is made by Mr Carl Davey, Muller Property Group against the decision of Cheshire East Council.
- The application Ref 12/3747N, dated 28 September 2012, was refused by notice dated 16 April 2013.
- The development proposed is Proposed residential development for up to a maximum of 189 dwellings; local centre (Class A1 to A5 inclusive and D1) with a maximum floor area of 1,800 sq.m Gross Internal Area (GIA); employment development (B1b, B1c, B2 and B8) with a maximum floor area of 3,700 sq. m **GIA; primary school site; public open space including new village green, children's play area and allotments, green infrastructure including ecological area; access via adjoining site B (see below) and new pedestrian access and associated works.**

Summary of Recommendation: that the appeal should be allowed and planning permission should be granted subject to conditions.

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Appeal B: File Ref: APP/R0660/A/13/2197529  
Land off Peter de Stapeleigh Way, Nantwich, Cheshire CW5 7HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Carl Davey, Muller Property Group against Cheshire East Council.
- The application Ref 12/3746N is dated 28 September 2012.
- The development proposed is Proposed new highway access road, including footways and cycleways and associated works.

Summary of Recommendation: that the appeal should be allowed and planning permission should be granted subject to conditions.

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#### Procedural matters

1. The application to which Appeal A relates was submitted in outline form with all matters reserved except for access. The extent of development is set out in the Design and Access Statement (DAS). An agreed Schedule of Drawings is listed in the Statement of Common Ground (SoCG) appendix X. Appeal B was not determined but Council members resolved that it would have been refused because it would be unsustainable and result in a loss of habitat for protected species and part of an area allocated for tree planting, landscaping and subsequent management, contrary to various policies.
2. Section 106 Agreements were submitted under section 106 of the Town and Country Planning Act 1990 (s106) in respect of both applications. As agreed, signed and dated versions were submitted after the Inquiry closed. All parties had the opportunity to comment on an unsigned though otherwise identical

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agreement during the Inquiry. I deal with the contents of the Agreement below.

3. The Inquiry sat for 4 days. I held an accompanied site visit held on 24 February. Evidence regarding housing land supply (HLS) was heard as a round table discussion on Thursday 22 February 2018.
4. This is a redetermination following the quashing of the previous decision of the Secretary of State in the HC.
5. Since the last determination of the appeals the Cheshire East Local Plan Strategy (CELPS) has been formally adopted (20 September 2017).
6. Also since the last determination of the Appeals the Stapley & Batherton Neighbourhood Plan (S&BNP) has also been made following Referendum in February 2018 and now forms part of the Development Plan.
7. Prior To the opening of the Inquiry the appellant submitted a revised layout of the proposals which omitted the proposed access off Audlem Road; this has necessitated an amendment to the description of development to reflect the changes. Whilst such amendments have been considered and accepted by the Council, acknowledged in the SoCG, they had not been the subject of formal consultation in accordance with standing regulations. After the close of the Inquiry this consultation was undertaken by the Appellant, comments collated and submitted to the Planning Inspectorate to an agreed timetable.
8. I have taken the subsequently received comments on the revisions into account whilst writing my report. Having considered the proposed revisions and the commentary on them I conclude that as they represent a diminution in the scope of the proposals and indeed address a number of previously expressed concerns on this aspect of the proposals, it would be appropriate for them to be taken into account in the determination of the appeals. I therefore recommend the Secretary of State duly take them into account in the determination of this case.
9. The revised National Planning Policy Framework (hereafter referred to as the rFramework) was published on the 24 July 2018. In light of the revisions contained therein parties were invited to comment on them insofar as relevant to both appeals. Their responses have been taken into account below.
10. There appear to be different ways of spelling Destapeleigh. I have adopted that used on the application form.
11. **Although concerns over highway safety do not form part of the Council's case**, given the degree of concern expressed on this matter by other parties at the Inquiry this issue is included in the main issues and is addressed in the reasoning that follows.
12. In accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 the Appellant was consulted on all the pre-commencement conditions provisionally considered at the Inquiry. They

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confirmed in writing that they were content with the terms of each of such conditions and these are therefore included in the report.

### The Site and its Surroundings

13. The site is 12.06 hectares of flat agricultural land located to the south of the main built up area of Nantwich. It principally comprises of two fields bounded by native hedgerows with some tree cover within them. There is a field ditch along the northern boundary. The land is currently in agricultural use, primarily arable and some grazing. It is bounded to the north by Peter Destapleigh Way (A5301) and the ecology mitigation/woodland landscape area for the Cronkinson Farm development although the obligations associated with the extant consent and s106 agreement have yet to be met.
14. To the west it is bound by residential properties accessed off Audlem Road, including an approved residential development for 11 dwellings and to the east by the recently constructed residential development. The upper floors and roofs of some of the new properties may be seen from the Appeal Site. The principal length of the southern boundary runs to the south of an existing hedgerow. Part of the site runs further south, adjoining existing residential development to the west.
15. To the north of Peter Destapleigh Way is the Cronkinson Farm residential development. This includes a small parade of five shops including a Co-Operative convenience store and a public house. Pear Tree Primary School and a community hall are also situated within this residential development. To the north of the Cronkinson Farm development is the railway line connecting Nantwich / Crewe / Chester and beyond, with the town centre to the north west.
16. Existing residential development in ribbon form is situated along Audlem Road. It comprises of a mix of properties from different eras. Within this housing is The Globe public house. Bordering the south west of the application site (and accessed off Audlem Road) is Bishops Wood housing **development constructed in the 1970's. Audlem Road turns into Broad Lane** south of the Bishops Wood cul-de-sac and has ribbon residential development along it as well as Stapeley Broad Lane Primary School further to the south.
17. London Road, an arterial route into Nantwich, is located to the east of the former Stapeley Water Gardens site and there is residential ribbon development to the south of that site. The land between the London Road and the Appeal Site has been infilled by residential development and open space. Further to the south along London Road are more dwellings together with Stapeley Technology Park, a small employment site with a mix of office uses based around the former Stapeley House.
18. There are a number of bus stops in close proximity to the site located off Audlem Road. These bus stops are served by the No. 73 and 51 bus service. These bus services provide direct connections to Nantwich bus station and rail station continuing on to Whitchurch.

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19. Nantwich train station is approximately 1.4 km to the north of the site, accessed via Audlem Way and Wellington Road. Nantwich Town Centre is approximately 1.3 km to the north-east of the site, to the north of Nantwich train station. Nantwich Town Centre provides a range of services, facilities and job opportunities. The site is, therefore, well served by a range of services, facilities and public transport opportunities, and comprises a location which is accessible to modes of transport other than the private car.
  20. The Appeal B site is approximately 1.71 hectares in size and comprises part of a single field which adjoins Peter Destapleigh Way to the north. The site comprises of a mixture of unmanaged semi-improved grassland, bramble / scrub and a drainage ditch. There are two existing ponds within the site and to the west and south east of the site are areas set aside for Great Crested Newt mitigation. This relates to the Cronkinson Farm development and to the Stapeley Water Gardens scheme.
  21. The western and southern boundaries of the site comprise hedgerows interspersed in places with trees. The eastern boundary of the site runs through the centre of the field and will follow the edge of the proposed new highway.
  22. Further to the east of the site is recently constructed residential development. To the north of the site beyond Peter Destapleigh Way is a predominantly residential area. To the west of the site are two fields, the built up edge of Nantwich and the A529 Audlem Road which is flanked by development on either side. To the south of the site is the site of the proposed mixed use led development subject to planning appeal APP/R0660/A/13/2197532.
  23. The site will connect to the Peter Destapleigh / Pear Tree Field signalised junction in the form of a fourth arm to the signalised junction. The spur for the fourth arm is already in place with signals, street lighting and tactile paving. It is agreed by the parties that this planning permission is, therefore, extant.
  24. Planning permission was granted on the 4th January 2001 for the **"construction of new access road into Stapeley Water Gardens"** (planning application reference: P00/0829). This permission allowed the construction of a carriageway on a north-south alignment similar to that now proposed in this planning application with a connection to the Peter Destapleigh Way / Pear Tree Field highway junction via a fourth arm.

## Planning Policy

25. The revised National Planning Policy Framework (the rFramework) was published on the 24 July 2018. Paragraphs 7-14 and 59-76 of the rFramework, together with their attendant footnotes (as paragraph 3 affirms), are particularly relevant to HLS. The rFramework also sets out the position with regard to weight and conformity of existing development plan policies. The PPG confirms that any shortfall in HLS should be made up over the next 5 years.

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26. The Development Plan for Cheshire East comprises for the purpose of the appeals the recently adopted Cheshire East Local Plan Strategy 2010 - 2030, and the saved policies from Crewe and Nantwich Replacement Local Plan (February 2005). The relevant policies from each of the plans considered relevant are set out in the Planning SoCG<sup>1</sup>.
  27. As a result of a Referendum held on the 15 February 2018 the Stapley & Batherton Neighbourhood Plan was approved and consequently is now **considered 'made', and thus now forms part of the Development Plan.**
  28. The Planning SoCG also identifies the following as material planning policy considerations: Interim Planning Statement: Affordable Housing (Feb 2011), Strategic Market Housing Assessment (SHMA), Strategic Market Land Availability Assessment (SHLAA), Article 12 (1) of the EC Habitats Directive and the Conservation of Habitats and Species Regulations 2010.
  29. High Court cases referred to include Suffolk Coastal Appeal Court Judgement<sup>2</sup>, Suffolk Coastal Supreme Court<sup>3</sup>, St Modwen Appeal Court Judgment<sup>4</sup>, and the Shavington High Court Judgement<sup>5</sup>.

#### Planning history

30. The planning application for Appeal A scheme was submitted to the Council in September 2012 and it was registered on 9th October 2012. It was assigned planning application reference number 12/3747N. The application was determined at Committee on 3rd April 2013 and was refused planning permission by Members in accordance with the **planning officer's** recommendation<sup>6</sup>.
31. The original appeal was considered at a public local inquiry between 18<sup>th</sup> and 21<sup>st</sup> of February 2014 in association with Appeal B. Both appeals were recovered by the Secretary of State following the close of the public inquiry. The inquiry Inspector recommended in his report dated 18th June 2014 that planning permission be granted for both appeals but in his decision letter **dated 17th March 2015, the Secretary of State rejected this Inspector's** recommendation and refused **both appeals. (The 'Original Decision')** The Original Decision of the Secretary of State was subject to an application to the High Court and was subsequently quashed by order of the court dated 3rd July 2015. The appeals were, accordingly, re-determined by the Secretary of State and he issued a new decision on 11th August 2016. (The **'Second Decision'**).
32. In the Second Decision the Secretary of State refused planning permission **Appeal A on two grounds, the first being that, 'the proposals would cause**

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<sup>1</sup> Paragraph 5.1 ID2.

<sup>2</sup> CDQ1.

<sup>3</sup> CD C12.

<sup>4</sup> CDQ2

<sup>5</sup> [2018] EWC 2906 (Admin) Case Number: CO/1032/2018.

<sup>6</sup> CD K2

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*harm to the character and appearance of the open countryside, for the reasons at Paragraph 27 to 28 above. This harm will be in conflict with Paragraph 7 and the fifth and seventh bullet points of Paragraph 17 of the Framework. Having given careful consideration to the evidence to the inquiry, **the Inspector's conclusions and the parties' subsequent** representations, the Secretary of State considers that the harm to the character and appearance of the open countryside should carry considerable weight against the proposals in this case. He further considers that the loss of BMV land is in conflict with Paragraph 112 of the Framework and carries moderate weight against the proposals for the reasons given at Paragraphs 31 to 34 above.*

33. *The Secretary of State concludes that the environmental dimension of sustainable development is not met due to the identified harm, especially to the character and appearance of the countryside. He concludes that the development does not deliver all three dimensions of sustainable development jointly and simultaneously, and is therefore not sustainable development overall.*
34. *For the reasons given above, the Secretary of State concludes that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole.'*
35. The Second Decision was challenged by the Appellant and in a Consent Order issued by the High Court on 14<sup>th</sup> March 2017 the Second Decision was also quashed. In the letter of 12<sup>th</sup> April 2017 from DCLG confirming that the Second Decision had been quashed, the Secretary of State invited further representations in respect of the following matters:
  - a) Progress of the Emerging Cheshire East Local Plan Strategy;
  - b) The current position regarding the five year supply of deliverable housing **sites in the Council's area;**
  - c) Any material change in circumstances, fact or policy, that may have arisen since the decision of 11<sup>th</sup> August 2016 was issued and which the parties consider to be **material to the Secretary of State's** further consideration of this application.
36. Having requested that written representations be submitted in respect of these matters, the Secretary of State determined that, in the light of representations received the inquiry should be re-opened, by way of correspondence dated 3<sup>rd</sup> August 2017.
37. The purpose of the planning application for the Appeal B scheme was to provide access to the adjoining mixed use proposal that is subject to Appeal A. Originally, Appeal A had a separate access arrangement but it is now agreed between the parties that the Appeal Site A should be accessed solely from Appeal Site B and the original access arrangements suggested for Appeal Site A (via Audlem Road / Broad Lane) are no longer pursued. Thus, Appeal Site A falls to be determined on the basis that access will be achieved through Appeal Site B alone. The process by which this is to be achieved is explained in Section 3 below.

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38. The planning application for the Appeal B scheme was submitted to Cheshire East Council in September 2012. It was registered by the authority on 5th October 2012. The target date for the determination was 30<sup>th</sup> November 2012 but the application was not determined prior to the appeal being lodged.
39. The process by which the Appeal B scheme was determined by the Secretary of State is the same as for Appeal A above. The appeal will be heard alongside Appeal A. It is agreed that the merits of the two appeals stand or fall together.

### The proposals

40. The details are confirmed in the Planning SoCG. The concept for Appeal A is also set out in the Design and Access Statement (DAS)<sup>7</sup>. Most of the houses would be on the western side of the site. On the eastern side, linking in with the new highway access road in Appeal B, would be land for employment, public open space including a new village green with an equipped play area, a local centre and a primary school. Allotments would back onto the existing houses to the west. The DAS confirms the amount of development as 189 dwellings at an average density of just over 30 dwellings per hectare with up to 57 affordable dwellings in a series of clusters.
41. These would comprise five elements as follows:
- Parcel 1 is on the northwest side of the site and could contain up to 51 dwellings.
  - Parcel 2 is located to its south and could have up to 62 dwellings.
  - Parcel 3 is to the south of the employment area could deliver 15 dwellings.
  - Parcel 4 is along the main southern boundary and could contain up to 36 dwellings.
  - Parcel 5 is on the eastern side of application site and could provide up to 25 dwellings.
42. The application proposals will be a mix of 2, 3, 4 and 5 bedroom dwellings. The affordable housing mix would be based on 2 and 3 bedroom homes, split between 35% intermediate tenure for sale and 65% social rented. The total affordable housing provision represents 30% of the total number of units. Parcel 5 forms part of a new village centre. Located around a village square and adjoining the village green, the residential element forms the eastern side of the village centre with the new primary school site and local centre forming the western side. The village green will have both general open space (with appropriate pathways and street furniture sited on the edges) **and a children's equipped play area** in the form of a LEAP. The primary school site will be reserved for future education expansion.
43. The local centre comprises of up to 1,800 sq m (19,375 sq ft) and would accommodate a range of uses. It is envisaged that the local centre will

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<sup>7</sup> CD H12.

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comprise of 8 – 10 separate units with a single A1 unit of 1,000 sq m (10,764 sq ft) and the remaining floorspace split between units ranging from 50 sq m to 150 sq m (538 sq ft to 1,615 sq ft). The employment accommodation is situated adjacent to the local centre. Comprising of 3,700 sq m (39,826 sq ft) in total, it is envisaged this will be divided into units based on 100 sq m (1,076 sq ft). 2.7 Located on the south western side of the application site is an allotment area of 0.5 hectares. The allotments will be available to both new and existing residents. The provision of open space will be controlled by planning conditions.

44. In addition to the public open space there are two principal interlinked areas of green infrastructure. The first is along the northern boundary in the vicinity of the new village centre and the employment area. This will include the planting of a new hedgerow. At its western end, it connects to the second principal green infrastructure area which runs on a north-south axis to the east of residential parcels 1 and 2. This reflects an existing mature hedgerow.
45. The development would include a pedestrian/cycle network which, taken with its close proximity to the established community, would be intended to provide safe, direct, convenient and interesting routes through the site. The single vehicular access now proposed utilises the putative infrastructure already established on Peter Destapeleigh Way. This is now supported with linkages to the new realigned access road giving access to the greater site. This in effect comprises Appeal B, which differ from the extant and part implemented scheme previously granted planning permission<sup>8</sup>.
46. Appeal B proposes an access onto Peter Destapeleigh Way at its junction with the Pear Tree Field signalised junction in the form of a fourth arm to the signalised junction. The application subject to Appeal B is similar in nature to the approved scheme (P00/0829) for access on this site, albeit with some amendments. The spur of the fourth arm is already in place with signals, street lighting and tactile paving.
47. Planning permission was granted on the 4th January 2001 for the **“construction of a new access road into Stapeley Water Gardens”** (planning application reference P00/0829). This permission allowed the construction of a carriageway on a north – south alignment, similar to that now proposed as part of Appeal B. The spur of the fourth arm junction has been constructed so that the permission has been implemented. A copy of the correspondence from CEC which confirms this position is in the Core Document List (CD E2).
48. Appeal B is similar in nature to the extant scheme, albeit with some minor amendments. Appeal B realigns the road further east in order to create a direct route into the land to the south, subject to Appeal A. The position of the roundabout has also been relocated further south. A plan showing the road layout for the extant scheme, Appeal B and a composite plan showing Appeal B overlaid on the approved scheme is included in the appeal documents.

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<sup>8</sup> Planning application ref. P00/0829



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## Other matters agreed between the Parties

49. The parties have also agreed a Sustainability Analysis<sup>9</sup> in relation to key facilities and services in the context of the site, which include:
- Primary Schools – Pear Tree Primary School, St Annes Catholic Primary School and Stapeley Primary School;
  - Secondary Schools – Brine Leas Secondary School;
  - Health Facilities – Kiltearn Medical Centre, a pharmacy and numerous dentists;
  - Retail – Morrisons Supermarket, Coop Convenience Store and numerous non-food retail units located to the south of Nantwich; and Public Transport Facilities – Nantwich Railway Station and numerous bus stops
50. The site has been assessed against the North West Sustainability Toolkit. Whilst some of the distances vary slightly between the Appellant's assessment, the Council concluded in the committee report to the original **application that** *'on the basis of the above assessment the proposal does appear to be generally sustainable in purely locational terms'*. **The Council** has reaffirmed this position in the report to committee of 22nd November 2017.
51. In terms of connectivity to higher order centres, Crewe lies 6.4 km (4 miles) to the north east of Nantwich and Newcastle-under-Lyme is 21 km (13 miles) to the east. These settlements have employment, advanced educational facilities, retail, leisure and entertainment venues. These settlements can be accessed via a variety of routes, which avoid the town centre. These include Broad Lane, London Road and Newcastle road.
52. In addition to the topics set out above further additional matters are agreed between the parties;
- The original planning permission in respect of appeal B is acknowledged as extant by CEC (P00/0829). It, therefore, represents a fall-back position.
  - Access to Appeal Site A will only be achieved through Appeal Site B if Appeal A is allowed.
  - Since it is no longer necessary to access the site via Audlem Road / Broad Lane, the masterplan and the red line area for Appeal A can be amended. This reduces the extent of Appeal Site A. The parties agree that updated plans L9 should now form part of the Appeal Scheme A if planning permission is granted.
  - It is agreed that 25% of the aggregated sites constitute best and most versatile land 6% of the site is grade 2 and 19% of the site is grade 3a.
  - It is agreed that there is no reason to resist the scheme in terms of ecology and that a suitable mitigation package can be provided as part of the proposed planning obligation under s.106.

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<sup>9</sup> 4.13 Planning SoCG ID2.

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- It is agreed that there are no technical reasons to resist a development in terms of highways, drainage, residential amenity and environmental health matters.
  - **The Council's Landscape Officer does not consider that the proposals will have a significantly adverse landscape impact.**
53. The Housing Land Supply SoCG also covers other significant areas of agreement. **This advises that: the LPA's current position on 5 year HLS is set out in the Housing Monitoring Update published August 2017, base date 31st March 2017; the Housing Monitoring Update takes the housing requirement of 1,800 dwellings per annum set out in the Cheshire East Local Plan Strategy (LPS) as the relevant housing target for the calculation of 5 year HLS; The Housing Monitoring Update has a base date of 31st March 2017. The relevant five year period in HMU is therefore 1st April 2017 to 31st March 2022; that the backlog should be calculated over the plan period to date (1 April 2010 – 31 March 2017) and amounts to 5,365 dwellings and that in accordance with paragraph 47 of the first published version of the NPPF it is agreed that it is necessary to apply a 20% buffer, reflecting persistent under-delivery against the housing requirement.**
54. Paragraph 73 of the rFramework revises the format of applying the buffer to the requirement, indicating a range of percentages to be applied in different **scenarios. This matter is addressed in detail through each party's submissions in relation to the rFramework NPPF below.**

#### The Case for the Muller Property Group

55. At the time that these proposals were submitted almost 5.5 years ago, there was no Local Plan Strategy in place, and CEC at the time undoubtedly **couldn't demonstrate a 5YS. As matters stand now, whilst the LPS is now in place, the next part of the Local Plan, which considers the merits of non-strategic allocations and which will review settlement boundaries, is still a long way from adoption. Of more concern is that CEC are still lack a sense of urgency about the need to bring forward additional housing in sustainable locations now, despite two recent appeals which have concluded that a 5YS cannot be demonstrated. And despite the fact that even on its best case that CEC has only a marginally above 5 years supply. In fact for the reasons articulated in evidence by the appellant, CEC has significantly less than 5YS of deliverable housing, and this site is needed now.**
56. Thus, residential development on this site was originally recommended for refusal but was refused by members at a time when there was no plan and no 5YS. Then, after appeal it was recommend for grant by an Inspector when there was no plan and no 5YS. It was refused by the SOS whose decision was then quashed, re-determined only to be quashed in the High Court again both when there was no plan and no 5YS. In the same month that the LPS was adopted instead of re-determining the appeal the SOS decided to reopen this inquiry. That was a disappointment to the Appellant, however ironically it has provided the opportunity for the SOS to determine the appeal based **upon a properly robust scrutiny of CEC's housing supply. Back in July 2017 CEC were robustly contending that their assessment of 5YS had been**

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endorsed by the LPI who had concluded that CEC should have a 5YS on adoption, however his conclusions were caveated with the following warning:

***"Much will depend on whether the committed and proposed housing sites come forward in line with the anticipated timescale and amended housing trajectory."***

57. The essential reason why two Inspectors concluded that there was not a robust 5YS after two inquiries in 2017 was that the 2017 HMU, published at the end of August 2017 demonstrated that the anticipated delivery rates for last year (ie 2016/17) were significantly below those being put to the LPI, demonstrating a failure in the first year after the period being assessed by the LPI. Predictive exercises tend to become less accurate the further one looks into the future. Here the prediction being put forward by a combination of private sector evidence being put to the examination and the application of **the LPA's standard methodology on lead in times and build rates has gone wrong immediately**. Moreover there is strong evidence to conclude that has gone wrong in relation to 2017/18 as well.
58. It is notable that the LPI concluded that CEC should be able to demonstrate a 5YS on adoption. Had he known about the substantial under-delivery when compared to the trajectory he endorsed in the LP, then he would plainly have been far more circumspect. As was put in cross examination, based on what we now know to have been the actual delivery in 2016/17, then the supply **position before the LPI was that CEC couldn't demonstrate a 5YS based on their own trajectory**. It was for that reason that CEC sought to downplay the importance of the trajectory as predictive tool for assessing the overall **realism of CEC's claimed supply (past and future)**. **The problem with that is not only that it was based upon an erroneous understanding of the St Modwen case (see below), and that it is at odds with the role of a housing trajectory in national guidance and policy, but most importantly, it ignores the fact that the housing trajectory in CEC was the yardstick that the LPI uses to gauge whether or not the supply position in CEC is realistic.**
59. Properly understood CEC cannot demonstrate a robust 5YS and their anticipated delivery rates claimed before the LPI are untenable. Yet instead of reacting to the recent appeals with an immediate reassessment of its standard methodology on build rates and lead in times and an immediate sense check of likely delivery from its various components of supply CEC has instead done a further trawl of agents/developers to try to make good its evidential deficit, it has sought to down play quite how wrong its LP trajectory was, and how implausible its HMU trajectory is. It now contends that the Park Road Inspector got the supply figure wrong by well over 1000 units.
60. This mixed use scheme brings benefits which are diverse and considerable – ie not simply the provision of much needed homes, but deliverable commercial development which will provide opportunities for local businesses and for the local population, which will result in a sustainable pattern of development, as well as a small local centre which will meet the needs of both the proposed housing and employment but also recently consented housing which is being constructed nearby. The reality of the position is that

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the appeal proposals are a sustainable form of development and that the only objection to them is the in principle one that the proposals are an unjustified incursion into the countryside beyond the settlement boundary. Contrary to that position the development is plainly needed now, the tilted balance is engaged and there are no adverse effects which significantly and demonstrably outweigh the benefits.

#### *5 year land supply*

61. For the reasons explained in evidence the issue of 5YS is not a determinative one in relation to the outcome of this appeal. Even if the LPA were to be able to just demonstrate a 5YS then it is firmly submitted that the appeals should **still be allowed, since on the LPA's best case the position is a marginal one** given its substantial under-delivery compared to the position endorsed by the LPI.
62. However on the evidence, it is clear that CEC cannot demonstrate a robust 5YS and therefore paragraph 11 (by means of footnote 7) is triggered. Prior to the exchange of evidence the Appellant invited CEC to agree to this appeal being determined on the same basis as the Park Road Inspector ie that there **is a range which is just above or just below 5 years but the LPA can't** demonstrate a robust 5YS therefore the presumption is triggered. This was thought to be a proportionate course of action, mindful that consistency in decision making is a material consideration of considerable importance. CEC declined this invitation.

#### *Planning Policy Guidance context*

63. Before turning to the detail of the current land supply position in Cheshire East, it is worth setting out the correct approach to guidance covering the subject; the provisions in the PPG supplement the NPPF and, do not have the same status as NPPF policy. Of most relevance to this appeal are 3-031 and 3-03311. From those paragraphs the following points arise:
- a. Deliverable sites include those with permissions in the LP, unless there is **clear evidence that the site won't be implemented within 5 years**. From this:
    - i. Once a site is included as deliverable then there remains a requirement to assess the likely yield from sites with permission or an allocation. It is simply wrong to say, as the Council does in closing at paragraphs 31 and 32, that an assessment of yield is not required. PPG 3-031 is clear **the "robust, up to date evidence" is required on the deliverability – i.e. the yield**. It is difficult to see how an assessment of supply can be undertaken if that an **assessment of yield is not undertaken**. On AF's approach the **decision maker would be obliged to accept the LPA's judgments** when assessing delivery from sites with an allocation or permission, absent contrary evidence. However this is no more than an approach to assessing yield which –without policy support– presumes that the Council is always right. Not only is that not supported in policy it belies the repeatedly experience of this **particular LPA's predictive ability** over many years.

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- ii. This means that sites with PP are presumed to be deliverable unless there is evidence to the contrary. It does not mean that if a site has planning permission, then there is a rebuttable presumption that its yield is whatever the Council says it will be.
  - iii. This approach does not include allocated sites with the presumption that they are to be treated as deliverable, but the PPG does. There may be an interesting question at some future point in time as to whether that makes any difference, but in this case there is almost no dispute as to which sites are the ones which are considered to be deliverable – the dispute revolves around the likely yield from those sites.
- b. When assessing whether a site should be included in the 5YS and the yield from that site, the decision maker must consider the time it will take to commence development (lead in time) and the build out rate.
  - c. The PPG makes clear (3-033, paragraph 2) that the yield of sites as well as the deliverability of sites forms part of the annual assessment of the 5YS that the LPA is required to conduct. It self-evidently points out to an authority that deliverability and then likely yield are two separate exercises.
  - d. If an LPA does the following, then it will be able to demonstrate a 5YS (from PPG 3-033):
    - i. A robust annual assessment;
    - ii. A timely annual assessment;
    - iii. Using up to date and sound evidence;
    - iv. Considering the proposed and actual trajectory of sites in the supply;
    - v. Considering the risks to a proposed yield;
    - vi. Include an assessment of the local delivery record;
    - vii. All of the above assessments must be realistic; and,
    - viii. The approach must be thorough.
64. Drawing all of this together, it is not right to suggest that Inspectors in the Park Road and White Moss cases were wrong and that there is no requirement on the Council that their assessment of the 5YS is robust. The **questions seemed to be put on the basis that the word "robust" is not** included in the NPPF. This cannot possibly be correct. The language of the PPG (as above) clearly indicates that the LPA must demonstrate a 5YS – within that the evidence must be sound and it must stand up to scrutiny. If **the Council's approach was right (which no Inspector has to our knowledge endorsed)** then Appellants up and down the country have been wasting time and money arguing contrary land supply positions; provided the Council can show some sort of evidence that would suffice.
65. CEC advanced an argument that when trying to assess the yield from a site, that the correct test was the capability of the site to deliver the expected numbers, and not the probability. His basis for this argument was paragraph 38 of *St Modwen*. This is, simply put, wrong and counter to common sense.

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66. CEC fell into the trap that Lindblom LJ was warning decision makers of in paragraph 39 of the same judgment:

*One must keep in mind here the different considerations that apply to development control decision-making on the one hand and plan-making and monitoring on the other. The production of the "housing trajectory" referred to in the fourth bullet point of paragraph 47 is an exercise required in the course of the preparation of a local plan, and will assist the local planning authority in monitoring the delivery of housing against the plan strategy; it is described as "a housing trajectory for the plan period " (my emphasis). Likewise, the "housing implementation strategy" referred to in the same bullet point, whose purpose is to describe how the local planning authority "will maintain delivery of a five-year supply of housing land to meet their housing target" is a strategy that will inform the preparation of a plan. The policy in paragraph 49 is a development control policy. It guides the decision-maker in the handling of local plan policies when determining an application for planning permission, warning of the potential consequences under paragraph 14 of the NPPF if relevant policies of the development plan are out-of-date. And it does so against the requirement that the local planning authority must be able to "demonstrate a five-year supply of deliverable housing sites", not against the requirement that the authority must "illustrate the expected rate of housing delivery through a housing trajectory for the plan period".*

67. CEC were unable to say whether or not they were **identifying the "likely yield", the "possible yield" or the "almost certain yield" from the sites** assessed. This from an apprehension not to give up the interpretation of the St Modwen case in which they failed to understand that the case revolved **around the meaning of the term "deliverable"– a point which just doesn't** arise in this case. This inability to explain the yield from sites within 5 years fundamentally undermines the utility of his exercise and means that it is not comparable to **the appellant's approach to "probable yield"**. **If CEC's position is merely what the site is "capable of delivering" then it is bound to be higher** than what is probable and therefore betrays a fundamental error on the part of CEC which may **explain why the LPA's predictive ability has proven to be** wrong.

68. On the application of the above analysis, the following points are agreed:

- It is agreed that the requirement is 1800 dpa.
- The agreed five year period runs from 31 March 2017 (the base date of HMU) to 31 March 2022.
- The agreed backlog in delivery between 2010 and 2017 amounts to 5635 dwellings, which equates to 3 years of the overall requirement for the first 7 years of the plan.
- It is agreed that a 20% buffer applies in relation to paragraph 47 of the Framework and that 10% applies in relation to paragraph 73 of the rFramework, if appropriate.

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69. From the examination of the sites claimed to be within the supply the following is clear:

- i. **The appellant's** assessment of the sites the Council seeks to include in the supply are identified in evidence. A number are drawn-out to illustrate the key arguments against the sites being included in the supply to the extent claimed by the Council:
- ii. LPS 1 and the **Crewe opportunity area is not a "specific deliverable site" in NPPF§47 terms and should not be** included within the supply.
- iii. The **Appellant's** assessment of lead in times to construction in Cheshire East (Appendix MW 6) the following should be applied – 1 year from submission to the grant of outline permission; 1 year to a reserved matters application; 6 months to determine the reserved matters application; and, one year to the completion of the first dwelling. This is a total lead in time of 3.5 years. This is vital to deciding what is in the supply as it allows for an assessment of yield. **Unlike CEC's standard methodology for lead in times and build rates, MW's evidence is transparently evidenced and is palpably more reliable than CEC's "black box" approach.** Thus, whilst MW accepts these conclusions on average lead in times can be rebutted by specific evidence, it requires sound, realistic and up to date evidence (see para 2.5(d) above and PPG 3-033). No such evidence was forthcoming from the Council. Instead the Council offered a partial assessment of lead in times from a self-serving data set in Mr Fisher's rebuttal **proof of evidence (Appendix 2). Mr Fisher's assessment is** partial as it completely fails to take into account sites started before the adoption of the LPS and the lead in times between application and between construction starting and the first unit emerging from the ground (conceded by Mr Fisher XX).
- iv. Despite the policy requirements in the Framework/rFramework and PPG (see paragraph 2.4 and 2.5 above), Mr Fisher thought it appropriate for the Council to make assumptions about sites being delivered by multiple builders without any supporting evidence. **Whilst that may be a correct statement that doesn't mean it** comprises evidence! The Secretary of State cannot as a matter of law (given the clear interpretation of policy and guidance above) adopt this approach when evidence not an aphorism is needed. If the Council cannot produce evidence to support their assumptions on build rates, yield or commencement timelines then the Secretary of State must prefer the reasoned and evidenced approach put forward by the Appellant, which precisely mirrors the concerns of the last 2 inspectors to consider this topic in detail. Indeed Mr Fisher continued to make unsubstantiated assertions – *"we increasingly see single builders doing 50+ units a year on a site"*. **The Council's own assessment of build out rates in the 2017 HMU (Appendix MW17) does not support Mr Fisher's statement. Statements such as this cannot be given any weight when the Council's only evidence does not support them.**

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- v. **The 'sense check' for the use of the LPA's standard methodology as to lead in times and build rates is what it has predicted will be delivered and what has actually been delivered.** As noted below the prediction for 2016/17 in the LP trajectory of 2955 (presumably based on the optimism of those making representations to the hearing) has proven to be groundless, and this year looks set to be similarly wrong compared to the LP and the HMU trajectory.
- vi. MW and the Inspectors in the WMQ<sup>10</sup> and Willaston<sup>11</sup> inquiries are in agreement on the yield from many of the sites. Mindful of the materiality of consistency of decision making, the SOS should be slow to deviate from those conclusions without the clearest possible evidence for so doing (the sites are noted in Appendix MW4), with **respect AF asserting that he thinks that the Inspector's got it wrong is not a such a reason.**
- vii. AF at one point made the bold point that both Mr Inspector Rose in the **White Moss Quarry ("WMQ") inquiry**<sup>12</sup> and Mr Inspector Hayden in the Willaston inquiry<sup>13</sup> both fell into serious error by concluding that a 5YS could not be demonstrated having concluded that the supply was either just above or just below 5 years. Whilst the language used was **that of 'precaution', in fact both Inspectors reached an orthodox** conclusion with regard to paragraph 47<sup>14</sup>, having determined that the supply was within that range. Thus, the conclusion reached by those senior Inspectors was that they were unable to determine with confidence that the Council had a 5YS. That means no more than that they could not be satisfied that the LPA could demonstrate that it had a deliverable 5YS. Therefore they approached the evidence on the assumption that Framework paragraphs 49 and 14 were engaged – deciding those appeals using the tilted balance. Both **Inspectors'** reasons were impeccable.

It was notable by its absence in relation to the sites where MW allies **himself with the conclusions of those previous Inspectors'** that time and again the Council failed to bring forward evidence to rebut the **Inspectors' conclusions, reached after an exhaustive analysis of the evidence before them, in those inquiries from 8 November 2017.**<sup>15</sup>

Even if the Council is correct on their least attractive argument that **they are not required by policy to rely upon "robust" evidence to demonstrate a 5YS,** they nonetheless are forced to accept that these appeal decisions are material considerations. Furthermore they accepted in XX the fundamental importance of the consistency of

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<sup>10</sup> C.D29 Appendix MW1.

<sup>11</sup> CD D29 Appendix MW2 at [103].

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Subsequently paragraph 11 incorporating footnote 7.

<sup>15</sup> CD29 / Appendix MW1 at [28] – [59] and Willaston - CD D29 / Appendix MW2 at [58]– [89]).



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decision taking, and that the Secretary of State in this appeal would need to give reasons (and therefore have supporting evidence) for deviating from those decisions. Whilst this is trite law, it makes it all the more baffling that having accepted those principles, they failed to produce any evidence to properly rebut conclusions of the WMQ and Willaston Inspectors.

The Council has comprehensively failed on both counts – they have failed to produce robust evidence to demonstrate a 5YS; and, they have not **produced any evidence to rebut the Inspectors’** conclusions in the early appeals, either evidence arriving post those decisions or to explain why those Inspectors got it wrong. Instead they continue to rely upon the approach in the LPS, the same arguments that failed in the WMQ and Willaston inquiries.

viii. What is interesting is to consider the predictive confidence with which sites were said to be on the verge of progressing in the HMU in August 2017 and then again at inquiries in late 2017, but where there has been yet further slippage. Time and again sites where applications were **on the verge of being made haven’t** resulted in applications (e.g. the promise in the Park Road inquiry made by AF that the Handforth Growth Village application would be lodged in January, when there is still not even a masterplan in the public domain in March let alone an application), and for sites where applications were on the verge of determination then they remain on the verge of determination (e.g. the reserved matters application on White Moss phase 1).

ix. **The Council has adopted a hybrid “Sedgepool 8” approach** to addressing its backlog. Mr Fisher sought to explain the approach as meaning that the 8 year period rolled forward throughout the plan period. This approach runs counter to the specific conclusions on the matter by the Local Plan Inspector<sup>16</sup>. The LP Inspector concludes at paragraph 72:

***“CEC therefore proposes to fully meet the past under-delivery of housing within the next 8 years of the Plan period (“Sedgepool 8”). This would require some 2,940 dw/yr (including buffer) over the next 5 years, which would be ambitious but realistic and deliverable, as well as boosting housing supply without needing further site allocations.”***

**It is plain from this part of the LP Inspector’s report that he** envisioned the Council meeting its under-delivery in the first 8 years of the Plan – i.e. by April 2024. As Mr Wedderburn made clear, Sedgepool 8 is not Sedgefield, it is unique to Cheshire East. In the absence of an accepted approach that everyone understands, Sedgefield or Liverpool, the words of the LP Inspector carry a great deal of significance as the only direction for how this unique

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methodology should be applied. Had the Inspector wanted the 8 year period in Sedgepool 8 to have rolled forward, he would have explicitly said so. Not to do so in effect means that the backlog keeps getting rolled ever forward, at least on the Liverpool method the backlog has to be addressed within the LP period. Thus if Sedgepool 8 means rolling the shortfall forward over a perpetually rolling 8 year period then it will be a longer period than the Liverpool methodology, if it means doing so until the 8 years hits the end of the plan period then it is the Liverpool methodology by stealth – either way it is a distortion of the grace afforded by the LPI to deal with the shortfall within the next 8 years. It is of course recognised that the Park Road **Inspector didn't agree with** this argument – but his argument was based upon giving the Council some leeway in the early years after adoption of the plan. With respect that is not grappling with the issue properly, and the SOS is therefore respectfully invited to do so.

- x. Instead of the high delivery rates that were contended for as being realistic before the LPI (evidenced by the LP trajectory and noted by the LPI at paragraph 72 of his report) delivery rates thus far are well below those needed by CEC to plausibly claim a robust 5YS. To use a different metaphor, wheels have come off the Cheshire East Local **Plan Strategy ("CELPS") in the first year after that** assessed by the LPI. As at the base date of 1/4/17, it has under-delivered by 5365 units (equating to a deficit of 3 years of the requirement in the first 7 years of the plan), already.
- xi. The LP trajectory identifies that to secure a 5YS the LPA needs to deliver 2466dpa each year from 1/4/17. That figure is comparable under the HMU because the rolling Sedgfield 8 lets the LPA off the hook from not reducing a single unit from its shortfall last year (1796 – essentially equating the requirement but not eroding the shortfall at all – which is still then spread over the next 8 years). AF projects in his evidence that this year there will be delivery of 2000 units based on current information – which means delivery way below the ~2500 figure needed each year for the next 5 and pushing back meeting the shortfall by yet another year. In the real world this is woeful under-delivery and yet AF sought to argue it as if things were on-track.

Mr Fisher accepted that the LP Inspector put weight on the anticipated delivery described in the LP trajectory<sup>17</sup>. However, he somewhat inexplicably sought to argue against the 2955 figure being **CEC's realistic prediction on the basis that there was no adopted plan** during the first 3 years of the plan period – something the LP Inspector would have been well aware.

The only sensible conclusion is that the LP Inspector saw Sedgepool 8 as meeting the undersupply by 2024, and therefore having rolled the base date forward by one year the shortfall should be met within the

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<sup>17</sup> CD A40 paragraph 68.

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next 7 years resulting in an annual requirement (including shortfall) of 2955. On this basis alone CEC cannot demonstrate a 5YS.

70. The **yardstick of the LPA's judgment is of course its own predictive ability**, and in this case it has been found wanting in the starkest possible terms within the first year of the period considered by Inspector Pratt. The figures could not be more telling, contrasting the case being put last year before Inspector Pratt and that being put this year at this inquiry. Thus comparing the trajectory at the end of the 2016 Housing Topic Paper, which might usefully be considered to be its 2016 HMU against the trajectory at the back of the HMU, the following obvious points can be made:
- (i) in the 2016 HMU, the LP predicted that its delivery for 2016/17 would be 2955, in fact it was 1762 (ie 40% less than it predicted and told Mr Inspector Pratt). Even if the target was 246617 as AF now maintains, that is still 27% below the level it should have been;
  - (ii) both AF and MW provide evidence which triangulates upon around 2000 units as the likely delivery in 2017/18, against a requirement of **2466 on AF's case or 2955**, which is either 19% or 32% below where it should be. That is also 2 years out of the 5 years considered by Inspector Pratt where the prediction of the LPA has failed – one wonders at what point the LPA go back to re-read the serious caution that Inspector Pratt issued in paragraph 68 of his final report?
  - (iii) in the 2017 HMU it predicts that delivery in 2017/18 will be 3373, which is double that actually achieved in 2016/17 (1762), and is way above any trendline of delivery. It is also 33% higher than CEC were predicting would be delivered in 2017/18 in its 2016 HMU (which predicted 2549 being delivered). In fact it is likely to be around 2000 units. That difference alone should lead anyone to seriously question whether its predictive methodology is flawed;
  - (iv) other figures for the 5 year period under consideration at this inquiry (ie 5 years from 1/4/17) also vary wildly from the 2016 HMU to the 2017 HMU; for example in 2016 it was predicted that 2019/20 would deliver 3,501 but in 2017 it is predicted that it will be only 3032;
  - (v) both trajectories (the LP and the HMU 2017) reveal that in no year has the LPA ever achieved its requirement (1800 pa) in the seven years since the plan started (2010), which means that year on year the backlog has been increasing until it is now the equivalent of 3 years supply. Had delivery taken place as planned in 2016/17 the backlog would have reduced by 1155 units, as it is, it has increased and is not now proposed to be removed for a further 8 years despite it relating to need arising now;
  - (vi) to be blunt, both trajectories have an air of unreality to them since both are predicated on an immediate and dramatic upturn in delivery – ie they assume imminent delivery way in excess of past delivery rates for a decade after which delivery rates will once again fall back

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to pre-2017 rates. **The LPA's case was tough before the LPI but is now implausible.** In order to achieve a 5YS now it needs to take a far more positive attitude to the release of deliverable sites without land use constraints in sustainable locations, and not to assume an ever more ostrich-like approach to what has actually taken place **compared to its predictions since Inspector Pratt's assessment based on a base-date of April 2016.**

(vii) Importantly, the **failure of the LPA's predictive ability has been in the first year of delivery** – if a plan fails that badly, this early the need for intervention is acute. There is no warrant to give the plan a bit more time to play out – the need for action is an immediate one and is overwhelming on the evidence. It is depressing that having been told that implicitly by two Inspectors that CEC are trying ever harder to man the bilge pumps on their own private Titanic that is their claimed 5YS.

71. The supply of housing land is not a ceiling and given the current state of affairs in this LPA, they should be actively searching out new sites with **manageable planning harms to come forward. The Council's closing** submissions (paragraphs 63 – 67) argues that permitting this site would reduce the allocations going forward to meet more local needs. This argument is wafer thin, and completely unsupported by any evidence provided at the inquiry. The figures contained in a local plan (including CELPS where this point is recognised at 8.73) are a floor and not a ceiling, and there is no support in policy or evidence to support this argument. Given there are no technical objections to this appeal site, its locationally sustainable and its intrinsic merits have already been endorsed by one Inspector (in the context of there being an immediate need), it is an obvious candidate to come forward now to help this Council meet its needs and to help to address its already significant under supply.
72. **The Council's closing go on to say that if the SoS** concludes that the LPA has failed to demonstrate a 5YS, then settlement boundaries will need to flex, but it contends that it should not be at this site (paragraph 153). This approach shies away from meeting an immediate problem. This approach has no founding in policy; it suggests that some sort of sequential test should be applied when a 5 year housing land supply problem arises. The appropriate approach is to consider whether or not the development being put forward to rectify the 5 year housing land supply problem is acceptable in planning terms and constitutes sustainable development. If it is, then it should be permitted. Sustainable sites should not be precluded from being developed when there is an immediate need on the basis that the Council thinks that there might be better sites to meet the need that it has denied, and based on evidence it has not presented! This is an abrogation of proper decision making.
73. **The Council sought to argue that lapse rates shouldn't be applied,** when it accepts that permissions do in fact lapse at a rate which is presently unknown. **It's reasons for rejecting MW's approach in this regard is that it is said to duplicate the buffer – which it plainly doesn't** – one relates to appraising supply, whereas the other relates to establishing the requirement.

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CEC bases its argument on a fundamental misunderstanding of *Wokingham BC v SOSCLG* [2017] EWHC 1863 (Admin). When that case is examined correctly, the issue was whether the Inspector was right in law to apply a lapse rate despite no party raising it during the inquiry (at paragraph 55). When the judge went on to consider whether lapse rates could be law *per se*, he concluded (paragraph 69):

*It is for the decision-maker to determine in the first instance whether or not the application of a "lapse rate" to the estimated five-year supply of deliverable housing to reflect the Council's "record of tending to over-predict delivery" involves an unwarranted adjustment, given an increase in the housing requirement by 20% "where there has been a record of persistent under delivery of housing", in each case in order "to provide a realistic prospect of achieving the planned supply.*

Therefore, provided the issue is fully ventilated before the Inspector, as it was at this inquiry, then the conclusion can be made to add a lapse rate **onto the requirement. Given this Council's history of under delivery and continuing over estimation of future performance, a lapse rate of 5% as proposed by the Applicant is entirely appropriate. Indeed, it will be a vital tool to pushing this Council to meeting its need to provide homes.**

74. In conclusion, on both methodology and content, the evidence before this **Inspector confirms the Appellant's case that the LPA can demonstrate at most 4.25 YS. If the Council's approach to Sedgemoor 8 is applied, the land supply position on the LPAs approach to yield goes to 4.42 years.** It follows from such an outcome on the land supply position that paragraph 49 of NPPF is engaged (subsequently paragraph 11 if the rFramework through footnote 7) and the decision necessarily should be taken based upon the tilted balance therein. The SOS will undoubtedly be told by CEC that the recently adopted local plan can, and is, delivering the houses to meet the identified need. However, it is not that straightforward. One cannot say that simply because there is a recently adopted LP, that the land supply position is safe. The following points are of note:

**a. The Appellant is not seeking to "go behind" the conclusions of the LPS Inspector which were based upon an analysis of Housing Supply position as at April 2016. Rather this inquiry is charged with critiquing the 2017 HMU which has rolled the position forward by one year;**

b. AF at one point in his evidence seemed to run an argument that has repeatedly failed at inquiry – that the task of an inquiry is to review the position as it was known at the **base date and then close one's mind to** knowledge of what has come to light in relation to the various components of supply since the base date. With respect that position is wrong:

- i. It is not the approach of the LPA in its 2017 HMU which relies on information which has come to its attention after the base date;
- ii. It is not the approach of AF who also relied upon information which has come to his attention after the base date, and indeed he has

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sought to gather more evidence after the LPA lost the 5YS argument at 2 previous appeals;

- iii. It is not the approach of Inspectors in countless appeals across the Country;
- iv. It is contrary to the approach required as a matter of law in the *Stratford on Avon DC v SOSCLG* [2013] EWHC 2074 (Admin);
- v. It literally makes no sense – a decision maker is required to form a view on what the 5YS is on the evidence before him/her a s.78 appeal is not a form of quasi-**judicial review to review the LPA's** assessment at a point in time.

75. Inspectors in the White Moss and Willaston decisions<sup>18</sup> both concluded that a precautionary approach should be taken to the 5YS issue and that the tilted balance should be engaged. It is just wrong to contend (as AF now seeks to) that the LPA was constrained in how it wished to put its case, or that there was a misunderstanding of the implications of the St Modwen case. To the contrary in both appeals there was no constraint on the information that the LPA was able to bring forward, noting that it had failed to provide much of the base information on which the 2017 HMU was predicated AND submissions on the St Modwen case were made by leading counsel for CEC in the latter case which followed the reporting of the decision of the Court of Appeal.
76. As noted above the St Modwen case is in any event something of a red herring. It deals with what should be the components of supply and essentially concludes that the footnote to the then paragraph 47 means what it says; but it says nothing about how to approach what is the expected yield that should be assessed from those components of supply, where the PPG requires robust evidence to be provided where PP is not in place.
77. **The Inspector's decision in Shavington is being challenged, as the Council is** eager to point out. The basis of challenge seeks, through the Shavington decision, to impugn the rational and unimpeachable approach to calculating 5YLS in the WMQ and Willaston decisions. This challenge is being robustly defended, by both the Secretary of State and the Land Owners. Until the claim is heard, those decisions stand and the approach to 5YLS they adopt should be followed – not just in the interests of consistency in decision making, but because it is the correct approach in law and a failure to do so would be unlawful. The presumption of legality applies, and the Inspector is invited to give precisely no weight to the fact of the challenge (just as was the case in relation to the local plan challenge which was live at the time of the White Moss Quarry and Park Road appeals). Moreover, insofar as some of the arguments raised in that challenge mirror the fallacious arguments being raised by CEC in this case then the Secretary of State is respectfully invited to have regard to the rejection of those self-same arguments being raised on his behalf by the Government Lawyers. It is apprehended that the challenge will

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<sup>18</sup> Ibid.

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have long failed by the time that this decision is ultimately made by the Secretary of State in any event. It has of course not been welcome news to the LPA that it cannot demonstrate a robust 5YS, and as a professional one can have a degree of sympathy for the LPA which has gone through a very **long process to secure adoption of the LPS only to discover that houses aren't** being delivered sufficiently quickly to ensure a 5YS. However, what is startling is that rather than taking steps to remedy the position (e.g. advancing the pt2LP, and releasing more deliverable sites) the LPA has chosen instead to deploy its resources into defending the obviously indefensible. Based on a robust and objective assessment AF is wrong and the LPA cannot demonstrate a 5YS, and the deficit can only be made good in the short-term by the release of additional sustainable and deliverable sites without technical constraints such as this one.

**Appellant's supplementary** comments on revisions to the National Planning Policy Framework

78. Paragraph 73 of the revised Framework states:

*"Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of **five years'** worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old".*

79. The requirement to assess the housing supply as set out previously in NPPF para 47 therefore remains. In the case of Cheshire East the housing requirement is established in the Cheshire East Local Plan Strategy ("**the LPS**"). Policy PG 1 sets a housing requirement of 1,800 dwellings per annum. This plan was adopted on 27 July 2017 and is therefore less than 5 years old. In accordance with paragraph 73, this housing requirement should therefore form the basis of the assessment. The housing requirement set out in the LPS **was used in the appellant's evidence heard** at the Inquiry in February 2018 and indeed it was common ground at the Inquiry that this housing target should be applied. **The appellant's approach** is therefore considered appropriate with regard to the revised NPPF.

#### I Identifying the Base Date and Five Year Period

80. The rFramework does not comment on the base date or the 5 year period to **apply to the assessment. The appellant's evidence on 5 year HLS applied** a base date of 31st March 2017 and a five year period of 1st April 2017 to 31st March 2022, which aligned with the **Local Planning Authority's** Housing Monitoring Update (published August 2017, base date 31st March 2017). This based date of 31<sup>st</sup> March 2017 was therefore agreed, and is contained within the Statement of Common Ground (SoCG). This approach is considered appropriate with regard to the rFramework.

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## The Appropriate Buffer

81. Paragraph 73 of the rFramework states:

*"The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:*

- *5% to ensure choice and competition in the market for land; or*
- *10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
- *20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply."*

82. Footnote 39 of the rFramework **explains that from November 2018 "significant under delivery" of housing will be measured against the Housing Delivery Test**, where this indicates that delivery was below 85% of the housing requirement. At the time of writing, the relevant section of the PPG which may provide further guidance on this matter has not been updated to reflect the revised NPPF.

83. As above, footnote 39 is clear that the Housing Delivery Test will not be used to measure significant under delivery until November 2018 or thereafter. Paragraph 215 of the rFramework also explains that the Housing Delivery Test will apply from the day following the publication of the Housing Delivery Test results in November 2018.

84. Paragraph 73(b) advises that a 10% buffer can be applied by a LPA where it wishes to demonstrate a five year land supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market that year. The reader is then directed to footnote 38 which states:

*"For the purposes of paragraph 73B and 74 a plan adopted between 1st May and 31st October will be considered recently adopted until the 31st October of the following year; and a plan adopted between the 1st November and the 30th April will be considered recently adopted until 31st October in the same year".*

85. As set out in evidence at the inquiry, in the first seven years of the LPS plan period, net housing completions in Cheshire East had been on average 1,034 dwellings per annum, and did not reach the 1,800 target at any point. It was therefore common ground at the inquiry earlier this year that a 20% buffer be applied, reflecting persistent under delivery as identified in the Framework.

86. In respect of the implications of the rFramework, the Local Plan Strategy was adopted by Cheshire East on 27 July 2017. As such it qualifies as "**recently**



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*adopted*” until 31 October 2018. Whilst the PPG has not been updated to provide detailed guidance upon this matter, the rFramework indicates that a 10% buffer to housing land supply is appropriate in any decision taken up to 31 October 2019.

87. From 1 November 2018, whether there has been a significant under delivery of housing will then be a matter for the decision maker to determine. Therefore the appellant maintains that a 20% buffer should apply from 1 November 2018 given the previous under delivery throughout the plan period.
88. It is also noted however that the Housing Delivery Test will then be used to measure significant under delivery from the day following its publication in November 2018. It is expected to use the national statistics for net additional dwellings, which have typically been published in mid-November over the last few years. Consequently, it seems likely to be later in November or thereafter before the Housing Delivery Test is in place.
89. The Framework is clear that the measurement of what amounts to **“significant” under-delivery** will be based upon the publication of the Housing Delivery Test that will be November 2018. In this case, the 10% buffer should apply as a minimum as the LPA have a recently adopted local plan in accordance with footnote 38 of the Framework. rFramework paragraph 73 gives flexibility to allow the decision maker to apply judgement as to whether or not criteria a) b) and c) applies based upon the evidence before them.
90. Whilst footnote 39 may not apply until November 2018, and because the **Framework is silent on how one should determine what is “significant in the interim**, it is considered that the 20% buffer should apply as until this time, the application of a 20% buffer is a matter for the decision maker to determine.
91. **“Significant” under-delivery** is defined as being below 85% of the annual housing requirement. It should be noted here that the transitional arrangement identified at paragraph 215 of Annex 1 only applies to the application of footnote 7 in terms of triggering the tilted balance of paragraph 11d of the Framework. It does not affect the determination of whether or not the 20% buffer applies. **The appellant’s 5 year HLS calculation** is therefore resupplied below showing both a 20% and also a 10% buffer to cover NPPF para 73b.

#### Addressing the under-provision

92. The rFramework does not specifically state how the backlog should be **addressed, however it does set out the Government’s objective of “significantly boosting the supply of homes”** (paragraph 59). Addressing the backlog as soon as possible would be consistent with this paragraph. The supporting Planning Practice Guidance (PPG) has not been updated at the time of writing. Paragraph 3-035 of the PPG: **“How should local planning authorities deal with past under-supply?”** provides the guidance that was set out in the evidence for the appeal. It states:

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***"Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the 'Duty to Cooperate'."***

93. Consequently, the PPG is clear that Local Planning authorities should aim to deal with the backlog within five years. Whilst the PPG does appear to recognise that there may be circumstances in which this is not possible, it does not suggest that the backlog should be addressed over any other period in those circumstances. Instead it states that local planning authorities will **need to work with neighbouring authorities under the 'Duty to Co-operate'**, presumably with adjacent authorities looking to help to address the backlog by making immediate provision.

94. A draft HLS section of the PPG was made available in association with the consultation on the draft rFramework. The draft PPG proposes to remove the reference to the Duty to Co-operate and replace it with reference to the plan making and examination process. It states (on page 14):

***"Local planning authorities should deal with deficits or shortfalls against planned requirements within the first five years of the plan period. If an area wishes to deal with past under delivery over a longer period, then this should be established as part of the plan making and examination process rather than on a case by case basis on appeal"***.

95. This draft guidance **is consistent with the appellant's position** given in evidence and maintained at the inquiry. **The appellant's position** was to acknowledge that the matter of undersupply of housing delivery had been considered at the Local Plan examination and that the first year of the **'Sedgepool 8' period had elapsed. The appellant's position is that the LPA's "rolling" 'Sedgepool 8' approach** would result in the shortfall continuing to be moved backwards and not actually be addressed at all, rather than being addressed within the 8 years as the LPS Inspector intended. **The appellant's approach to addressing the under-provision therefore is considered appropriate with regard to the rFramework.**

#### Assessing the Deliverable Supply

96. Paragraph 67(a) of the rFramework **is particularly relevant to the appellant's** 5 yr HLS case in this appeal. At the Inquiry, there were a number of sites contested at inquiry between the Council and the appellant over whether they should be expected to deliver housing within five years. The assessment of the parties and the supporting evidence was provided within the context of footnote 11 of paragraph 47 of the previous version of the NPPF where **'deliverable'** was defined. That footnote was the subject of a number of Court Judgements, in particular the *St Modwen* judgement, which was discussed at the Inquiry. In the rFramework, the definition of **"Deliverable"** is set out in the Glossary at Annex 2, and this states:

***"To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five***

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*years. Sites that are not major development, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”*

97. The definition of deliverable has now been clarified and sets out the expectations for both local planning authorities and others in assessing the supply of housing land. This change is significant in that it sets out separate tests for two categories of sites as follows:
- Category A - Sites that are not major development (i.e. 9 dwellings or less<sup>19</sup>) and sites with detailed planning permission: these should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (some examples are given as to what constitutes clear evidence).
  - Category B - Sites with outline planning permission, permission in principle, allocated in the Development Plan or identified on a Brownfield Register: these should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.
98. In summary, sites under Category A are to be considered deliverable unless the appellant, in challenging **the LPA’s 5 year HLS**, provides clear evidence that those sites are not deliverable. Conversely sites in Category B should not be included in the five year housing land supply by the LPA unless there is clear evidence that housing completions will begin on these sites within five years. This is a significant change as the test has now been reversed for sites with outline permission or development plan allocations. Previously under footnote 11 sites were deemed to be deliverable unless there is clear evidence that they were not. Therefore, national policy now stipulates that these should no longer be included unless there is specific evidence that they are deliverable.
99. The appellant considers that this change in approach to considering whether a site is deliverable gives overall support to the **appellant’s position** and **undermines the Council’s approach to the supply** in the evidence before this appeal.
100. **In general, it does not alter the appellant’s position on the sites that were challenged in the appellant’s evidence** in this appeal. Without seeking to introduce new evidence or reopen the detailed consideration of sites undertaken at the inquiry, the **appellant’s approach** at the inquiry was

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<sup>19</sup> As per the definition of “major development” within Annex 2 of the rFramework.

generally not to challenge whether sites should be considered deliverable, but to challenge whether sites had a realistic prospect of delivering of the number of units indicated by the Council within 5 years. The change in approach in the rFramework would add weight to our concerns for Category B sites, that the Council has not demonstrated (to quote the rFramework) with **"clear evidence that housing completions will begin on site within five years"** (and without seeking to reopen the detailed consideration of sites undertaken at the inquiry it may also provide a reason to challenge further sites in the supply).

101. The appellant provided evidence disputing 41 sites and the majority of these were sites within category B. Of these sites, 34 were sites without planning permission, sites with outline planning permission or sites with outline permission subject to S106. In the case of these sites, the onus would now be on the Council to demonstrate in evidence why it should be considered that housing completions will begin on site within five years. A summary of the sites falling within Category A and Category B are set out in the table below.

Site Name/ Reference	Category A	Category B
LPS1 Central Crewe		✓
LPS2 Basford East Crewe (Phase 1)		✓
LPS4 Leighton West (part a)		✓
LPS5 Leighton		✓
LPS6 Crewe Green		✓
LPS8 South Cheshire Growth Village		✓
LPS10 East Shavington	✓	
LPS11 Broughton Road, Crewe		✓
LPS13 South Macclesfield Development Area		✓
LPS14 Kings School, Fence Avenue		✓
LPS15 Land at Congleton Road		✓
LPS16 Land south of Chelford Road, Macclesfield		✓
LPS17 Gaw End Lane, Macclesfield		✓
LPS18 Land between Chelford Road and Whirley Road		✓

LPS20 White Moss Quarry, Alsager		✓
LPS27 Congleton Business Park		✓
LPS29 Giantswood Lane to Manchester Road		✓
LPS33 North Cheshire Growth Village		✓
LPS36 Land north of Northwich Road and land west of Manchester Road, Knutsford		✓
LPS37 Parkgate Industrial Estate, Knutsford		✓
LPS38 Land south of Longridge, Knutsford		✓
LPS42 Glebe Farm, Middlewich		✓
LPS43 Brooks Lane, Middlewich		✓
LPS46 Kingsley Fields	✓	
LPS48 Land adjacent to Hazelbridge Road, Poynton		✓
LPS57 Heathfield Farm, Wilmslow		✓
LPS61 Alderley Park	✓	
1934 Land off Dunwoody Way, Crewe	✓	
2991 Land adjacent to 97 Broughton Road, Crewe	✓	
3535 Santune House, Rope Lane, Shavington	✓	
3574 Land west of Broughton Road, Crewe	✓	
3612 Land south of Old Mill Road, Sandbach		✓
2896 Land to the north of Moorfields, Willaston		✓
4302 Kings School, Macclesfield		✓
4752 Land off East Avenue, Weston		✓
4725 Abbey Road, Sandbach		✓
5672 Land off Church Lane Wistaston		✓
5709 Land off London Road, Holmes Chapel		✓
406 Victoria Mills		✓
3175 Chelford Cattle Marker and Car Park		✓

102. The change in approach to considering whether a site is deliverable does **however run very much counter to the LPA's approach in this appeal with regard to assessing the deliverable supply. The Council's evidence to the appeal set out a number of observations on the *St Modwen* judgement and the consideration of whether a site is deliverable. The Council essentially suggested that the *St Modwen Court of Appeal Judgement is a 'game changer' in that the threshold for calculating 5 year HLS had been lowered in some significant respect and contending that, given the strategic sites are allocated and these sites are 'capable' of having homes built on them, *St Modwen* obviated the need for the LPA to evidence that their yields in the 5 year period are 'realistic'. Clearly the rFramework now makes absolutely clear that Category B sites should no longer be included in the supply unless there is specific evidence that they are deliverable. It is therefore it is clear that robust evidence on delivery is needed, as was argued by the appellant.***
103. In summary, the supply of deliverable sites must be determined within the context of the rFramework which is a material change from that in the superseded Framework. It is for this reason, and the test in paragraph 67A (and associated definition of what comprises a deliverable site provided **within Annex 2) that means that the Appellant's housing land supply position should be favoured over the Councils.**

#### Housing land supply calculation

104. The above comments in respect of the approach to 5 year HLS in the rFramework refer to each of the key stages of assessment. The final stage is **to undertake the calculation itself. The appellant's calculation was set out in the Appellant's 5 year HLS Proof of Evidence in Table 16 entitled "Conclusions on 5 year land supply CEC / Appellant". At the end of the Inquiry on 23 February 2018 a revised version of this table was submitted at the Inspector's request, updated to reflect the concessions on supply made by both parties in the 5 year HLS Statement of Common Ground (SoCG).**
105. It is considered that, given the reference to a 10% buffer in rFramework para **73(b), it may be of assistance to now provide a table showing the appellant's position updated to reflect the concessions on supply made by both parties in the SoCG with a 10% buffer applied.**

Updated version of Table 16 of the Appellant's Proof of Evidence "Conclusions on 5 year land supply CEC / Appellant" to reflect the concessions on supply made by both parties in the 5 year HLS Statement of Common Ground in this appeal and also showing the calculation applying a 10% buffer

		Appellant's position when the 20% buffer is applied (supply addressed in 7 years) (updated to reflect SoCG on sites)	Appellant's position when the 10% buffer is applied (supply addressed in 7 years) (updated to reflect SoCG on sites)
A	Net annual requirement (2010 to 2030)	1,800	1,800
B	Housing requirement 1 April 2017 – 31 March (A x 5)	9,000	9,000
C	Shortfall 1 April 2010 - 31 March 2017	5,365	5,365
D	Shortfall to be addressed in 5 years	3,832	3,832
E	Requirement + shortfall (B+D)	12,832	12,832
F	Buffer (20% of E)	2,566	n/a
	Buffer (10% of E)	n/a	1,283.2
G	Requirement + buffer (E+F) = supply required	15,398	14,115.2
H	Assessment of Supply (updated)	13,101	13,101
I	Supply demonstrated (H/G x 5) in years	4.25 years	4.64 years

106. The table above sets out that, where **the appellant's** approach to supply is preferred, even if a 10% rather than 20% buffer is applied the **Council's 5** year HLS figure remains below the requirement.
107. **The appellant's position in the light of the** rFramework therefore remains that the LPA cannot demonstrate a deliverable five year housing land supply, as was set out in evidence to this appeal and at the inquiry. Therefore, in accordance with paragraph 73 of the rFramework it remains the position of the appellant that the Council are unable to robustly demonstrate a 5 year supply of deliverable housing sites. Therefore, the tilted balancing exercise required by paragraph 11d of the rFramework is engaged as per footnote 7. The conclusions reached by the appellant in the evidence heard before the inquiry therefore remain valid in the context of policies contained within the revised Framework.

#### Landscape

108. The application site carries no designation, nor is anyone arguing that it is a valued landscape in rFramework terms. In local landscape policy terms

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(SE4), the scheme is compliant for the reasons explained by Mr Berry. Moreover, it is clear from the proposed Landscape Strategy principles that the development will respond to the existing landscape with good legibility and a strong sense of place. Any marginal criticisms that have been raised over the course of the last 4 years have been fully taken on board in the **latest revisions to the illustrative masterplan. In JB's view the appeal site is** an unremarkable and ordinary parcel of land with no particular features that would set it out of the ordinary. Its relationship to the urban area, especially following recent planning permissions granted to the east and west and **illustrated on JB's appendix 1, drawing SK19, underscore the site's obvious** capacity to accommodate the proposed development. Importantly, that capacity has only increased since the application was first refused (contrary **to officer's recommendations) as a result of the adjacent development** (especially the DWH land to the east which will have been evident on site); and also as a result of the scheme no longer proposing its own dedicated access to the south, but through an access from the north of the site, the junction with Peter Destapeleigh Way already having been completed.

109. Given that CEC have never refused this application on landscape grounds and have never raised a freestanding landscape impact case against the proposals either at this inquiry or its precursor, one might legitimately ask why the Appellant has sought to present a fully articulated landscape case. Indeed, Mr **Gomulski CEC's** landscape architect who is habitually called at housing appeals in this borough reiterated his advice back in November 2017 that there would be no significant adverse landscape and visual impacts (after mitigation) and that a landscape reason for refusal could not be substantiated.

#### Local Plan considerations

110. **The Council's case is in essence that there is no need for additional housing** and that there are breaches of the recently adopted Local Plan Strategy ('CECLP') **whose policies should be treated as** not out of date and therefore the application must be refused. To put it mildly, that is an oversimplification of the situation of the task that is before this Inquiry, and takes a myopic view of the actual position that CEC finds itself. Unarguably, in accordance with s.38(6) of the 2004 Act the SOS must determine this appeal in accordance with the development plan unless material considerations indicate otherwise. As PD pointed out in his evidence, whether the policies of the development plan remain relevant and up to date is a material consideration that must be taken into account. Further, the question of whether or not the appeal proposal is in accordance with the relevant policies of the development plan is not simply a yes or no question the answer to which determines the outcome of this appeal. The degree of conflict is plainly relevant and an essential question to consider. Similarly, the actual land use consequence of a policy breach has to be interrogated.
111. That is particularly important here when the alleged harm is the principle of development beyond settlement boundaries, and not any particular significant land use harm, such as landscape, ecology, drainage etc, other than the loss of an area of BMV agricultural land (which is agreed not to be a determinant issue in any event). However the loss of BMV is not significant



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and the site is not currently farmed. As recorded in the note submitted to the Inquiry by the Appellant, and not disputed by the Council, only 17% of the appeal site A is BMV (sub-grade 3a). **As set out in appendix 2 to PD's POE** (the POE of M J Reeve on BMV for the original inquiry at para 6.1), the site **"would primarily use one of the few areas dominated by poorer non-flooding land on the margins of Nantwich, so meets the requirements of the NPPF to use poorer quality land in preference to that of a higher quality. The LP at policy SE.2 requires that BMV is "safeguarded". It is agreed that the site will result in the loss of BMV it is a small amount (2.6ha in total across Appeals A and B) and that this loss is not determinative (see SoCG). Taking these points together, in the context of a county where most of the land is of similar grade (see RT PoE at 6.33), the poor quality of the other land in site A and that the parties agree that the loss of BMV is not determinative, the loss of BMV must accord no more than limited weight (as PD concludes in his POE at page 60). Furthermore, if the SoS concludes that the Council cannot demonstrate a 5YHLS, then greenfield sites will need to be delivered and he should reach the same conclusion as the original inspector at paragraph 12.1626 that in those circumstances the release of the BMV on this site to development causes no harm.**

112. The starting point for considering whether the relevant policies are up-to date and the weight to be afforded to any breaches of them is a consideration of the basis upon which the plan was adopted. It is agreed by both of the main parties planning witnesses that the settlement boundaries used in the CECLP are those from the previous Crewe and Nantwich local plan. PD explained that the LP settlement boundaries that were set in 2006 were only ever intended to last until 2011, by which time there would have been expectation that they would have been reviewed.
113. The only modifications that were made to these boundaries during the recent LPS process was to incorporate the strategic allocations into them. This did not constitute a review of the boundaries and it is agreed by both planning witnesses that there is therefore a need for the boundaries to be reviewed as part of the next stage of plan preparation SADPPD/LPpt2, which will also **consider allocating additional sites so as to meet CEC's needs, for a plan** whose plan period started back in 2010. This was acknowledged by the LPI in his report at paragraph 111 and is expressly acknowledged in Policy PG 6 itself along with its supporting text<sup>27</sup>.
114. As a matter of sensible planning, as a matter of logic and as a matter of mere common sense the geographical extent of these settlement boundaries **are therefore obviously "out of date", even if the text of the policies themselves correspond to the approach of the rFramework – a distinction which goes unremarked in the LPA's evidence. This is further evidenced, by** the number of dwellings that have been granted planning permission by the Council and at Appeal over the last 5 years and in the overall approach adopted in the LPS itself that involves very significant development outside of settlement boundaries of the saved Local Plan – thereby underscoring it's out of datedness. In a situation where it is acknowledged that development will be required outside of adopted boundaries to meet identified development needs it is nonsensical of the Council to argue that those boundaries are up to date.

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115. One final point is that the position is not altered by the making of the NP. That is because Inspector Jonathan King in emasculating the draft NP rewrote the housing chapter of the NP to mirror the settlement boundary in the saved LP and the NP expressly notes that the boundaries will be reviewed as part of the Ppt2. It follows that policies RES-5 and Policies PG-6 are out of date in their geographical extent and this must reduce the weight to be attached to them and the weight to be attached to any breaches of them. This is precisely the approach of the Park Road Inspector who at paragraph 16 observed:

*"Whilst, for the time being, the settlement boundaries and extent of the Open Countryside in the CNRLP as amended continue to carry weight as part of the development plan, there is clearly an acceptance in Footnote 34 and the CELPS Inspector's report that they will be subject to further change. This may be to accommodate non-strategic sites allocated for development as part of the SADPPDP or where planning permissions have been granted for development beyond existing boundaries or in the light of other criteria yet to be defined. To this extent the current boundaries cannot be considered to be fully up to date."*

Thus, it is accepted by the Appellant that these policies are breached but as the Appellant correctly contends the extent of that breach has to be assessed to determine what weight to be attached to the breach. The appeal site lies in the defined open countryside but is in no way an isolated or irregular intrusion into the open countryside. It is an obvious extension to the settlement of Nantwich with development on three sides. Importantly, other than the fact of the breach, the Council does not identify any land use harm arising from the breaches of policies RES-5 and PG-6. That there is no land use harm that arises from the breach of these policies must reduce still further the weight to be attached to these policy breaches.

116. **There is an allegation within the RfR as well as RT and AF's proof that to allow the appeal proposals would somehow place the Spatial Vision of the LPS 'out of whack'. That is founded upon the proposition that Nantwich has already delivered the amount of housing that was anticipated as part of the LPS spatial distribution. The point is however nonsensical and belied by the words of the LPS itself, since policy PG7 sets out figures for each settlement that are expressly said to be "neither a ceiling nor a target". And yet RT purports to interpret PG7 in precisely that way, at one point even alleging that there was a conflict with the policy (despite it not being cited in the RfR). Moreover, the table following paragraph 8.77 in the LPS is expressed to be an 'indicative distribution'. Thus whilst it may be that CEC could contend that it would be a powerful material consideration against a scheme which was grossly out of kilter with the overall distribution of the LPS, it is an abuse of the express language of the plan to contend that there is a breach of policy PG7 as RT alleges.**

117. However, to arrive at that point one has to come to the view that the proposals would indeed be sufficiently at variance with the indicative distribution to be said to result in a land use distribution contrary to the objectives of the LPS. In White Moss Quarry, Inspector Rose seems to have

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arrived at the conclusion albeit for a much bigger proposal close to a much smaller settlement. However, merely being a little above the indicative figure of 2050 when that figure is not a ceiling nor a target does not lead to the inexorable conclusion of an offence against the distribution contended for by RT.

118. Moreover, **RT was unable to answer the "so what?" point** – i.e. even if there is development in excess of the notional distribution, if there is an immediate need for more housing in CEC there are no land use consequences identified which arise as a result why is there a consequence which even weighs into **the 'harmful' side of the scales. In XC it was argued that the position is** directly analogous to the White Moss Quarry appeal – however that decision bears close reading, since the Inspector there was dealing with an argument that the proposals (which were much bigger than those proposed here close to a much smaller settlement) would give rise to harmful out-commuting– whereas here no such allegation is made.
119. As RT was at pains to emphasise in his proof, PG-7 does not identify maximum limits on housing numbers in any location, nor does it identify targets. For a breach of PG-7 to arise it cannot simply occur as a result of a numbers game, there has to be a consequence of that number of housing units coming forward in the location in question. Here there has been no attempt at all to identify any such harm. Thus there was no alleged (unmitigated) infrastructure harm to Alsager and there was no harm to social cohesion, further there is therefore no technical justification for withholding consent.
120. It is all well and good to allege that a proposal is contrary to the spatial strategy of the development plan but in order for such an allegation to be credible the proposal in question must actually be contrary to the spatial strategy and even if it is there must be some consequence of that. Here, the appeal proposal is not contrary to the spatial strategy because the numbers identified in PG-7 are not maxima, and harm has not been shown if panning permission is granted.
121. The appeal proposal should be decided in accordance with the development plan unless material considerations indicate otherwise. When looking at the development one looks at whether the proposal is in overall accordance with the development plan. The appellant accepts there are some breaches of development plan policies, but these are limited<sup>30</sup>, where the breaches arise as a result of settlement boundaries the geographical extent of these policies are out of date and when harm is considered, there is none. This proposal does not give rise to harm to the spatial strategy, gives rise to not meaningful land use harm and comprises sustainable development. Consequently, regardless of the 5yrHLS situation the appeal proposal should be approved.

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## Other considerations

### Deliverability

122. In something of an unexpected turn of events CEC ran a surprising and misguided case against the appeal proposals, namely that even if panning permission was granted that the proposals would not deliver very much within the plan period in any event.
123. **The first attack was both an attack “ad hominem”, or in modern parlance, the LPA sought to play the man and not the ball. AF presented 3 examples of where consents had been granted to the Appellant but where delivery had not come forward as expected. However, in XX he readily accepted that he had presented a deeply partial picture and had identified only those sites which had under-delivered and that he had said nothing at all about sites where the Appellant had brought forward sites which had readily delivered units. That of itself should have **compromised AF’s credibility**. However, he also failed to point out that the third of the sites that he cited (Old Mill Sandbach) **hadn’t delivered because of a land dispute with the Council, where the latter (as landowner) were essentially holding-out for ransom value for land which had been compulsory purchased as part of a highway scheme but was never needed. The picture painted was a disingenuous and partial one.****
124. **The argument was then put that based upon MW’s delivery rates, and assuming that the SOS wouldn’t issue his decision quickly that the delivery rates for the site would be low. AF’s picture painted in his proof of a dilatory land-banking strategic land company is with respect ludicrous;**
- (v) agents have been appointed as PD explained in XC and the likely purchaser for part of the residential component will be DWH, who are building homes rapidly next door – this will be a continuation of that site, resulting in obvious benefits in terms of lead in time as well as evidencing a clear local market;
  - (vi) there is clear evidence of a demand for the employment units – see letter from RWR Walker Surveyors - 15 March 2018.
125. There is no basis for the pessimism expressed by AF (which may be contrasted with gross over-optimism elsewhere), there is compelling evidence that this site will deliver within the 5 year period.

### Neutral outcomes and Benefits

126. The Transport Assessment concludes without challenge from the highway authority that the existing road network has the capacity to readily accommodate the traffic anticipated from the scheme. There would therefore be neither severe adverse effects nor deleterious impacts on the safety of other road users. This matter therefore, despite the recognised apprehension of local people, would be rendered neutral in the planning balance. If permitted this scheme will bring forward much needed market and affordable homes. The delivery of these homes will provide employment opportunities.

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The employment site will provide employment opportunities and strengthen the local economy generally. The services such a site will be a benefit in terms of those services and by reducing trips.

127. The provision of a site for a primary school represents a potential long term benefit of the proposal which could be provided as and when future development requirements for Cheshire East are assessed.

128. The scheme includes extensive areas of open space and landscaping (see CD L9), including habitats with biodiversity benefits. 7.3.4 The section 106 agreement provides, in addition to the affordable housing, for an education contribution and a highways contribution to improve public transport facilities.

#### Overall Conclusions

129. **It is the Appellant's case that the LPA can demonstrate at most 4.25 YS** (with a 20% buffer. If a 10% buffer is applied the land supply is 4.64 years. If a more critical view on delivery post-rFramework is factored-in the supply drops further<sup>20</sup>. On any of the outcomes above, the Council cannot demonstrate a 5YS as required by rFramework paragraph 11 (footnote 7). Therefore the consequences flow from this and the tilted balance in NPPF in paragraph 11.

130. **Even if it was concluded that the LPA's optimism was well founded and that it could (just) demonstrate a 5YS**, then that does not mean that the appeal should necessarily be dismissed:

- a. on its best case, at 5.45 years the LPA is only just able to demonstrate a 5YS, and even that based upon heroic assumptions about future delivery;
- b. the settlement boundaries were established in the C&NLP over ten years ago and have not been reviewed, save for account being taken of strategic allocations since then;
- c. the settlement boundaries will need to be reviewed and updated as part of the CELPpt2 which is still not even at the earliest stage of preparation;
- d. there is no technical objection to the appeal proposals, including any allegation that there is no capacity to meet infrastructure requirements; and,
- e. the existence of a 5YS is not a ceiling nor is it a proper basis to withhold consent for otherwise sustainable development, especially

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<sup>20</sup> These account for the revised figures submitted after the revisions to the Framework **have been accounted and differ from the Appellant's assessment in closings after the Inquiry.**

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when as at 1/4/17 there has been an under-delivery of over 5300 homes or more than 3 years of the adopted LP requirement. Indeed even the figures in the CELPS are firmly expressed as not being maxima, and it would be perverse to treat them as such in the manner implicitly asserted by CEC.

131. The scheme complies with the settlement hierarchy by locating in a Key Service Centre. Furthermore, the scheme complies with the terms of the Neighbourhood Plan as it provides important residential development next to the existing boundary of Nantwich, as the plan envisions (despite the revisionist approach now being taken to interpretation). **The Council's** arguments in closing (paragraph 156) that this scheme, if permitted, would skew the strategy for Nantwich simply ignores that the CELPS directs residential and employment development to Nantwich as a Key Service Centre. Therefore if the Council has failed to demonstrate a 5YS, then Nantwich would be a prime candidate for flexing settlement boundaries to deliver the homes that are being held up by this Council.
132. Furthermore, **the Council's claim that permitting this site would lead to** housing provision of 18% above the level identified as appropriate in terms of spatial distribution in the CELPS is misleading. The 18% is presumably **(the Council conveniently don't show their working) arrived at by taking the** 2246 allocated plus the 189 on this site, giving 2434. This equals 18.7% more than the 2050 in policy PG7. What the Council fails to mention is that as 2246 has already been allocated, CEC has shown they are happy to go over the 2050 and are already over it by 12%. Therefore the percentage increase on the allocated sites (2246) of this proposed scheme (189) is 8.4%. So the Council is not only misleading in paragraphs 61 – 65, but they have also got their arithmetic wrong.
133. The Scheme also provides significant employment, housing and social benefits set **out in Mr Downes' evidence. Despite the Council's protestations** in closing, there is no policy requirement that weight should not be given to economic proposals if they are not accompanied by a clear indication of the occupier, that would stifle development across the UK were the proposition to have any force. The Appellant has made a planning application and there is no reason to suggest that development will not be forthcoming, indeed it is understand that correspondence has been provided by the landowner in response to the latest consultation exercise from a local commercial agent which demonstrates exactly this point. There is therefore no reason not to place significant weight to the benefit of the economic aspect of the scheme.
134. A section 106 agreement has been concluded providing for affordable housing education, public open space and transportation.
135. Given there are no identified harms that could significantly and demonstrably outweigh the benefits of this scheme, the Inspector is respectfully invited to recommend to the Secretary to (finally) allow the appeal and to grant permission to these applications which propose a sustainable form of development in the context of clear evidence of need.

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## The case for the Council

### The Starting Point

136. The starting point for any decision in the present case is, of course, section 38(6) of the 2004 Act. This requires assessment of whether the proposed development accords with the Development Plan.

137. The Development Plan consists of:

- a. Saved Policies of the Crewe and Nantwich Plan 2011;
- b. The Stapeley and Batherton Neighbourhood Plan adopted in February 2018; and
- c. **The Cheshire East Local Plan Strategy 2017 ("the CELPS").**

138. The CELPS was, of course, only adopted in July 2017 and sets out the strategy to meet the needs of this area including housing needs. The Examination Inspector concluded:

**"I consider the Overall Development Strategy for Cheshire East, including the provision for housing and employment land, is soundly based, effective, deliverable, appropriate, locally distinctive and justified by robust, proportionate and credible evidence, and is positively prepared and consistent with national policy." (Examination Inspector's Report p21 para 78)**

139. In reaching that conclusion the Examination Inspector considered a wide range of objections including a number presented by housing developers and their advisors. They raised wide-ranging concerns including those relating to:

- a. Lead-in times; and
- b. Deliverability of sites.

140. After a lengthy and detailed consideration of those concerns and after considering the views of all stakeholders in the Local Plan process, the Examination Inspector rejected them. He concluded that:

**"CEC has undertaken much detailed work in establishing the timescales and delivery of these sites, including setting out the methodology for assessing build rates and lead-in times, using developers' information where available and responding to specific concerns [PS/B037]. Although there may be some slippage or advancement in some cases, I am satisfied that, in overall terms, there are no fundamental constraints which would delay, defer or prevent the implementation of the overall housing strategy..."**

I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future **5-year supply of around 5.3 years.**" (Examination Inspector's Report p19 para 69)

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## Subsequent appeal decisions

141. Since then matters have moved on. The Council has been party to a number of planning appeals not least those relating to Sites at White Moss and at **Willaston. The Inspector's in those appeals reviewed the evidence presented** to them and concluded that there was a range of realistic views. That range, they said, straddled the five-year housing land boundary.
142. They then both adopted what they described as a precautionary approach. We submit that there is no policy guidance which supports this. There is nothing in the NPPF or the NPPG that indicates that where the realistic range of deliverable sites falls either side of the five-year supply line the decision maker should assume that there is no five-year housing land supply.
143. The Inspectors in these decisions both dismissed the appeals and refused to grant planning permission. As a result, the Council was not a person aggrieved and could not challenge the lawfulness of the approach adopted to five year housing land supply issues.

### A Precautionary Approach is Unlawful

144. In the Claim relating to the Shavington Appeal, the Council contends that the adoption of a precautionary approach is unlawful. The reasons why are set out in the Statement of Facts and Grounds but are summarised below.
145. Paragraph 14 of the NPPF explains that the presumption in favour of sustainable development means for decision taking:

**"where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:**

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be **restricted."**

146. Thus, in order to apply the tilted balance, a decision maker must conclude that the development plan is absent, silent or relevant policies are out of date.
147. As Lord Carnwath explained in *Hopkins Homes v Secretary of State for Communities and Local Government* [2017] 1 W.L.R. 1865 at paragraph 59:

**"The important question is not how to define individual policies, but whether the result is a five-year supply in accordance with the objectives set by paragraph 47. If there is a failure in that respect, it matters not whether the failure is because of the inadequacies of the policies specifically concerned with housing provision, or because of the over-restrictive nature of other non-housing policies. The shortfall is enough to trigger the operation of the second part of paragraph 14. As the Court of**



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Appeal recognised, it is that paragraph, not paragraph 49, which provides the substantive advice by reference to which the development plan policies and other material considerations relevant to the application are expected to be assessed”.

148. It is submitted that, as a result of the words of paragraph 14 and Hopkins Homes, in order to apply the tilted balance, the decision maker has to determine that relevant policies in the development plan are out of date. In order to do that by reference to five-year housing land supply considerations, a decision maker must conclude that there is currently no five-year housing land supply of specific deliverable sites.

#### Determining Deliverability

149. The decision in *St Modwen Developments Ltd. v Secretary of State for Communities and Local Government* [2017] EWCA Civ 1643 was delivered by the Court of Appeal on the 20<sup>th</sup> October 2017. It provides significant clarification as to the approach to adopt to the consideration of what is meant by a deliverable site within the NPPF.
150. Paragraph 47 of the NPPF provides that local planning authorities are to **“identify and update annually a supply of specific deliverable sites sufficient to provide five-years’ worth of housing against their housing requirements...”**
151. **Footnote 11 of the NPPF then explains what a “specific deliverable site” is as follows:**

**“To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”**

152. Further guidance is provided in the National Planning Practice Guidance:

#### **“What constitutes a ‘deliverable site’ in the context of housing policy?**

Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out.

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If there are no significant constraints (eg infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe”.

153. The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year housing supply.” (emphasis added)

154. In St Modwen, Lindblom LJ explained at paragraph 38:

**“The first part of the definition in footnote 11** – amplified in paragraphs 3-029, 3-031 and 3-033 of the PPG – contains four elements: first, that the sites in question should be “available now”; second, that they should “offer a suitable location for development now”; third, that they should be “achievable with a realistic prospect that housing will be delivered on the site within five years”; and fourth, that “development of the site is viable” (my emphasis). Each of these considerations goes to a site’s capability of being delivered within five years: not to the certainty, or – as Mr Young submitted – the probability, that it actually will be. The second part of the definition refers to “[sites] with planning permission”. This clearly implies that, to be considered deliverable and included within the five-year supply, a site does not necessarily have to have planning permission already granted for housing development on it. The use of the words “realistic prospect” in the footnote 11 definition mirrors the use of the same words in the second bullet point in paragraph 47 in connection with the requirement for a 20% buffer to be added where there has been “a record of persistent under delivery of housing”. Sites may be included in the five-year supply if the likelihood of housing being delivered on them within the five-year period is no greater than a “realistic prospect” – the third element of the definition in footnote 11 (my emphasis). This does not mean that for a site properly to be regarded as “deliverable” it must necessarily be certain or probable that housing will in fact be delivered **upon it, or delivered to the fullest extent possible, within five years.”**

155. Thus, to be included in the supply side of the five-year housing land assessment, a site needs to be one where there is a realistic prospect of housing coming forward within the 5 year period. Lindblom LJ then went on to contrast that approach with the approach required in produce a housing trajectory **“of the expected rate of delivery”**:

**“One must keep in mind here the different considerations that apply to** development control decision-making on the one hand and plan-making and monitoring on the other. The production of the “housing trajectory” referred to in the fourth bullet point of paragraph 47 is an exercise required in the course of the preparation of a local plan, and will assist the local planning authority in monitoring the delivery of housing against the plan strategy; it is described as “a housing trajectory for the plan period” (my emphasis). Likewise, the “housing implementation strategy” referred to in the same bullet point, whose purpose is to describe how the local

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planning authority "will maintain delivery of a five-year supply of housing land to meet their housing target" is a strategy that will inform the preparation of a plan. The policy in paragraph 49 is a development control policy. It guides the decision-maker in the handling of local plan policies when determining an application for planning permission, warning of the potential consequences under paragraph 14 of the NPPF if relevant policies of the development plan are out-of-date. And it does so against the requirement that the local planning authority must be able to "demonstrate a five-year supply of deliverable housing sites", not against the requirement that the authority must "illustrate the expected rate of housing delivery through a housing trajectory for the plan period".

156. Thus, a housing trajectory is undertaking a different task from the exercise that must be undertaken when looking at deliverable sites for purposes of a 5 year housing land supply assessment.

157. *St Modwen has been applied in an important Inspector's decision in the East Riding of Yorkshire*. In that decision an Inspector, in the light of *St Modwen* explained:

**"the decision maker has to have clear evidence to show that there is not simply doubt or improbability but rather no realistic prospect that the sites could come forward within the 5-year period."**<sup>21</sup>

158. *Accordingly, St Modwen* clarifies that the test to be applied to sites with planning permission or which are allocated is whether there is clear evidence to show that there is no realistic prospect that a site would come forward (see footnote 11 and the NPPG guidance set out above).

159. *Assuming* that both the Inspectors in the *White Moss* and *Willaston* appeals applied to the correct approach to identifying the realistic number of units that sites are capable of delivering over 5 years, there appears to be no basis for asserting that sites are incapable of delivering at the top of the range. i.e. the top of the range must be realistic since it is included in a range which sought to identify what sites were capable of delivering on that basis. It follows necessarily that the *White Moss* and *Willaston* Inspectors both reached a conclusion which must mean that a five-year housing land supply of specific deliverable sites was demonstrated.

160. *The Framework* does not state anywhere that a precautionary approach to the identification of a 5 year housing land supply is to be applied. Such a proposition cannot be inferred from the indication that the policy intention is to significantly boost supply since that intention is fulfilled by the inclusion of a 20% buffer in the housing requirement.

161. It is submitted that the application of a precautionary approach was thus unwarranted on the basis of the policy set out in the *Framework* and unjustified on the evidence. It is submitted that to adopt the same approach

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<sup>21</sup> Appeal Ref: APP/E2001/W/16/3165930 Land north and east of Mayfields, The Balk, Pocklington, East Riding of Yorkshire YO42 1UJ paragraph 12)

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as the Inspectors in the White Moss, Willaston and Shavington decisions would be to err in law.

162. Instead, what must be undertaken is an appraisal of the sites at issue on the basis identified in St Modwen. Where the site has planning permission or is allocated then the approach that the Council has adopted (which was accepted by the Examination Inspector) should be accepted unless the Appellant has proven that there is no realistic prospect that the site would come forward.

#### Robust Evidence

163. The Inspector in the Willaston appeal also made another material error and this too was adopted by the Shavington Inspector. He adopted the position **that the local planning authority had to present "robust and up to date"** evidence as to the likely contribution that a particular site would make to five-year housing land supply. This was based upon a misreading of the NPPG and a failure to apply the words in the Framework.

164. Footnote 11 and the NPPG make it clear that sites which have planning permission or are allocated are to be included in the 5 year supply unless there is clear evidence that there is no realistic prospect that they be implemented within 5 years. The emphasis is on realism. Thus, a different approach to that adopted by a local planning authority can be adopted when there is clear evidence **that the Council's approach to sites with planning permission or with an allocation is unrealistic** (see the East Riding of Yorkshire case).

165. The part of the NPPG that the Willaston Inspector relied upon as the **foundation of his test for "robust and up to date evidence" is not dealing with** sites with planning permission or with an allocation as Mr Weddernburn properly accepted in XX – if it were it would contradict the approach set out in the previous earlier paragraph in the NPPG and also footnote 11 of the Framework. Accordingly, the Willaston Inspector approached the sites on the basis that the Council had to adduce robust and up to date evidence to justify its approach to sites with planning permission and/or which were allocated when this was not the case.

166. The Appellants would have you reject all of the above in favour of an approach that there is some two tiered test:

- Whether a Site is specifically deliverable – the Appellant appears to content that the test of whether a Site would realistically contribute to the 5 year housing land supply position is to be applied here simply to identify the pool of sites examined in the second test.
- If so, the Appellant contends that the second test is what is the likely number of units a site will contribute to housing land supply within the five-year period.

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You and the SofS would err in law if you were to accept this position since it is found upon a grievous misinterpretation of National Planning Policy.

167. Mr Wedderburn in his evidence described the second-tier test as **“the more central issue” in housing land supply cases (see Wedderburn p26 footnote 19)**. He adopted the position that the evidence to support the yield produced by a local planning authority has to be robust and up date.
168. The first point to note is that Mr Wedderburn was totally unable to identify where his second-tier test was addressed in National Planning Policy. If the **approach really were “the more central issue” and really did form part of** National Planning Policy in such an important area it is submitted that it would be set out in the Framework; it is not and Mr Wedderburn accepted that it is not. It must be remembered that the guidance in the NPPG is just that; the NPPG does not contain planning policy and must not be applied as if it does.
169. **The second point is that the Appellant’s approach is totally logically inconsistent.**
170. It applies the same test to sites with planning permission and with an allocation as those without either. This conflicts with the Framework which makes it plain that the evidential burden in relation to sites with planning permission and which are allocated is reversed – they are included unless there is no realistic prospect of them coming forward.
171. It is not logical to include a site with planning permission/allocation if there is not clear evidence that it will not be implemented only to then apply a test which requires robust and up-to-date evidence to prove it will actually yield any development.
172. If that were the intent of Policy, there would only be a need for a single test namely, is there robust and up-to-date evidence that a site will yield housing within the 5 year period. However this is not what the Framework actually says.
173. Indeed, as can be seen from the analysis above, to apply the **Appellant’s** approach thus subverts the intent of the Framework and footnote 11 – it renders the presumption specifically contemplated by Policy in respect of deliverability of housing from sites with planning permission/allocation wholly otiose.
174. The third point is to have in mind why the Framework would include such a presumption in the first place. The answer is obvious. It is included in order to reduce the scope for debate in determining five-year housing land supply in relation to Sites with planning permission/allocation. The adoption of the Appellant’s approach would have precisely the opposite consequence. It would mean that the yield from every single site (whether one with planning permission/allocation or not) would have to prove in every single case. The administrative burden that this would create for local planning authorities

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and the Inspectorate cannot be underestimated and cannot have been the intention behind the Framework.

175. The only approach to sites with planning permission/allocation which is consistent with the words of the NPPF, St Modwen and the NPPG is that presented by the Council in this Appeal, namely is there clear evidence that there is no reasonable prospect of the yield identified by the local planning authority being delivered.
176. **Mr Wedderburn's assessment of the likely contribution of** sites is thus flawed since he applied an incorrect test based upon a fundamental misunderstanding of National Planning Policy. His site appraisal conclusion must therefore be rejected; at the very least his appraisal of individual sites must be approached with great caution lest one draws conclusions similarly contaminated by an error of law.

#### Additional Evidence

177. A further difference in the present appeal to previous appeals has been the fact that Mr Fisher has produced evidence which was not available to the previous Inspectors. In particular the material produced to the CELPS Inspector has been produced and further and updated evidence has been given in relation to specific sites.
178. It is submitted that, as a result of all of the matters above, the Secretary of State is entirely free to reach a different conclusion of five-year housing land supply to that reached by his Inspectors in recent months. Indeed, the Council submits that, if the appraisal of sites undertaken by the White Moss and/or Willaston Inspectors were accepted given that the top end of the range must be taken to be a realistic figure, the only conclusion, once their error regarding a precautionary approach is jettisoned, must be that they should have concluded that there is a five-year supply of housing sites.

#### THE CONFLICT WITH THE DEVELOPMENT PLAN

##### Policy PG6 of the CELPS

Policy RES5 of the CNLP **and Policy PG6 both seek to restrict housing in the "open countryside"**.

179. Policy PG6 defines the Open Countryside as the area outside of any settlement with a defined settlement boundary. The Appeal scheme lies outside of the settlement boundary and is within the Open Countryside.
180. Policy PG6 provides that within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. The appeal scheme does not fall within this paragraph.

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181. PG6 also goes on to reference to a number of exceptions that might enable development in the open countryside to proceed. None apply to the proposed development. The Appeal scheme is thus contrary to Policy PG6.

182. In considering Policy PG6 (Although it was then referred to as Policy PG5), the Examination Inspector explained:

**“Policy PG5 seeks to provide for development required for local needs in the open countryside to help promote a strong rural economy, balanced with the need for sustainable patterns of development and recognising that most development will be focused on the main urban areas. The “open countryside” is defined as the area outside any settlement with a defined settlement boundary; a footnote confirms that such boundaries will be defined in the SADDPDP, but until then, settlement boundaries defined in the existing local plans will be used, as now listed in Table 8.2a. Issues about the detailed extent of specific settlement boundaries can be addressed in the SADDPDP. This is an appropriate and effective approach, given the strategic nature of the CELPS. ” (Examination Inspector’s Report p28 para 111)**

He concluded:

**“Consequently, with the recommended modifications, the approach to the Green Belt, Safeguarded Land, Strategic Green Gaps and the Open Countryside is appropriate, effective, positively prepared, justified, soundly based and consistent with national policy.” (Examination Inspector’s Report p29 para 113)**

Policy RES.5 of the CNLP

183. Policy RES.5 of the CNLP is the sister policy to PG6. It provides:

**“Outside settlement boundaries all land will be treated as Open countryside. New dwellings will be restricted to those that:**

- A) meet the criteria for infilling contained in policy NE.2; or
- B) are required for a person engaged full time in Agriculture or forestry, **in which case permission will not be given unless...”**

The Policy then lists a series of exceptions.

184. **The proposed development is located in the “open countryside” as defined for this policy also. It does not fall within Part A (i.e. it is not infilling as referred to in Policy NE.2) and it does not fall within Part B. the proposed development is then contrary to Policy RES.5 of the CNLP.**

185. Although not considered by the Examination Inspector, the policy approach set out in RES.5 is wholly consistent with the approach in PG6 that he found **to be “appropriate, effective, positively prepared, justified, soundly based and consistent with national policy”**

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## Policies PG2 of CELPS

186. Policy PG2 defines the settlement hierarchy of the newly adopted CELPS. It creates four tiers. Nantwich lies within the Key Service Centres tier in respect of which Policy PG2 states:

**“In the Key Service Centres, development of a scale, location and nature that recognises and reinforces the distinctiveness of each individual town will be supported to maintain their vitality and viability.”**

187. The Examination Inspector explained at paragraph 79:

**“This settlement hierarchy recognises the size, scale and function of the various towns, as well as their future role in the development strategy. In my earlier Interim Views (Appendix 1), I considered the proposed settlement hierarchy is appropriate, justified and soundly based, and no new evidence has been put forward since then to justify any further changes to the settlement hierarchy as set out in Policy PG2.”**

188. At paragraph 82 of his report the Examination Inspector concluded:

**“the Settlement Hierarchy and Visions for each town and settlement are appropriate, effective, locally distinctive, justified and soundly based, and are positively prepared and consistent with national policy.”**

## Policy PG7 of CELPS

189. Policy PG2 needs to be read alongside Policy PG7 of the CELPS which defines the spatial distribution anticipated by the CELPS. Whilst the nature of settlements in Cheshire East is diverse, each with different needs and constraints, Policy PG7 sets indicative levels of development by settlement. These figures are intended as a guide and are expressly neither a ceiling nor a target. The explanatory text explains that provision will be made to allocate sufficient new sites in each area to facilitate the levels of development set out in the policy.

190. The explanatory text to Policy PG7 (paragraph 8.75) makes clear that the distribution of development between the various towns of the borough is informed by the Spatial Distribution Update Report. This has taken into account a large number of considerations including Settlement Hierarchy, various consultation stages including the Town Strategies, Development Strategy and Emerging Policy Principles, Green Belt designations, known development opportunities including the Strategic Housing Land Availability Assessment, Infrastructure capacity, Environmental constraints, Broad sustainable distribution of development requirements.

191. Indeed, the distribution also takes into account the core planning principles set out in the Framework, which states that planning should take account of the varied roles and character of different areas, and actively manage patterns of growth to make the fullest possible use of public transport,



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walking and cycling and focus significant development in locations that are or can be made sustainable.

192. The Examination Inspector considered Policy PG7 (then known as Policy PG6) and explained that it is

**“a key policy setting**-out the spatial distribution and scale of proposed development at the Principal Towns, Key Service Centres, Local Service Centres and Other Settlements & Rural Areas. In my Further Interim Views (Appendix 2), I considered that the revised spatial distribution of development represents a realistic, rational and soundly-based starting point for the spatial distribution of development; it is justified by a proportionate evidence base and takes account of the relevant factors, including the crucial importance of the Green Belt and the outcome of other studies undertaken during the suspension period. It is also based on sound technical and professional judgements and a balancing exercise, which reflects a comprehensive and coherent understanding of the characteristics, development needs, opportunities and constraints of each settlement. Since that time, there is no fundamental or compelling new evidence which suggests that **these conclusions should be reviewed.**” (Examination Inspectors Report para 83 – Emphasis added)

193. **The Examination Inspector’s overall conclusion in relation to the Spatial Distribution** contained in the CELPS at paragraph 92 of his report was:

**“Consequently, with the recommended modification, I conclude that the Spatial Distribution of Development and Growth to the various towns and settlements is appropriate, effective, sustainable, justified with robust evidence and soundly based, and fully reflects the overall strategy of the Plan. I deal with specific issues relating to particular settlements on a town-by-town basis, later in my report.”** (emphasis added).

194. The text of Policy PG7 explains in respect of Nantwich this level would be in the order of 3 hectares of employment land and 2,050 new homes.

195. Appeal Site A was considered during the plan process as a potential site for meeting this requirement but was rejected. This decision was upheld by the Examination Inspector who concluded that (paragraph 252 Examination **Inspector’s Report**):

**“Some participants argue that more housing development should be** allocated to Nantwich, given the absence of other new sites and its close relationship to Crewe. However, Nantwich has seen significant new housing development in the recent past and, with existing commitments and future proposals, is well on the way to meeting its overall apportionment. Further development would almost inevitably involve additional greenfield sites, which could adversely affect the character and setting of the town and the adjoining Strategic Green Gap. The Plan

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already provides some flexibility in housing provision (6.4%) and no further sites are needed to meet currently identified housing **needs.**”

196. The result of the adoption of the CELPS is that 2246 units have been allocated over the plan period. In addition, there is currently provision for 4.15 ha of employment land. It follows, as Mr Taylor explain in his evidence (paragraph 6.25), that there is then no requirement to allocate further sites to meet employment or housing needs through the SADPPDP.
197. Thus, the Appeal Scheme would radically and significantly reduce the allocations going forward to meet more local needs elsewhere within the **Council’s administrative area in the remaining plan period.**
198. The Appeal scheme if permitted would add 189 units and 0.37 ha of employment space to the land already allocated/committed for housing an employment needs. In other words this would lead to housing provision of 18% above the level identified as appropriate in terms of spatial distribution in the CELPS and would add some 10% to the appropriate employment floorspace required resulting in employment provision some 50% above the appropriate requirement.
199. These are very significant levels of unplanned growth. It is so significant that it must necessarily undermine the careful balance between employment growth and housing that forms the basis of the strategy for Nantwich within the CELPS.
200. The only reasonable conclusion is that the proposed development would significantly undermine the settlement hierarchy and spatial distribution set out in the CELPS. It is contrary to Policies PG2 and PG7.

#### Best and Most Versatile Land

201. Paragraph 112 of the NPPF states:

**“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”**

202. CELPS Policy SE2 provides that the loss of BMV should be minimised.

203. It is submitted that the policy approach requires consideration of:

- a. Whether there is a need for the development proposed?
- b. If so, has it been demonstrated that development of BMV is **“necessary” i.e. that there is no area of poorer quality agricultural land to locate the development upon?**

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204. The Council submits that, since it has a five-year supply of specifically deliverable housing sites, it cannot be contended that the housing element of the proposed development is needed.
205. So far as the commercial element is concerned, some 0.37 ha of commercial floorspace is proposed. Mr Taylor has explained and was not challenged that 3ha of employment land was identified as required for Nantwich in the CELPS. 4.15 ha is already anticipated to come forward. The grant of Appeal Scheme would mean some 4.52 ha would come forward i.e. 50% provision over and above the CELPS expectation. Mr Downes in XX accepted that he was not contended that there was a local need for additional commercial floorspace in this location.
206. Remarkably, the Appellant is seeking planning permission for some 3600 sq m of commercial floorspace on a greenfield site which includes BMV in the open countryside without any justification whatsoever.
207. It follows that it has not been established that the proposed development is needed.
208. Even if this is rejected, however, the next stage in applying policy is to ask whether it has been established that the development could not be accommodated on poorer quality agricultural land.
209. The Appellant, as Mr Downes confirmed in XX, has presented no evidence on this point. There has been no study undertaken. No assessment has been made. In short, no attempt whatsoever to show that the development could not be accommodated elsewhere on poorer quality agricultural land.
210. This is particularly important in respect of the commercial element of the proposed development; there has been no attempt to examine whether that could be provided on poorer quality agricultural land within the Borough.
211. It is submitted that as a result of the above it has not been established that it is necessary to develop the BMV that would be permanently lost to the proposed development. Nor that development needs could not be met by utilising poorer quality agricultural land.
212. The proposed development is contrary to paragraph 112 of the NPPF and to Policy SE2 of the CELPS.

#### Neighbourhood Plan

213. The most recently adopted element of the statutory development plan is the Stapeley and Batherton Neighbourhood Plan adopted in February 2018.
214. Policy GS1 can only be sensibly construed as preventing development in the open countryside unless it falls within the exceptions delineated in paragraphs (a) to (i). The proposed development does not fall within any of those paragraphs as an exception. Accordingly, it is contrary to the Stapeley and Batherton Neighbourhood Plan.

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215. In terms of housing, the Neighbourhood Plan sets out in policy H1 and H2 the kinds of housing that accords with the Plan. The proposed development does not fall within the scope of the development that is supported and is thus contrary to these policies.

216. There was an attempt to suggest that the proposed development accords with Policy H5. This policy provides:

**“Subject to the provisions of other policies in the Neighbourhood Plan, the focus for development will be on sites within or immediately adjacent to the Nantwich Settlement Boundary, with the aim of enhancing its role as a sustainable settlement whilst protecting the surrounding countryside.**

Outside the settlement boundary any development is subject to the Cheshire East Local Plan Strategy Countryside Policy PG 6 and other **relevant policies of this Plan.”**

217. The proposed development is outside the settlement boundary. As such as **Policy H5 provides it is subject to Policy PG6 and “other relevant policies of this Plan”.** Since there is conflict with Policies GS1, H1 and H2 of the Neighbourhood Plan then the proposed development cannot accord with Policy H5 either.

#### THE WEIGHT TO BE GIVEN TO THE CONFLICT WITH POLICY

218. Mr Downes properly accepted that the overall aims and objectives of these policies are broadly consistent with the aims and objectives of the Framework (Taylor p17 para 5.3). Indeed, given the conclusions of the Examination Inspector he could hardly do otherwise.

219. **Nevertheless, it appears to be the Appellant’s case that, notwithstanding the adoption of the CELPS only last year and the Neighbourhood Plan only a few weeks ago, the policies addressed above should all be given “very limited weight” (see Downes XX and Taylor Proof p 18 para 5.6).** This is a remarkably brave contention.

220. In summary, the Appellant contends that:

- a. the Council cannot demonstrate that it has a 5-year housing land supply of deliverable sites;
- b. the settlement boundary must flex in order to bring sites forward in order to provide a 5-year housing land supply of deliverable sites;
- c. the settlement hierarchy similarly must flex in order to enable sites to come forward to provide a 5-year housing land supply of deliverable sites;
- d. Accordingly, in order to meet 5-year housing land supply needs these policies must be given very little weight so that the appeal scheme

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can come forward to assist in providing the 5-year housing land supply which is required.

#### A 5 Year Housing Land Supply

221. As already outline above, the Examination Inspector considered a wide range of evidence on housing land supply from numerous parties. This included points raised relating to the methodology used in relation to build out rates and lead in times.

222. Mr Fisher explained to the Inquiry the work undertaken to inform the Examination on these issues. The Council has looked at every application over a 10 year period, looking at thousands of sites. Further, in terms of delivery, the Council had contacted and obtained information from the land owners/developers of all of the strategic sites.

223. The Examination Inspector explained at paragraph 65:

**"Housing land supply was not covered in my earlier Interim Views, since the latest figures and assessments were not available. This issue was discussed regularly throughout the examination hearings, with developers, housebuilders and local communities challenging the deliverability of specific sites, particularly the larger strategic sites. By the end of the hearings, CEC had undertaken a considerable amount of work to establish the timescale and deliverability of its housing land, including those strategic sites proposed in the CELPS-PC." (emphasis added)**

224. In this same vein, the Inspector continued at paragraph 69:

**"CEC has undertaken much detailed work in establishing the timescales and delivery of these sites, including setting out the methodology for assessing build rates and lead-in times, using developers' information where available and responding to specific concerns [PS/B037]. Although there may be some slippage or advancement in some cases, I am satisfied that, in overall terms, there are no fundamental constraints which would delay, defer or prevent the implementation of the overall housing strategy. The monitoring framework also includes specific indicators related to housing supply with triggers to indicate the need for review. I deal with site-specific issues later in my report on a town-by-town basis. On the basis of the evidence currently available, I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5-year supply of around 5.3 years." (emphasis added)**

225. It is very important to note that the Appellant in the present case has not contended that any of the triggers in the monitoring framework referred to by the Inspector are engaged.

226. At paragraph 76 the Examination Report, the Inspector concluded:

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**“On the basis of the evidence before me, I conclude that the CELPS-PC, as updated and amended, would provide a realistic, deliverable and effective supply of housing land, to fully meet the objectively assessed housing requirement, with enough flexibility to ensure that the housing strategy is successfully implemented. Similarly, CEC should be able to demonstrate that there is at least a 5-year supply of housing land when the CELPS is adopted.”**

227. He concluded in terms that the provision for housing and employment land within the CELPS including the **5-year housing land supply position “is soundly based, effective, deliverable, appropriate, locally distinctive and justified by robust, proportionate and credible evidence, and is positively prepared and consistent with national policy.”** (Examination Inspector’s Report p21 para 78)

### **The Inspector’s Decisions**

228. The approach adopted in the White Moss, Willaston and Shavington decisions was wrong in law for reasons set out above. The approach set out in those decisions must not be followed in this one. The proper approach is:

- a. In respect of sites with planning permission/allocation is to ask whether there is clear evidence that there is no realistic prospect of the Site delivering housing as assessed by the Council;
- b. In respect of sites without planning permission/allocation is to ask whether there is robust and up to date evidence that there is a realistic prospect of the Site delivering housing as assessed by the Council.

229. It is also submitted that there is no policy requirement for the Council to **demonstrate that it has a “robust” five-year housing land supply**. Nor is there **any policy requirement that a “precautionary approach” should be adopted to five-year housing land supply considerations**.

The Housing Monitoring Update August 2017

230. **The Council’s Housing Monitoring Update August 2017 sets out in detail a re-appraisal of the position**. The Housing Monitoring Update which shifts the base date to 31 March 2017 utilises the same methodology employed in the CELPS Examination process. This methodology was described by the **Examination Inspector as resulting in a “robust, comprehensive and proportionate assessment” housing delivery** (Examination Inspector’s Report p19 para 69).

231. The HMU reveals that completions have increased to a level more than double that delivered in 2013/14 and for the fourth year in a row. In addition, there has been a net increase in commitments of some 3157 units compared to the position in March 2016 – a 19% increase on the position in March 2016. Indeed, the level of planning permissions granted/resolutions to approve in the last 12 months stands at 5269 units. Thus, not only have completions increased since March 2016 but also the pool of planning

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permissions to enable additional housing to come forward has increased very substantially.

232. It is submitted that this demonstrates that the pool of deliverable sites has increased since March 2016 and not decreased as the Appellant contends.

### **The Appellant's Case on Housing Land Supply**

233. The 'big picture issues' between the parties are as follows.

#### Backlog

234. Mr Wedderburn contended that the "Sedgpool 8" method of addressing backlog adopted by the Council and accepted by the Examination Inspector is to be applied so that the period it relates to shrinks year on year i.e. in the second year it is to be applied to a 7 year period in the third a six year period and so on until it shrinks to no period at all.

235. Mr Wedderburn has got this badly wrong. It is well established that the Sedgfield approach to backlog is a rolling approach and there is no reason not to apply this approach to the backlog in Cheshire East. He produced no appeal decision which supported the approach of a gradually shrinking period over which backlog should be applied.

236. **Further and more significantly, Mr Wedderburn's point was taken and rejected** in the Willaston appeal where the Inspector concluded (document D30 para 45):

**"The Sedgpool 8 method was agreed by the examining Inspector for the CELPS on the basis that the backlog would be met within the next 8 years of the plan period from 1 April 2016. I note the appellant's concern that applying Sedgpool 8 from April 2017 effectively rolls the backlog forward another year. However, the CELPS Inspector agreed to vary the Sedgfield method because delivering the backlog over 5 years in Cheshire East would result in an unrealistic and undeliverable annual housing requirement. Dealing with a shortfall in housing delivery since the start of the plan period is a rolling requirement in the calculation of the 5 year housing requirement at any point in the plan period. The Council has factored the backlog for 2016-17 into the calculation of the current 5 year requirement. It would be unreasonable at such an early stage in the life of the new CELPS to depart from the Sedgpool 8 approach, given the basis for it in Cheshire East. To do so would in effect impose a further variant of the Sedgfield and Liverpool methods outside of the local plan examination process."**

237. The Council submits that there has been no relevant change in circumstances since that decision. It continues to be unreasonable to adopt a different approach outside of the **Plan process. The Appellant's case in this regard must be rejected.**

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## Build Rates

238. **Mr Wedderburn's position accepted the build rates on sites adopted by the Council** (which reflected the approach accepted by the Examination inspector) other than on larger sites. On these larger sites he explained that he only accepted a 50 dpa yield where there is specific evidence to show that two builders would be on-site. In other words, he relies upon an absence of evidence to prove there would be two builders on site rather than any assessment of the realism of the assertion that two builders on site would not be realistic.
239. This is a perfect example of an approach at odds with the Policy position in the Framework. The policy compliant approach (as set out above) in relation to sites with planning permission/allocation is to ask whether there is clear evidence that there is no realistic prospect of two builders on site. Mr Wedderburn produced no evidence on this whatsoever.
240. Indeed, it is entirely unclear what evidence he would accept. For example, in relation to his approach to site LPS4 he explained that evidence from site promoters cannot be relied upon. If the evidence of the likely manner of build out of a site from those promoting a site cannot be relied upon, it is difficult to see how a local planning authority could evidence justify an assumption that two builders would actually come forward.
241. The evidence presented by Mr Fisher (rebuttal p13 table below paragraph 68), however, was that in practice the build rate is frequently significantly **higher than the Council's methodology assumed in many** cases by a factor of more than 100%. Even a small increase in the build rate over all of say 10% would produce an increase of supply of 1295. It cannot be said that there is no prospect of an increase in overall build rate of 10% or more than the Council has assumed.
242. **It is submitted that Mr Wedderburn's evidence on this issue should be rejected.** Only where there is specific evidence that there is no reasonable prospect of a large site being developed out by two builders should an assumption of anything less than 50 dpa be adopted.

## Lead-In Times

243. **Mr Wedderburn also attacked the Council's approach to examining sites by reference to a study of lead-in times he had undertaken.** This examined some 70 sites through the planning process (see his appendix MW6). He then applied timings for various stages of the planning process to sites in the future i.e. he applied timings from the past and assumed they would be comparable in the future; his approach is flawed.
244. Firstly, 20 sites out of his 70 (29%) were sites which obtained planning permission on appeal. That was because prior to the adoption of the CELPS there were considerable issues relating to the principle of development on sites within Cheshire East. This gave rise to much argument, many appeals and many delays.



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245. With the adoption of CELPS, the basis for these in principle arguments has been removed. The whole point of adopting a Local Plan is, after all, to provide a reliable basis for decision making which minimises scope of in principle disagreement. Indeed, Mr Wedderburn accepted in XX that he would not expect the same proportion of appeals going forward as had been experienced in his sample of sites.
246. As Mr Fisher explained in his rebuttal evidence (page 7 paragraph 35), the circumstances are very different now. Virtually all sites in the supply are either committed or are allocated. Accordingly, the number of appeals has also reduced – with no further residential inquiries programmed after the current one. Further, Local plan adoption not only resolves the principle of development (a major stumbling block previously – hence the number of appeals) – but it also assists in agreement on matters of detail (education, highways, landscaping etc) as all now relate to clear adopted policies. Added to this the Council has also adopted SPD on design guidance (May 2017), which again makes the position on detailed layouts clearer. In addition, the s106 process is assisted since the planning obligations are now linked to adopted policies (e.g affordable housing).
247. These are all reasons why the timing adopted in the past in relation to particular stages of the planning process are unlikely to be continued in the future. Thus, pointing to the past, as Mr Wedderburn has, does not establish that the approach adopted by the Council to lead in times is clearly unrealistic.
248. Indeed, they cannot be viewed as such given that the lead-in times utilised in **the Council's evidence were accepted by the Examination Inspector as** appropriate. That Inspector has the evidence now present in the present appeal and had the benefit of representations from all stakeholders, not just Mr Wedderburn. The lead-in times presented were the product of discussion with those stakeholders. In confirming that the lead-in times utilised were appropriate the Examination Inspector would have been aware of the points relating to the effect of adoption of CELPS and timings.
249. To reject the lead-in times adopted by the statutory plan process via the s78 appeal process is a radical step. It wholly undermines the basis on which the CELPS housing land supply was calculated and found sound. In other words, it undermines the strategic basis for the CELPS at its core. It would leave the man in street wondering how a Local Plan can be sound one month and then some 9 months later be found to have been adopted on a basis which can no longer supported. What a colossal waste of public resources it would be to have promoted a Plan which is then effectively jettisoned less than a year later?
250. It is submitted that great care needs to be taken to ensure that such a significant step is not taken lightly or else it will bring national planning policy and the planning system as a whole into disrepute. It must only be a rare case indeed, when a methodology accepted at Examination a few months before is deemed inappropriate a few months later only on the basis of the sort of generalised evidence presented by Mr Wedderburn. The time for consideration of that generalised evidence was in pursuit of objection to the

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CELPS at Examination when all stakeholders involved could have their views aired and considered and not subsequently in a s78 appeal where other stakeholders views are not provided.

251. **But of course, unlike Mr Wedderburn, the Council's appraisal is not simply** reliant upon the application of generic time periods from a study of 70 sites in the past.
252. Mr Fisher set out in his evidence an exercise which sought to look at the lessons to be learned from recent post adoption data. He analysed major applications that commenced between 1 April and 31 December 2017. He considered that he had obtained a decent but not comprehensive sample of what is currently taking place.
253. His evidence showed that for the 16 Major developments that have started by Q3 of 2017/18 the median timeline between the date of detailed consent and the start of construction is 0.43 years – or just over 5 months. A similar picture applies to both larger and smaller developments. For those applications that featured an outline the median timeline between the date of outline consent and the start of work is 1.47 years. Once again, the picture is similar for both larger and smaller applications. This data is set out in **Appendix 2 to Mr Fisher's rebuttal.**
254. The most up to date information reinforces the timelines employed in the standard methodology and demonstrates that sites can commence and deliver initial units within relatively short timescales. Whilst not every site may deliver in this way, those starting in 2017/18 follow this pattern.
255. The data also reveals that of the sites of 100 units or more, 44% of sites have started ahead of the timescales in the HMU. It is submitted that this **illustrates the reasonableness of the Council's approach and that sites are not** only capable of meeting the timescale in that approach but also of improving upon them. It is submitted that this provides a good indicator of what will happen in future. It demonstrates that sites are fully capable of delivering to the timescales anticipated by the Council and that those timescales are realistic.
256. A further and important point to note **from Mr Fisher's analysis of this data is** that full applications (as opposed to reserved matters) were made on more than 50% of the sites. This includes half of the sites over 100 units. This shows that on allocated sites, companies are willing to use the greater certainty that the development plan provides to proceed straight to a detailed application.
257. By contrast Mr Wedderburn confirmed in XX that he had assumed that all sites without planning permission would come forward as outline applications. The evidence that Mr Fisher has adduced demonstrates that this assumption is not realistic. As a result timescales are applied to sites on a basis that an outline planning permission will be obtained when the evidence shows that for a large proportion that will not be the case. The result is that **Mr Wedderburn's approach is seriously unrealistic.**

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258. Further, the Council has relied upon site specific evidence and has specifically contacted site owners and promoters. Such site-specific evidence must constitute better evidence than the generalised approach of Mr Wedderburn.
259. In particular, there may be a number of site specific reasons why a site would come forward faster or slower. In looking at the position, it is submitted that site owners/promoters must be in the best position to advise on a number of factors including, the likely phasing and thus timing of reserved matters applications since phasing is often tied to funding issues. They have knowledge of timing issues arising out option agreements which no other party knows and which can include the need for certain stages to be met by certain dates. They also have access information relating to construction including implications for financing, and labour supply and materials.
260. These are all matters known by site owners/promoters and no-one else. Yet **Mr Wedderburn's approach was to ignore this. He negated all of this by** asserting that statements by promoters were not reliable. Admittedly caution has to be applied to statements made prior to the adoption of a Local Plan which allocates sites, since there may be a desire for some to present a rosier picture of deliverability of their site in order to secure allocation. Indeed, this point is crucial because it undermines any reliability in the exercise conducted by Mr Wedderburn (his rebuttal page 5 paragraph 4.7) looking at outturn against comments. The comments he examined were all made prior to the adoption of the CELPS and the allocation of the sites concerned.
261. It is the case, however, that after allocation that motivation is simply removed. Indeed, Mr Wedderburn struggled to identify why post allocation a site owner/promotor would make unreliable statements regarding the yield of units from their site in XX.
262. All of these matters point to a single conclusion; there is no basis for accepting that there is clear evidence that there is no realist prospect of the lead-in times adopted by the Council and accepted by the Examination Inspector coming about. The reality here is that there is ample evidence to establish that they are robust, up to date and realistic.
263. It is submitted that the approach advocated by the Appellant must be rejected and the approach that lies behind the recently adopted Local Plan and utilised by Mr Fisher in his appraisal must be accepted.
- 5% Discount
264. Mr Wedderburn adopted an approach in which he was entirely alone; no other planning consultant in any of the appeals post-adoption of CELPS has contended that a percentage discount to the total supply should be applied to take account of planning permissions which expire. He is a lone voice in this. The reason why is that it is a thoroughly bad point.
265. Firstly, his figures were miscalculated even if it were right to apply the discount. He had applied it to permissions that were already implemented;

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once implemented a planning permission cannot expire. Mr Wedderburn agreed that his discount should not be applied to implemented permissions.

266. Secondly. Mr Wedderburn has identified his 5% figure by reference to data from the Council which contained an error. Mr Fisher explained in his rebuttal evidence that the consequences of that error meant that a figure of 5% expiry could not be supported from the data; rather a figure of 4% (Fisher rebuttal paragraph 45). But this is before an allowance is made for sites which obtain a new planning permission after expiry. Mr Wedderburn allowed 1% for this. That would get one to a 3% discount figure.
267. However, Mr Wedderburn had made no investigation of the extent to which the sites where consent had lapsed in the past had obtained planning permission post expiry. Mr Fisher explained that in practice many sites regain consent in short order and are subsequently developed. This illustrates that even if a site lapses it is capable of development. Further, the NPPG indicates that where there is robust evidence a site without planning consent can be included in the supply. Where planning consent has been given in the past and there are no significant physical impediments, it is in line with national guidance to include sites within the deliverable supply.
268. As Mr Fisher explained in his rebuttal at paragraph 47 the Council only employs 63% of commitments within its 5-year supply. It is very far from counting every last house from consent. There is plenty of scope for other commitments to deliver better than expected.
269. **Even more significantly, however, Mr Wedderburn's approach if adopted** would result in a double counting. The effect of applying a lapse rate to a housing requirement is that additional sites need to be found to make up the shortfall. However, the housing requirement in Cheshire East already includes a 20% buffer. Paragraph 47 explains that the purpose of the 20% buffer is to **"to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land"**. Thus the 20% buffer rate is **already applied in order to achieve the objective of Mr Wedderburn's** discount. There is no reason to both increase the housing requirement and to decrease to pool of available sites for the same purpose. To do so results in double counting.
270. Mr Wedderburn was unable to identify any coherent reason why in the circumstances pertaining to Cheshire East both a 5% discount and a 20% buffer should be applied when he was questioned on the point in cross-examination.
271. The dangers of applying a discount for the decision maker can be seen in the case of *Wokingham Borough Council v Secretary of State* [2017] EWHC **1863 where the High Court quashed an Inspector's decision for failing to** explain why in a 20% buffer context it was appropriate to apply a discount lapse rate. Indeed, in that case reference is made to a decision of the Secretary of State in respect of a proposed development in Malpas, Cheshire. **In that case the Secretary of State agreed with the Inspector's reasoning** on certain points including these. The Inspector considered the objective of the 20% "buffer" was to provide a realistic prospect of achieving the planned

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supply and to ensure choice and competition in the market and that “the buffer figure thereby allows for some uncertainty and slippage in the delivery of some sites”. He added:

“there is no evidence to support the arbitrary 6 month or 12 month slippage rate assumed by the Appellant across all developments. To apply such an assumption, or the alternative 10% discount (which is equally arbitrary), would result in double counting in that the 20% buffer would also allow significant slippage or non-implementation.”

272. The same reasoning applies to the present case. For all these reasons Mr **Wedderburn’s suggested 5% lapse rate must be rejected.**

Windfall

273. Mr Wedderburn has adopted an inconsistent approach to windfall. He included an allowance for windfall in areas not including Crewe. There was no rational reason for this and this needs to be taken into account when looking **at the “allocation” for windfall for the Crewe area.**

A Comparison between Trajectory and Actual Delivery

274. The Appellant has placed significant emphasis on a comparison between the actual delivery of housing and that which was anticipated in the housing trajectory. A number of annotated graphs were produced on behalf of the Appellant to illustrate the points being made. These points were put forward **as a basis for suggesting that the Council’s identification of housing land supply is suspect in some way.** The comparison in fact does not such thing.

275. As the Court of appeal emphasised in St Modwen, paragraph 49 of the NPPF requires a local planning authority “demonstrate a five-year supply of deliverable housing sites”. This is not the same things as comparing against the requirement that the authority must “illustrate the expected rate of housing delivery through a housing trajectory for the plan period” as part of Plan preparation. A housing trajectory is undertaking a different task from the exercise that must be undertaken when looking at deliverable sites for purposes of a 5 year housing land supply assessment. Accordingly, the comparative exercise undertaken is of only very limited utility in a decision taking context.

276. Further, it has to be remembered that the issue here relates to the delivery of houses over a five-year period. As the Examination Inspector recognised there will inevitably be slippage or advancement of some sites in reality compared with any forecast. However, over a five-year period this effect is, absent particular evidence relating to a particularly significant and large strategic site, likely to even out. For example, a site where delivery slips will simply deliver in the next year. Thus, overall delivery in the next year is likely to be higher than anticipated unless units in that next year have come **forward in an earlier year in significant number. That is why the Council’s trajectory in the HMU for next year increases;** that is entirely logical and indeed an obvious consequence of slippage in the year to 1 April 2017.

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## Conclusion on Housing Land Supply

277. **For the reasons set out above, the Appellant's case on housing land supply must be rejected.** If the White Moss and Willaston Inspectors had applied the **correct legal approach and not the unlawful "precautionary" one that they did**, they would have concluded that the Council had a 5-year housing land supply. **Mr Wedderburn's attempt to argue that the position is far worse than these Inspectors identified must be rejected.**
278. The reality here is that the CELPS was only found sound because there was accepted to be a five-year housing land supply. To find the opposite but a few months later as a result of adopting a different approach to that accepted by the CELPS examination Inspector without any material change in **circumstances is to fall into error and worse to undermine the public's faith in the plan led system**; what is the point of communities accepting the loss of greenbelt land in order to produce a Plan if the basis of that Plan is undermined by s78 Appeal decisions but a few months later? It is submitted **that the public's faith in the planning system will be wholly undermined if section 78 decisions conclude so lightly that a five year supply is lost so soon after plan adoption.** It submitted that the conclusions of an Examination Inspector that a methodology is robust and that there is a five-year housing land supply must be treated as of significant weight. Those conclusions should only be undermined if there is strong evidence to demonstrate that there has been a fundamental change of circumstances in the intervening period. There is not such evidence and no such change of circumstances in the present case. The only reasonable conclusion in this appeal is that the Council has demonstrated that it has a five-year housing land supply of deliverable sites.

## Flexing the Settlement Boundaries

279. Since the Council has a 5-year housing land supply of deliverable sites, there **is no policy imperative to "flex" the settlement boundaries and the Appellant's contention in that regard must be rejected.** Indeed, Mr Downes accepted in XX that if there is a five-year housing land supply the settlement boundaries must be up to date.
280. It is incorrect to assert, as the Appellant has done, that the settlement boundaries are out of date in any event since their review is foreseen in the CELPS itself. As Mr Taylor explained, the CELPS anticipates a review of boundaries in order to facilitate development later in the plan period; the settlement boundaries right now are up to date.
281. Indeed, the Examination Inspector himself necessarily considered the question of whether the settlement boundaries were up to date. He must have, since a number of policies depend upon them and could not be sound unless the boundaries were up to date. Further, he considered numerous objections including those of the Appellant in relation to the Appeal site that sought to change the settlement boundaries. Since he concluded that the Council had a 5 year supply of housing, he must have concluded that, with the adjustments proposed, the settlement boundary was up to date.

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282. It is submitted that, if you conclude that the Council has demonstrated that it has a five-year supply of deliverable housing sites, you must conclude that the settlement boundary is up to date.
283. On the other hand, if you conclude that the Council has not demonstrated that it has a five-year supply of deliverable housing sites, then logically it must be the case that settlement boundaries must flex somewhere in order for further housing to come forward. In such circumstances, Policies PG6 and RES.5 must be given reduced weight; what has not been established, however, is that they must flex here in order to allow the Appeal scheme to come forward given its location and position in the settlement hierarchy.

### Flexing the Settlement Hierarchy and Spatial Distribution

284. There is no evidence that the settlement hierarchy and spatial distribution anticipated in the CELPS has to flex in the absence of a five-year supply of deliverable housing sites. If you conclude that there is a five-year supply of **deliverable housing sites then there can be no basis for such "flexing"**.
285. If there is a need for further sites to meet 5 year housing needs in the short term, it is obviously preferable that these are met at sites which do accord with the settlement and spatial distribution hierarchy; to accept otherwise is to subvert the newly adopted CELPS and the plan led system.
286. As set out above, the Appeal Scheme is contrary to Policies PG2 and PG7. The Appeal scheme if permitted lead to housing provision of 18% above the level identified for this part of the District as appropriate in terms of spatial distribution in the CELPS and would add some 10% to the appropriate employment floorspace required resulting in employment provision some 50% above the appropriate requirement. These are very significant levels of unplanned growth. It is so significant that it must necessarily undermine the careful balance between employment growth and housing that forms the basis of the strategy for Nantwich within the CELPS.
287. It is submitted that even if there is no 5-year housing land supply of deliverable sites, Policies PG2 and PG7 of the CELPS should be given significant weight.

### The Planning Balance

288. In order to assist in undertaking the planning balance these submissions address the planning balance on two alternative bases:

If there is a five-year housing land supply; and

If there is no five-year housing land supply

### There is a Five-Year Housing Land Supply

289. If there is a five-year housing land supply then the policies in the development plan are up to date. There is then no basis for applying the tilted balance. Instead paragraph 14 of the NPPF requires the development to

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be assessed against the policies in the Development Plan. The significant conflict with the development plan has been identified in above. In a context where the development plan is up to date, the breaches of policy identified above must be given full weight.

290. Section 38(6) of the 2004 Act falls to be applied. This indicates that given the breach of development plan policy planning permission should be refused unless material considerations indicate otherwise.
291. The development would provide market and affordable housing. However, as set out above, the Council is in a position where a 5-year supply can be demonstrated and the Council is meeting its market housing needs and has made the necessary strategic provision for the future. Therefore only limited weight can be given to this benefit, particularly given that the CELPs have **addressed Nantwich's housing needs, including through the strategic** allocations at Kingsley fields and Snow Hill.
292. The provision of affordable housing is a benefit of the proposed development and would result in 57 affordable properties being provided based on a 189 house development. However, affordable housing is required to be delivered by all housing developments. As set out above, the appeal scheme is not needed in order to secure a five-year supply of housing, and the Examination Inspector concluded that the CELPS, by delivering its planned housing numbers, appropriately meets affordable housing needs. Nevertheless, given local housing need, it is accepted that the delivery of affordable housing in an accessible location is an important benefit of the scheme.
293. Overall the proposal would also provide social and economic benefits. These would include employment opportunities generated in construction, spending within the construction industry supply chain and indirectly as a result of future residents contributing to the local economy. There would also be a boost to the local economy through additional spending and support for existing facilities and services.
294. Although economic benefits from the construction of the site would be limited as these would cease upon completion of the development. Indeed, it has not been established that the economic benefits here would be additional to those which would arise in any event. For example, if the construction workers were not on this site, it is likely they would be employed elsewhere.
295. The appeal site (A) proposes a package of development in addition to the housing. This includes a local centre incorporating a convenience store with 7 other small shop units, a potential new primary school and the provision of employment units. However, there is no commitment to these actually being provided and no evidence that they would be. Accordingly, it is submitted that only limited weight should be attributed to the benefits arising from the proposed local centre.
296. So far as the new employment provision is concerned, the evidence has established that there is no commitment to delivering this aspect of the scheme. Further, there is already substantial overprovision of employment



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land in Nantwich. The benefits associated with this element of the scheme are also to be given only limited weight.

297. Subject to a suitable Section 106 package, the proposed development would provide adequate public open space and highways improvements. However, these are not considered benefits of the development as they are required to make the development acceptable in planning terms. Therefore, whilst these factors do not weigh against the proposal they also do not weigh in favour.
298. In the light of the above, in a context where it is accepted that there is a 5-year supply of housing sites, the proposed development would lead to a very significant breach of the Development Plan. That breach must be given substantial weight against the grant of planning permission. Whilst there would be some benefits of granting planning permission these are of the kind that would arise from any housing scheme. There is nothing particular about the material considerations associated with the Appeal scheme which is of such particular benefit that it can be considered to outweigh the breach of the Development Plan.
299. As a result, the only reasonable conclusion is that, applying section 38(6), planning permission must be refused.

#### No Five Year Housing Land Supply

300. **If, contrary to the Council's case it is concluded that there is no five-year housing land supply, then policies which are policies for the supply of housing are out of date and the tilted balance must be applied.**
301. It is submitted that none of the policies identified above as being in breach by the proposed development are policies for the supply of housing in the narrow sense identified in Hopkins Homes. However, in Hopkins Homes it was recognised that the weight of policies that would operate to constrain development to meet housing needs could be affected by a conclusion that there is no five-year housing land supply; otherwise the policy objective of meeting housing needs might be frustrated.
302. It is then necessary to carry out an exercise of:
- Examining harm against benefits in order to apply the tilted balance; and
- Undertaking the exercise required by section 38(6) of the 2004 Act.
303. The appeal scheme will have material economic and social benefits as set out above. I also acknowledge that the actual delivery of housing to meet needs within 5 years in a context where there is no 5-year supply of housing is a factor to which weight should be given. How much weight depends upon the extent to which the proposed development is likely to deliver housing within this time-scale. In the present case there are a number of factors that are likely to mean that the actual contribution towards the current five-year supply will be very limited.

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304. There is likely to be a substantial delay in the decision-making process given the time taken for decisions to be made previously in this case. Following the Public Inquiry held in February 2014 the appeals were not dismissed by the Secretary of State until 17th March. Subsequent to the quashing of this decision by the High Court on 3rd July 2015, the appeals were re-determined by the Secretary of State with the decision issued on 11 August 2016.
305. **As set out by Adrian Fisher when applying the Council's assumed lead-in times, a site with outline planning permission of the size of the appeal proposal would start on site at 2 years with 15 dwellings being completed that year. A completion rate of 30 dwellings/year would be assumed for years 3, 4 and 5. With this in mind, if the Secretary of State was to allow this appeal, say, twelve months on from this Inquiry, the site would at best, on the Council's lead in times contribute 45 completions to the 5 year supply.**
306. **However, if Mr Wedderburn's approach to standardised lead-in times followed there would be even less of a contribution made to supply within five years. The additional year's delay that that approach would deliver would reduce the Appeal scheme's contribution to just 15 homes in the five-year period** (see Taylor proof paragraph 6.58). Thus, whilst the development might make some contribution towards the five-year housing land supply it is likely to be small, and at best 45 dwellings but likely less.
307. **It is on this point that the Appellant's evidence performs a remarkable volte face; instead of applying the standard approach to sites with outline planning permission that Mr Wedderburn applied to every other site, the Appellant adopts a bespoke timetable which results in a much faster rate of delivery. It is even more remarkable that the Appellant should do this in the face of Mr Wedderburn's evidence that decision makers should be wary of site owners/promoters overselling the rate of delivery from their sites. The Appellant's wholly inconsistent case must be rejected in this regard.**
308. Whilst the Appeal scheme would deliver a limited number of homes to meet five-year housing land supply needs, it would remain housing that is not justified spatially. For reasons set out above, the conflict with the settlement hierarchy should still be given significant weight. In addition, the conflict with development plan policies seeking to protect the loss of BMV should also be given significant weight since it has not been established that needs could not be met on less valuable agricultural land.
309. In relation to affordable housing, the position here is the same as set out above. Against this it is necessary to weigh the benefits of the proposed development. The benefits associated with the provision of a local centre are to be given only limited weight for the reasons set out above. In addition, it is to be noted that no need for a local centre has been asserted or established by the Appellant. In relation to the employment, as set out above, there is no established need for the employment aspect of the proposed development. The benefits associated with it are to be given limited weight as already explained. As a consequence, the additional benefits compared to the situation where there is a five-year housing land supply only change by reference to the weight attributable to the actual contribution the

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proposed development would make supply, which is likely to be limited for reasons set out above.

## Impacts

310. It is acknowledged that in the absence of a five-year housing land supply the geographic extent of the settlement boundaries can be regarded as out of date, but nonetheless the proposals would harm the Policy objectives of recognising the intrinsic character and beauty of the open countryside for the reasons set out above.

311. The Secretary of State has considered the extent of that harm previously and there has been no material change in circumstances which means that a different conclusion should be reached. The decision letter of August 11th 2016 concludes:

**"Weighing against the proposals, the Secretary of State considers that the proposals would cause harm to the character and appearance of the open countryside, for the reasons given at paragraphs 27-28 above. This harm would be in conflict with paragraphs 7 and the 5th and 7th bullet points of paragraph 17 of the Framework. Having given careful consideration to the evidence to the Inquiry, the Inspector's conclusions and the parties' subsequent representations, the Secretary of State considers that the harm to the character and appearance of the open countryside should carry considerable weight against the proposals in this case. He further considers that the loss of BMV land is in conflict with paragraph 112 of the Framework and carries moderate weight against the proposals, for the reasons given at paragraphs 31-34 above." (para. 46).**

312. It is important to remember that much of this harm is likely to be caused by housing that would not contribute to 5-year housing supply and thus would not contribute to any identified shortfall in that supply. In addition, no justification for the local centre or employment provisions has been proffered as Mr Downes accepted in XX. Thus, granting planning permission would result in adverse impact upon the open countryside from housing which is not required to meet any 5-year housing land supply needs and from other development which is not required to meet retail/employment floorspace needs. As a result, it is submitted that the weight to be given to such adverse impacts from unjustified development in the open countryside, on BMV and in a location which conflicts with the adopted settlement hierarchy is very substantial.

313. As explained above, the proposed development will result in the loss of BMV for a scheme which is not necessary since the greater part of it is not required to meet any identified need. Further, there has been no assessment which has established that the part of the scheme which may be needed (the small number of housing units that might come forward to meet five-year housing needs) cannot be accommodated on less valuable agricultural land.

314. Overall, it is submitted that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed

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against the policies in the Framework taken as a whole. It is thus submitted that the proposed development is not sustainable development and is not supported by the NPPF.

315. So far as the section 38(6) exercise is concerned, it is submitted that the proposed development would give rise to significant breaches of the Development Plan. Where there is no five-year housing land supply however, it is necessary to identify the appropriate weight to give to those policies.
316. The Court of Appeal in the Suffolk Coastal case, in a passage which is not affected by the Supreme Court decision gave some guidance as to factors which are relevant to a decision makers consideration of the weight to give to policies in this context at paragraph 49:

**“One may, of course, infer from paragraph 49 of the NPPF that in the Government’s view the weight to be given to out-of-date policies for the supply of housing will normally be less than the weight due to policies that provide fully for the requisite supply. The weight to be given to such policies is not dictated by government policy in the NPPF. Nor is it, nor could it be, fixed by the court. It will vary according to the circumstances, including, for example, the extent to which relevant policies fall short of providing for the five-year supply of housing land, the action being taken by the local planning authority to address it, or the particular purpose of a restrictive policy – such as the protection of a “green wedge” or of a gap between settlements. There will be many cases, no doubt, in which restrictive policies, whether general or specific in nature, are given sufficient weight to justify the refusal of planning permission despite their not being up-to-date under the policy in paragraph 49 in the absence of a five-year supply of housing land. Such an outcome is clearly contemplated by government policy in the NPPF. It will always be for the decision-maker to judge, in the particular circumstances of the case in hand, how much weight should be given to conflict with policies for the supply of housing that are out-of-date. This is not a matter of law; it is a matter of planning judgment (see paragraphs 70 to 75 of Lindblom J.’s judgment in Crane, paragraphs 71 and 74 of Lindblom J.’s judgment in Phides, and paragraphs 87, 105, 108 and 115 of Holgate J.’s judgment in Woodcock Holdings Ltd. v Secretary of State for Communities and Local Government and Mid-Sussex District Council [2015] EWHC 1173 (Admin)).”**

317. It is then relevant to consider;

- The extent to the shortfall;
- The action being taken by the local planning authority to address that shortfall; and
- The particular purpose of a restrictive policy.

318. In this context, to the extent that a shortfall can be identified, it must be very small indeed. As Mr Fisher explained the next stage of the development plan is for the identification of additional housing sites. Any shortfall now is

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likely to be addressed very shortly, and in all probability before the Appeal Scheme is likely to deliver any housing units.

319. So far as the particular purposes of the relevant restrictive policies are concerned, the protection of the open countryside and of the best and most versatile land are objectives wholly supported by the Framework. In addition, the sustainable distribution of development via appropriate settlement hierarchy is supported by the Framework.
320. Accordingly, in a context where there is no 5-year housing land supply, the relevant restrictive policies cannot be given full weight, however they can be given weight at a level just below that since any shortfall identified will be very small, is likely to be addressed very quickly indeed and before the Appeal Scheme could contribute units and seek to achieve objectives supported by the Framework.
321. Against this the benefits of the scheme must be weighed. These have been addressed above. In essence, the Appeal scheme would only deliver a very limited number of units to meet five-year housing land supply needs. The remaining housing units, the local centre and the employment use proposed would not meet any identified need and are wholly unjustified. In this context, the harm that they would cause and the breach of development plan policy they give rise to is not justified by reference to any public interest need for them.
322. As a result, it cannot be the case that there is a justification for the proposed development. The Council submits that even where there is not five-year housing land supply, the conflicts with the development plan identified above are not outweighed by any material considerations. Thus, it must be concluded that planning permission should be refused and the appeal dismissed.

Supplementary evidence submitted following the publication of the revised National Planning Policy Framework

#### STATUS OF THE DEVELOPMENT PLAN

323. The rFramework does not change the statutory status of the development plan as the starting point for decision making. Planning law requires that applications for planning permission be determined in accordance with the development plan. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted (paragraph 2, 12 and 47 of the rFramework). The adopted development plan for Cheshire East currently comprises of the following documents:

- The Cheshire East Local Plan Strategy (adopted 27 July 2017) (CELPS)
- The saved policies of the Borough of Crewe and Nantwich Replacement Local Plan (adopted 17 February 2005) (CNLP)

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- The Stapeley and Batherton Neighbourhood Plan (made on the 15th February 2018).

324. These plans were adopted prior to the introduction of rFramework. Paragraph 213 confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

## CONSISTENCY OF ADOPTED POLICIES WITH THE NPPF

### *Spatial Strategy*

325. The CELPS sets out the overall vision and planning strategy for the Borough. It is an up-to-date plan that provides a positive vision for the future and provides a framework for addressing housing needs and other economic, social and environmental priorities in accordance with paragraph 15 of the rFramework. The plan clearly sets out an overall strategy for the pattern, scale and quality of development, and makes sufficient provision for housing to meet the objectively assessed needs of the area. Policy PG1 states that sufficient land will be provided for a minimum of 36,000 new homes over the 20 year plan period, in accordance with rFramework paragraph 20. It should be noted that this figure is significantly higher than that previously published by MHCLG in its indicative assessment of housing need of 1,142 dwellings per annum (22,840 over 20 years). The CELPS therefore seeks to significantly boost housing supply, having regard to paragraph 59, providing a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development.

### *Settlement hierarchy*

326. The CELPS establishes a settlement hierarchy for development. In essence, this ensures that the majority of development takes place close to the **borough's Principal Towns and Key Service Centres to maximise use of** existing infrastructure and resources and to allow homes, jobs and other facilities to be located close to one another. The plan therefore plays an active role in guiding development towards sustainable solutions having regard to paragraph 7 of the rFramework. As at the 31.3.2017, some 37,196 dwellings were committed, completed or allocated, leaving a small residual requirement to be addressed through the subsequent Site Allocations and Development Policies Document (SADPD) which will be published for consultation in September 2018. It should be noted that through existing allocations, completions and commitments, sufficient deliverable and developable land and sites to meet the housing requirement of 36,000 homes has already been provided. The additional allocations identified through the future SADPD will therefore serve to provide for local housing needs in particular settlements.

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*Open countryside*

327. **The Council's evidence demonstrates that the development will result in harm** to the intrinsic character and beauty of the open countryside. This harm was acknowledged in the previous decision letter of the Secretary of State. The appeal proposal conflicts with Policy PG6 of the CELPS and Policy RES5 of the CNLP. These policies are considered to be consistent with Paragraph 170 of the rFramework which states that planning policies and decisions should contribute to and enhance the natural and local environment by:

**'recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'.**

*Best and Most Versatile Agricultural Land*

328. CELPS Policy SE.2 encourages the re-use/ redevelopment of previously developed land and also seeks to safeguard natural resources, including high quality agricultural land. The supporting text advises that agricultural land is a finite resource which cannot be easily replicated once lost. Policy SD2 (v) also states that the permanent loss of areas of agricultural land quality 1,2 or 3a should be avoided unless the strategic need overrides these issues. These policies are considered to be consistent with the rFramework as they recognise the economic and other benefits that are derived from best and most versatile land. Furthermore, the Council has recognised through Policy SD2 that there may be occasions where a strategic need may override such loss.

329. These policies are considered to be consistent with the rFramework. Paragraph 170(b) of the rFramework states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. Best and Most Versatile Land is also relevant to plan making. Paragraph 171 states that plans should allocate land with the least environmental or amenity value, where consistent with other policies in the Framework. Footnote 53 advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

*Stapeley & Batherton Neighbourhood Plan*

330. The Stapeley and Batherton Neighbourhood Plan forms part of the development plan. Where a planning application conflicts with a made neighbourhood plan, planning permission should not normally be granted in accordance with Paragraph 12 of the rFramework. At Paragraph 29, the rFramework states that neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan.

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Neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development (paragraph 125).

331. The Stapeley Neighbourhood Plan was made on 15th February 2018 and is a recently adopted plan that includes local policies which seek to ensure that the special qualities of the area are recognised in the planning system. The plan contains notable policies on the landscape and open countryside, housing and design that should influence planning decisions, ensuring that development is appropriate to the area. The Neighbourhood Plan does not preclude residential development but rather it sets out the circumstances in which development will be permitted in order to ensure that it is commensurate with the character of the Parish and avoids intrusion into the open countryside.
332. As submitted in evidence, the appeal proposal clearly conflicts with adopted policies GS1, Policies H1 and H2. These policies are considered to be consistent with paragraphs 77 – 79, 83, 125 and 170 of the rFramework and full weight should therefore be given to them.

#### THE WEIGHT TO BE GIVEN TO ANY CONFLICT WITH POLICY

333. **The appellant's case is that the Council cannot demonstrate a 5 year supply** of deliverable housing sites. In these circumstances, footnote 7 and paragraph 11 of the NPPF apply. The NPPF states that where the policies that are most important for determining the planning application are out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. As submitted in evidence, the Council has demonstrated that a sufficient 5 year supply of housing sites to meet identified requirements can be demonstrated. Any implications from revised NPPF on matters of housing requirements, delivery and supply are identified below.

#### *The Cheshire East Local Plan Strategy*

334. Paragraph 74 of the rFramework states that a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan which:
- a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and
  - b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.
335. As submitted in evidence, the CELPS was adopted on the 21 July 2017. Therefore it should be considered a recently adopted plan having regard to paragraphs 73 & 74 and footnote 38. The Cheshire East housing requirement and the five year supply of housing sites were subject to lengthy and thorough examination, involving engagement with those stakeholders that



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have an impact upon the delivery of sites. The adopted plan incorporated the recommendations of the Secretary of State. Upon adoption, the Inspector concluded that the Local Plan would produce a five year supply of housing, stating that:

*'I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5 year supply of around 5.3 years'.*

336. Full weight should therefore be given to the CELPS as a recently adopted plan in accordance with paragraph 74. It should also be noted that the 5 year supply of specific deliverable sites considered by the Examining Inspector incorporated within it the maximum possible buffer – 20% (see Paragraph E.9, Appendix E of the CELPS). This buffer is double that now required to be applied to recently adopted plans having regard to paragraph 73(b) of the NPPF. If a 10% buffer had been applied to the Cheshire East 5 year housing supply requirement at the point of the adoption, this would have the effect of reducing the overall 5 year requirement by some 1,235 dwellings.

337. The intention of the rFramework guidance appears to be to try and limit endless debates over 5 year housing supply, most particularly where the Secretary of State has recently ruled on the matter. This can be done either through the new annual assessment process or through the adoption of a local plan. National Policy now weighs heavily against attempts in S78 planning appeals to re-examine housing supply where a definitive conclusion has been reached through the Local Plan process. The NPPF sets clear time limits on the currency of those conclusions. In the case of Cheshire East, it is evident that a 5 year supply can be demonstrated up to 31 October 2018 based on the recent Local Plan adoption.

338. The Council therefore respectfully requests that the Appeal Inspector and Secretary of State follows rFramework guidance in this regard and concludes that a 5 year supply can be demonstrated for the purpose of this appeal.

#### *The housing requirement*

339. Paragraph 60 of the rFramework states that strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach. As submitted in evidence, the adopted CELPS housing requirement for Cheshire East over the plan period is some 36,000 homes, equivalent to 1,800 per annum. This is significantly higher than that previously published by MHCLG in its indicative assessment of housing need of 1,142 dwellings per annum. By adopting a significantly higher figure, the Council has clearly not shirked its responsibilities to significantly boost housing delivery within the Borough.

340. The **Council's 5 year housing land supply assessment is based on a very** generous assessment of need compared to the standard approach. The purpose of having a specific 5 year deliverable supply of housing sites is to ensure that sufficient land is available to enable homes to be built to meet housing need. In using a significantly higher figure than that produced by

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standard methodology, even if the calculated supply was exactly 5 years (or as in this case, that supply exceeds the 5 year requirement), it would fully achieve the objective of ensuring that there is sufficient land available to meet housing need.

*Presumption in favour of sustainable development*

341. Paragraph 11 and footnote 7 concerns the application of the presumption in favour of sustainable development to both plan making and decision taking. For decision-taking, the presumption in favour of sustainable development means:

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- c) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- d) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

342. Footnote 7 explains that for the purposes of d) that out of date policies includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1.

343. As submitted in evidence, the appeal proposal does not accord with the adopted development plan. The CELPS is a recently adopted plan having regard to Paragraph 73 & 74 and footnote 38. Its adoption established a 5 year supply of specific deliverable housing sites with the maximum buffer. The Council has submitted detailed evidence to the Inquiry to demonstrate that a continued 5 year supply of deliverable housing sites can be demonstrated since the adoption of the CELPS.

*The Housing Delivery Test*

344. The Housing Delivery Test (HDT) will apply from the day following the publication of the Housing Delivery Test results in November 2018 (see paragraph 215 of the rFramework). The HDT result will have a number of implications for decision-taking, including the circumstances in which the presumption in favour of sustainable development applies as explained at footnote 7. Under transitional arrangements, delivery of housing considered **to be 'substantially below' the housing requirement will equate to delivery below 25% of the housing required over the previous three years.**

345. The accompanying Housing Delivery Test Measurement Rule Book provides the methodology for calculating the HDT result. The Housing Delivery Test is effectively a percentage measurement of the number of net homes delivered against the number of homes required, over a rolling three year period. The number of net homes delivered is taken from the National Statistic for net additional dwellings over a rolling three year period, with adjustments credited for net student and net other communal accommodation. The national statistics are published annually in November.

346. The number of net homes required, will be the lower of the latest adopted housing requirement (excluding any shortfall<sup>3</sup>) or the minimum annual local housing need figure. Under transitional arrangements, for the financial years 2015-16, 2016-17 and 2017-18, the calculation of the minimum annual local housing need figure is to be replaced by household projections only. This is shown below.

Year	Adopted annual CELPS Requirement	Household projections (annual average over 10 year period) <sup>4</sup>	Net additional dwellings
2015/16	1800	1,100	1573
2016/17	1800	1,100	1763
2017/18	1800	900	1509 dwellings
TOTAL	5400	3,100	4,8457

347. What is clearly evident from the above table is that net additional dwellings over the three year period already comfortably exceeds the housing requirement calculated using 2012 and 2014 household projections. When the housing delivery test is applied against the completions data set out in the **Council’s proof of evidence, it is evident that the test is met and exceeded by a significant margin (1,745 homes) even without the full year data for 2017/18.**

348. While the Council has not yet published its annual housing monitoring update for 2017/18, as submitted in evidence, completions continue to show a positive direction of travel and it is likely that the final total of completions for the year ending 31 March 2018 will exceed that of previous years. However based simply on the evidence before the Inquiry, the November 2018 HDT result, using the formula in the published rule book, will show that housing delivery significantly exceeds the minimum number of net homes required.

*The buffer*

349. Paragraph 73 requires that Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a **minimum of five years’ worth of housing against their housing requirement** set out in adopted strategic policies, or against their local housing need

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where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- a) 5% to ensure choice and competition in the market for land; or
- b) 10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or
- c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply

350. Footnote 39 advises that from November 2018, the requirement to apply a 20% buffer will be measured against the Housing Delivery Test result, where this indicates that delivery was below 85% of the housing requirement.
351. As submitted in evidence, net completions over the past three years have continued to increase in Cheshire East. For the monitoring years 2015/16 and 2016/17, net completions have exceeded the household projections result by as considerable margin.

When the CELPS was adopted, it should be noted that the Council applied the maximum possible buffer to its calculation of the 5 year housing land supply requirement and with this buffer, the Examining Inspector confirmed that a 5 year supply could be demonstrated. The 20% buffer was also applied to the 5 year supply of deliverable sites identified in the subsequent Housing Monitoring Update (base date 31 March 2017). Evidence submitted to the Inquiry robustly demonstrates that a continued five year supply including the maximum buffer can be identified. It goes without saying, that if the buffer was to drop to 10 or 5 per cent, taking account of delivery over the past three years, the 5 year housing land supply requirement would also drop significantly.

#### Definition of deliverable

352. As per earlier guidance, the rFramework definition retains the previous requirement for sites to be available, suitable and achievable with a realistic prospect that housing will be delivered on the site within 5 years. As submitted in evidence, the relevant test is whether there is a realistic prospect of a site coming forward, i.e. is the site capable of being delivered within 5 years rather than it being absolute certainty that it will be delivered. The revised definition makes a distinction between sites that are small or have full planning permission and those that have outline planning permission or are allocated in a development plan or otherwise have planning permission in principle or identified through a brownfield land register. For small sites (less than 10 dwellings) and all sites with full planning permission should be considered deliverable until the permission expires, unless there is clear evidence that they will not come forward. For those sites with outline planning permission or planning permission in principle, allocated in the development

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plan or sites identified in the brownfield land register. These can be considered deliverable where there is clear evidence that housing completions will begin within five years.

353. The Council has submitted detailed evidence not only through the recent examination of the Local Plan Strategy, particularly in relation to strategic allocations but also to the Inquiry. A considerable body of evidence has been submitted on the deliverability of sites to respond to the very the detailed **scrutiny of sites undertaken by the appellant. The Council's evidence has been** fully revised and updated, looking afresh at the latest position on key sites and the housing sector generally and this included evidence on many sites including those with outline planning permission and allocated through the CELPS. The evidence submitted included an updated 5 year housing land supply assessment, taking into account a small number of concessions made following the Park Road, Willaston appeal decision. It should be noted that evidence was submitted both in relation to the current appeal and a second appeal, APP/R0660/W/17/3176449: Land to the West of New Road, Wrenbury, which has now reported and a copy of the **Inspector's Decision** Letter is appended. Based on the latest available evidence, the Inspector concluded that a deliverable 5 year supply was in place.

354. Therefore the Council remains of the view that in light of the revised NPPF, a deliverable supply of housing sites to meet the five year requirement can be demonstrated.

355. To conclude:

- Adopted development plan policies are up-to-date and consistent with the rFramework
- The appeal proposal conflicts with up-to-date policies and full weight should be given to the findings of the Inspector who confirmed that upon adoption, a five year supply could be demonstrated. In accordance with the rFramework, the CELPS should be considered recently adopted until 31 October 2018. In line with NPPF paragraph 74 this shows that a 5 year supply of can be demonstrated at the time of writing. The rFramework effectively settles the matter.
- In addition, to the above, a considerable body of updated evidence has been submitted to the Inspector on the specific supply of deliverable sites. The Council has demonstrated that a five year supply of housing sites can be demonstrated. This view is collaborated by **the recent findings of the Inspector in 'Land to the West of New Road, Wrenbury'. The Inspector and Secretary of State therefore has** all relevant information to enable the determination of the appeal.
- The five year housing requirement built in the maximum possible buffer. The rFramework indicates that a lower buffer of 10% should be used where the local planning authority wishes to demonstrate a five year supply of deliverable sites through a recently adopted plan.
- Housing completions over recent years have shown a continued positive direction of travel. Delivery over the last 3 years is likely to exceed by some margin, the local housing need requirement established through the Housing Delivery Test in November 2018.

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- The applicable buffer to be applied to the 5 year supply requirement will reflect the HDT result from November 2018 onwards. It is very unlikely that given past performance over the last 3 years, that a 20% buffer will be applied.
  - Notwithstanding any changes that may take place in the future to the buffer, in submitting evidence to the Inquiry, the Council has robustly demonstrated that a five year supply of deliverable sites can be demonstrated with the maximum 20% buffer.
  - Very detailed evidence has been submitted in relation to the supply of specific sites to support the conclusions reached about 5 year supply.
  - Having regard to the rFramework and the matters outlined above, the Council remains firmly of the view that a 5 year supply of deliverable housing land can be demonstrated and as such paragraph 11d is not engaged.

### Overall Conclusion

356. The Council submits that where there is a five-year housing land supply or not, the application of section 38(6) of the 2004 act results in the conclusion that planning permission for the proposed development must be refused and the appeal dismissed.

### The Case for the Interested Parties

The material points are:

357. Councillor Mathew Theobold, Chairman of Stapeley & District Parish Council<sup>22</sup>, seeks to emphasis the newness of the Stapely and Batherton Neighbourhood Plan, it having been Made on the 15 February 2018. After setting out the relevant policies of the plan, Councillor Theobold goes on to identify the key areas of conflict the proposals have with these policies. Whilst accepting that Policy H5 directs development to within or directly adjacent to the Nantwich Settlement Boundary (where the proposed development is proposed), such **proposals also have to be considered 'subject to the provisions of other policies of the Plan'. When the proposals are considered against the provisions of Policy H1 that can be held to be in clear conflict with all criteria contained in the policy (criteria H1.1- H1.4)**

358. Councillor Theobold goes on to identify further concerns over the provision of local facilities, specifically the absence of a formal mechanism to secure their **delivery, and shortcomings in the Appellant's Air Quality Document and Acoustic Planning Report**. The Council also made further submissions on the contents of the draft section 106 agreement. Concerns were expressed over the potential conflict of ecological provisions and community based aspirations for publicly accessible community orchards, an aspiration of the plan.

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<sup>22</sup> ID10 and ID32.

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359. Mr Patrick Cullen<sup>23</sup>, a local resident, also expressed concerns in relation to the section 106 agreement and the effect of cumulative local housing development on local infrastructure. Concerns relating to the 106 agreement covered the outstanding commitments on land within the appeal site (Appeal B) and the desire of the community to secure a Community Orchard on the land to reflect local preference. Evidence relating to local housing development draws attention to the number and scale of housing sites currently under construction and draws attention to the effect such will have on local infrastructure and services.
360. Mr Philip Staley also submitted evidence to the Inquiry in respect of levels of traffic in the locality and the effect of further housing development on these levels and on the extend of public transport provision adjacent to the appeal sites. He also presented a short video in addition to a written submission.<sup>24</sup> Mr Staley suggests that traffic congestion on Peter de Stapeleigh Way at peak times (0800-0900hrs and 1500-160hrs) is sever, and quotes an **Inspector's conclusions in respect of this issue in relation to a dismissed appeal on Audlem Road**<sup>25</sup>. The cumulative effects of this and other proposals will cause harm to the local area and to local residents. Mr Staley also advised that sense **the submission of the Appellant's evidence local bus** services in the vicinity of the site had bed reduced, limiting the local service to only 4 journeys each way during normal shop hours. The provisions of the draft section 106 agreement to fund an increase in local bus services for a specified period would therefore have limited effect in mitigating the increased demand for such local services.
361. Ms Gilian Barry also made representations to the Inquiry supporting the statements in respect of the effects traffic generation by the proposed development<sup>26</sup>. She also made objections on the grounds of adverse effect on air quality, the prospect of flooding on the site, loss of habitat, including trees and hedgerows, and the effects of the development on public safety.

#### Written Representations

362. There is a large body of correspondence in respect of the initial applications and the subsequent appeal, the body of which has been set out in the previous Reports to the Secretary of State.
363. Most correspondence came from objectors. They were particularly concerned with increased traffic, including the access, on adjoining road and at nearby level crossings, and the effects on the open countryside, the proposed loss of trees, recently felled trees, planned wildlife mitigation, lack of medical, dental and other facilities, shortage of school places, loss of privacy at the proposed roundabout, noise, air and light pollution, poor house design, and the potential for much more development.

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<sup>23</sup> ID11.

<sup>24</sup> ID12.

<sup>25</sup> APPEAL ref: APP/R0660/W/15/319474.

<sup>26</sup> ID13.

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364. These themes are repeated in the written responses to the current appeals, though they also refer to the adoption of the current local plan and the establishment of a five year land supply inherent in that and the advanced state of the Stapely and Batherton Neighbourhood Plan.
365. Further correspondence has been received in respect of the current appeals and, following the advertisement of amendments to the scheme during the Inquiry, further representations made in respect of these matters.
366. **Mr Paul Tomlinson states the appeals are flawed due to 'flawed' traffic data** as a result of being based on material over ten years old. Mr Andrew Hale states that the commercial units proposed in Appeal A would not contribute to the local economy or culture. He also states the proposals would fail to make use of the existing access to Peter de Stapeleigh Way. Mr David Wall refers to the site being within the Green Belt and expresses concerns over the ability of emergency services being able to access the site. Ms Jane Emery states there is a need for the development to mitigate the effects it will have on local infrastructure.
367. Mr D Roberts and Mrs H S Thompson Also raise objection on the basis that the traffic assessment is flawed and that the proposals represent a considerable risk to the safety of highway users<sup>27</sup>.

#### Conditions

368. A discussion was held as to the suitable wording of, and reasons for, any conditions on 23 February with reference to the tests for conditions in the *Framework*. Following these discussions, with only a few exceptions which I set out below, in the event that the appeals are allowed, the conditions in the attached Schedule should be imposed, for the reasons set out below. Some conditions have been adjusted from those suggested in the interests of precision, enforceability or clarity.

#### Appeal A

369. As well as the standard conditions 1-3, control is required over matters in the other conditions for the following reasons:
- 4, 5 & 9: flood risk reduction, contamination mitigation and ecological enhancement, including concerns raised by the Parish Council
  - 6: protection of archaeological remains
  - 7, 8 & 10: residential and visual amenity and sustainability
  - 11, 12, 13 & 27: highway safety and sustainability
  - 14 & 15: sustainability
  - 16-20: protected and other species mitigation
  - 21-25: reserved matters clarification and implementation

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<sup>27</sup> ID34.



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370. For clarity and for the avoidance of doubt, condition 26 establishes the sole vehicular access to the site will be through the junction with Peter Destapeleigh Way.

#### Appeal B

371. As well as the standard conditions 1 & 2, control is required over matters in the other conditions for the following reasons:

- 3-6: the visual amenity and landscape quality of the area
- 7-10: protected and other species mitigation and public amenity

372. Condition 11 is necessary in order that the Local Conservation Area is appropriately delivered, maintained and managed under the terms of this planning permission. This is all the more **the case in view of Mr Cullen's** concerns for its future management and the challenges to ensuring this identified in the previous report to the Secretary of State.

#### Planning Obligations

373. The draft s106 agreement was discussed at the Inquiry during the same sessions as the conditions. A final signed and dated versions were submitted, as agreed, after the Inquiry closed. The agreement makes provision for the revocation of previous obligations in respect of the previous applications and also, in conjunction with condition 11 in relation to Appeal B, makes a commitment to the submission of a scheme for the Local Nature Conservation Area (LNCA) should the appeals be granted. The Council, in support of their request for financial and physical contributions to local infrastructure, have presented a detailed Community Infrastructure Levy Regulations 2010 Compliance Statement which evidences their necessity in relation to the regulatory requirements and the expectations of the rFramework. The agreement submitted by the Appellant reflects these requirements.

374. Firstly the agreement confirms that 30% of the proposed homes will be affordable which is policy compliant. The agreement also sets out the mix of tenure types reflecting local need in the area. Such a contribution therefore fully accords with the regulations and expectations of the rFramework and may be taken into account.

375. A further obligation facilitates contributions to secondary special needs education in the area. Again this recognises that future families occupying the development will place demand on local education facilities that will require mitigation. This is also calibrated through established formulae and is thus proportionate, related to the development and necessary to make it acceptable in planning terms. It too therefore may be taken into account.

376. For related reasons there is also an obligation securing open space and **children's play areas, justified on the basis of the increased numbers of** people anticipating use of such facilities. These provisions are also justified against policy, calculated to agreed formulae and proximate to the site. This too may therefore be taken into account.

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377. A key obligation securing an enlarged LNCA is also presented which also makes provision for its ongoing management. Not only, given the ecological interest of the site, is this provision necessary to make the development acceptable in planning terms, it addresses one of the key concerns of interested parties who have made representations in respect of both appeals. On all counts therefore it may properly be taken into account.

378. There are a further three obligations securing funding for an additional pedestrian crossing of Peter Destapleigh Way, two additional bus stops and a subsidy for the local bus service. The first enhances the safe pedestrian connectivity of the development, the second brings it within ready access to a sustainable transport service whilst the latter enhances that service for residents. All are necessary to make the development acceptable in planning terms, are proportionate and are directly related to the site. They may also therefore be taken into account.

### **Inspector's Conclusions**

379. I have reached the following conclusions based on all of the above considerations, the evidence and representations given at the Inquiry, and my inspection of the appeal sites and their surroundings. At the beginning of each topic for consideration the relevant paragraphs of the respective parties are identified to assist in an understanding of the reasoning set out therein.

#### *Main considerations*

380. In respect of Appeal A these are:

- a) The effect of the development on the character and appearance of the area with particular regard to the open countryside and policies PG6, SD1 and SD2 of the Cheshire East Local Plan Strategy (CELPS); policy RES.5 of the Borough of Crewe and Nantwich Replacement Local Plan (BCNRLP) and Policies GS1, H1 and H5 of the Stapeley & Batherton Neighbourhood Plan (S&BNP) and;
- b) the loss of BMV agricultural land and;
- c) the effect of the development on the safety of highway users and;
- d) whether or not the Council can demonstrate a 5 year HLS and the implications of this with regard to policy in the rFramework.

381. In respect of appeal B these are the effects of the proposals on:

Its effect on the character and appearance of the area with regard to policy PG6 of the above.

#### *Character and appearance*

The relevant preceding paragraphs for the Appellant are 108-109.  
The relevant preceding paragraphs for the Council are 310-312 & 327-329.

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The relevant preceding paragraphs for the other parties are 357-359.

382. **Policy PG6 explains that 'open countryside' is defined as the area outside of any settlement with a defined settlement boundary.** It goes on to established that within such designations, development will be restricted to that essential for the purposes of agriculture, forestry, recreation and infrastructure, though with exceptions listed in 6 criteria. The supporting justification for the policy also confirms inter alia that **'...the intrinsic character and beauty of the countryside will be recognised'**.
383. The proposals as presented in Appeal A, as a mixed use scheme, are both outwith the Nantwich settlement boundary as currently defined, and do not conform with any of the types of exceptional forms of development identified in the criteria. The proposals are therefore, as the Council maintain in conflict with policy PG6 of the CELPS and with sub- paragraph b) of paragraph 170 of the rFramework.
384. In common with the conclusions of the Secretary of State in his previous (now quashed) decision, set out in his letter of 17 March 2015, the Council also assert the proposals would result in harm to the intrinsic character and beauty of the open countryside. This view is supported, perhaps more in relation to natural habitat, by other representations made by local residents.
385. Although the degree to which the site as an element of countryside may be considered open, its character is nevertheless agrarian and naturalistic in character. The construction of the proposals, with its mix of uses (notwithstanding the areas of open space and areas of habitat) would certainly change this established agrarian character, transforming it into an urban enclave – an extension of the settlement. Insofar as this would result in the loss of an element of countryside of intrinsic character, this would cause a degree of harm to that character, compounding the technical breach of the policy.
386. Insofar as they would also fail to protect or enhance the natural environment, they would also conflict with criterion 14 of Policy SD1 and, the same reasons, it may be held to conflict with Policy SD2 (criteria ii and iii thereof) of the same. Policy RES.5 of the CNLP, as sister policy to PG6 also relates to the restriction of development in the open countryside. For the same reasons therefore the proposals presented in Appeal A may also be considered in conflict with it.
387. **It is the case that Policy H5 of the S&BNP acknowledges that 'the focus for development will be on sites within or immediately adjacent to the Nantwich settlement boundary' and as a consequence of the proposed development being so adjacent garners some support from this element of the policy.** However, this is a narrow reading of the policy, as its prefix makes clear that such an expectation will be subject to the provisions of other policies of the S&BNP. This clearly engages Policy H1, which, inter alia, anticipates (at H 1.1) **development being 'limited infilling in villages or the infill of a small gap with one or two dwellings in an otherwise built up frontage'**. Neither does the proposed development conform to the other exception criteria of the policy nor with Policy GS1, which only permits development in the countryside in

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limited circumstances. Moreover, as the plan explains these policies follow 'a consistent theme around conserving and maintaining the character of the **Neighbourhood Area**'.

388. It may quickly be concluded that the proposals are in conflict with the letter and purpose of these Policies PG6, SD1 and SD2 of the CELPS, Policy RES5 of the CNLP and Policies GS, H1 and H5 of the S&BNP. However, the specific circumstances of the site and its context do need to be taken into account. The fact of the matter is that the appeal sites are now effectively bordered on three sides by existing and emerging development. Whilst the purpose of the policies is to maintain character it is evident that the rural hinterland anticipated by the plan vision has, in the circumstances of these cases, been extensively eroded. Such circumstances necessarily calibrate the actual harm to existing countryside character accordingly. Nevertheless, the proposals remain in breach of the policies and this needs to be accounted for in the final planning balance.

#### *BMV agricultural land*

The relevant preceding paragraphs for the Appellant are 111.

The relevant preceding paragraphs for the Council are 201-212, 312-314 &328.

389. The proposed development would result in the loss of 2.6 hectares of the best and most versatile agricultural land (25% of the aggregated site is designated as such, 6% being Grade 2, 19% being 3a). Accordingly such a loss would render it contrary to Policy SE2 of the CELPS which expects development to safeguard high quality agricultural land. The rFramework, through paragraph 171, and specifically through footnote 53, makes clear that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred.
390. Although technically in breach of policy SE2, the area of land is modest and predominantly at lower grade. Moreover, the engagement of the consideration of the rFramework is contingent on the loss of such designated land being significant. By any reasonable measure the loss identified here cannot be judged as such. Moreover, in the light of the conclusions below in relation to the supply of housing land, it is inevitable that the use of BMV will become a consideration in help correcting supply. Nevertheless the breach of policy and the loss of such land does represent a harm, though in light of the above, one meriting only modest weight in the planning balance.

#### *Highway safety*

The relevant preceding paragraphs for the Appellant are 126-128.

The relevant preceding paragraphs for the other parties are 359-361.

391. It was clear from the representations made at the Inquiry that there was a significant degree of apprehension amongst local residents over any increase in traffic numbers in the locality as a result of the development proposed. Both written and video evidence was presented at the Inquiry to support the notion

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that any development on this site would exacerbate already challenging highway usage in the locality.

392. Video evidence of peak-time congestion in any given area is inevitably compelling; who has not experienced the frustration of not being where we want to be at any given time in a car? Be that as it may, the expression of such frustration does not equate to a robust argument or justification, as paragraph 109 of the rFramework requires, for the rejection of the proposals as they are presented. None of the detailed evidence of the appellant, nor the considered acceptance of it by the Council, is convincingly rebutted by the heartfelt, though non-empirical submissions of those opposing the scheme. In the absence of such substantial rebuttal, such concerns must inevitably be afforded no more than very limited weight. Moreover, the mitigation through transport infrastructure provision and the creation of enhanced pedestrian and cycle routes through the site for the use of residents, workers and others further increase the opportunities for non-car transport modes.

### *Housing Land Supply*

The relevant preceding paragraphs for the Appellant are 55-107.

The relevant preceding paragraphs for the Council are 149-178, 218-278 & 333-355.

### *The Requirement*

393. A statement of common ground (SoCG) on housing land supply (HLS) (thus HLSSoCG) was submitted by the appellant at the inquiry<sup>28</sup>. It confirms as a starting point that the housing requirement for Cheshire East Council is 1800 dwellings per annum. Elsewhere it is common ground that the five year period runs from the 31 March 2017 to 31 March 2022. Such agreement extends also to the extent of the backlog in delivery between 2010 and 2017, which stands at 5635 dwellings, equating to three years of the overall requirement for the first seven years of the plan.
394. It is also agreed in the HLSSoCG that, reflecting a pattern of historic under delivery, a 20% buffer also applies to the aggregated numbers. This consensus reflects the position of parties in two key previous appeals referred to in evidence<sup>29</sup>.
395. Paragraph 73 of the rFramework, replacing paragraph 47 of the previous addition, requires local planning authorities to identify and update annually a **supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing supply**. This number should include a buffer of either:
- a) 5% to ensure choice and competition in the market for land; or
  - b) 10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or

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<sup>28</sup> CD3.

<sup>29</sup> White Moss Quarry and Park Road, CD29 & CD30.

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recently adopted plan, to account for any fluctuations in the market during that year; or

- c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.

396. The Council predicts in its submissions in relation to the revisions to the framework that after November 2018 and the initiation of the Housing delivery Test it is unlikely that a 20% buffer will be required as a result of increased housing delivery. Indeed, in their further representations they set out variations of the supply position referencing the 5% and 10% scenarios, each of which correspondingly indicate and increase in the supply: 6.11 years @5% and 5.38 years @10%. **Even if the Council's expectations in relation to the Housing Delivery Tests were to be met, it remains apparent that in the first seven years of the LPS plan period housing completions within Cheshire East have averaged 1,034 dpa, considerably below the expected, 1800 target .** Under the terms of the third bullet point of paragraph 73 of the revised Framework therefore, there would still be a compelling case to apply the 20% buffer. Be that as it may, that is in the future. For current purposes, both parties agree in the HLSSoCG that a 20% buffer should be applied. Notwithstanding this point, the appellant maintains, again in light of the evidence before the Inquiry, that even if the scenario b) of a 10% buffer were applied in this case, the Council would remain unable to demonstrate a five year supply of housing land, indicated as being 4.64 years.

397. Thus the net annual requirement, plus the shortfall (including that to be met in **the first five years) in addition to the 20% buffer, in both the Council's and the Appellant's 'Sedgpool8' methodology agreed and applied by the CELPS** Examining Inspector, both equate to a requirement of 14,842 over the supply period. The Appellant also goes on to model a scenario whereby the agreed eight year delivery period is not rolled forward (ie the supply period remains fixed and diminishes as time moves forward), the requirement increases. The net figure is increased by 574 dwellings, which in turn impacts on the final supply figure.

398. **The Council interpret the 'pool' element of the calculation to facilitate the rolling forward of the backlog in the calculation, thus allowing the number of units to be made up over the greater part of the plan period.** However, this runs counter to the current position set out in the rFramework and the PPG which anticipates that any backlog should be made up within the first five years of the plan period (or in this case the 8 year period as determined by the CELPS and the Examining Inspector)<sup>30</sup>. This has to be the right approach unless where express circumstances dictate otherwise<sup>31</sup>. Whilst such an approach would not be consistent with that applied in Park Road Appeal<sup>32</sup> it is consistent with the expectations of the Local Plan Inspector, who anticipated that the Council fully

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<sup>30</sup> CD40 Examining Inspector's Report paragraph 72.

<sup>31</sup> PPG/NPPF ref.

<sup>32</sup> Ibid.

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meet past under-delivery within the next 8 years of the plan period<sup>33</sup>. Whilst not supported by the Wrenbury decision<sup>34</sup>, a rolling deferment of meeting the shortfall beyond the anticipated eight year cycle is at variance with the **Government's policy commitments to boost significantly the supply of new homes**.

399. The difference in the calculation of backlog delivery of 574 dwellings is a significant number, in the view of the appellant contributing to a depleted five year supply figure of 4.24 years. However, even if the Councils calculation is preferred, in combination with anticipated delivery rates, **the Council's five year supply position stands at just 5.37 years or as advised in their last submissions 5.35 years**. That said, as in the two other recent appeals<sup>35</sup> the greater divergence of view in respect of the supply position is focused on the delivery of housing sites that will help meet the anticipated trajectory. **The Council's assessment of supply (recalibrated after the round table discussion at the Inquiry) 15,908 over the defined period, whilst the Appellant calculates a number of 13,101 (again recalibrated) applying the Sedgpool8 methodology, a difference of 2,807 dwellings**. These respective positions are reached on the one hand by standard methodology (**previously referred to as the 'in principle' approach**)<sup>36</sup> and more specifically though narrow analysis by the Council, and a detailed exploration of a wider range of larger sites (**previously defined as above as 'performance'**) by the appellant. These matters are now considered below.

### *Supply*

400. With **regard to the 'in principle' differences** between the parties, the Council applies a standard methodology to predict the lead in times for site delivery and build rates for strategic and non-strategic sites, basing these on past experience. For strategic sites without planning permission, the standard methodology anticipates an average of 2.5 years to the point of completion of the first dwellings. These are calibrated by applying information from site promoters or agents where evidence supports a site coming forward more quickly or the reverse.

401. The Examining Inspector was clear that a lot depends on whether the committed and proposed sites come forward in line with the anticipated timescale in the housing trajectory. Since March 2016 it is evident there has been slippage in the anticipated timescales for delivery of a number of the strategic sites when the March 2017 HMU and the March 2016 position are compared. Delivery in 2016/17 of 1,762 dwellings also fell short of the anticipated trajectory of 2,955 dwellings and in 2017/18 the target of 3,373 dwellings looks like being short by approximately 130 units. Although the CELPS is only two years old, and inertia caused by such factors as the absence of the plan and the unpredictabilities of appeal-based permissions are no longer present, thus potentially hastening delivery, it is difficult to

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<sup>33</sup> Paragraph 72 Local Plan Inspector's Report (CD A40).

<sup>34</sup> Appeal Ref: APP/R0660/W/17/317649.

<sup>35</sup> Ibid

<sup>36</sup> CD29, Paragraph 13 White Moss Appeal.

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escape the conclusions of the two previous Inspectors<sup>37</sup> that the assumed delivery rates of the housing trajectory have in fact failed.

402. Although there are positive signals that delivery is picking up, also recognised in the two previous appeals, it is inevitably perhaps in the light of their wider conclusions the Council also presents an analysis of 16 specific sites to demonstrate that on-the-ground delivery is in fact meeting or exceeding the expectations of the trajectory.
403. The evidence here is initially compelling. The Council suggest a commencement period post-detailed consent averaging around 5 months and for those with outline consent around 1.47 years. Such evidence suggests that just under half the chosen sites have started ahead of expectations in the HMU (**the 'in principle' expectation time of 2.5 years**), an indicator, the Council suggest, of likely commencement rates in the future. This evidence is also supported by feedback from developers and promoters, offering a site specific record of particular circumstances. **With the 'in principle' figures consolidated by these** accelerated lead-in times delivering above expectation numbers, the Council maintain a 5 supply of 5.35 years with a 20% buffer and 5.83 years with 10% buffer applied, as identified in their post rFramework submissions.
404. However, **by the Council's own admission this assessment, though 'decent' was not 'comprehensive'. Indeed, numbering just 16 sites, and without a** transparent methodology for selection, it is difficult to avoid the conclusion offered by the appellant that there may have been an element of inadvertent self-selection in the process, and that such evidence does not, of itself, convincingly establish a significant upward trend in delivery. Moreover, this, **and the 'in principle' evidence, needs to be considered against that presented** (and recalibrated following the round table discussion at the Inquiry) in the context of the site specific evidence presented by the appellant, covering a total of 41 sites within the district. Without reference to each detailed site-specific **analysis the sum of the appellant's conclusions on lead in time to construction** anticipates 1 year from submission to grant of outline consent; 1 year to reserved matters application; 6 months to their determination and 1 year to the completion of the first dwelling, a total lead-in time of 3.5 years. Such an analysis, as the appellant points out, correlates with the broad conclusions of both Inspectors in the White Moss and Park Road cases, with the Park Road Inspector identifying an average of between 3 and 4 years for strategic sites without planning permission to first completion<sup>38</sup>.
405. With such lead-in times applied to the 41 sites **identified in the appellant's case** and the commensurate reduction in the number of units accounted), the broad slippage in delivery previously identified repeated, the appellant identifies a 4.25 year supply with the 20% buffer applied and a 4.64 year supply with the lower 10% buffer used. Even if one were to add the 5% of the total discounted by the appellant to account for lapsed planning permissions as the Council advise (or any part lesser %), this would still not achieve the five year supply threshold, even with a 10% buffer applied.

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<sup>37</sup> Those who determined White Moss and Park Road.

<sup>38</sup> Paragraph 51, APP/R0660/W/17/3168917.



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406. Moreover, and notwithstanding the various submissions to the Inquiry, paragraph 67 of the revised Framework clarifies the definition of the term **'deliverable' in relation to the supply of housing, setting this out in Annex 2** therein. In summary the definition applies to two categories of sites; those lesser sites and those with planning permission, which should be considered deliverable and; sites without planning permission in principle or allocated in development plans. These should now only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. This represents a significant shift in emphasis from the previous Framework position; now the latter sites are no longer to be included unless there is specific evidence that they will indeed deliver within the five year period. These clarifications effectively supersede interpretations around the St Modwen case<sup>39</sup> that preoccupied the evidence on housing delivery heard at the Inquiry.
407. 34 of the 41 sites identified by the appellant were those without planning permission, those with outline planning permission or those also subject to section 106 commitments. Whilst the Council, on notification of the revisions to the Framework, chose not to address these sites in any detail, it is clear that by default, those within the latter category, without the clear evidence that completions will begin within five years, must now be at risk of dropping out of the calculation. **This being so, to Council's position of asserting a 5.35 year supply with a 20% looks to be increasingly untenable, whilst that of the appellant's assessment of 4.25 years, and even that of 4.64 years with a reduced 10% buffer, looks the more robust.** Whilst the conclusions reached by the Inspector in the Wrenbury case<sup>40</sup> take a contrary view on the 5 year land supply position, this appeal was determined prior to the publication of the Framework and the weight to be conferred it is very significantly reduced as a result.
408. Even if the most generous conclusion is reached, there has to be reasonable doubt that the Council is able to demonstrate a five year supply of housing land. Thus the precautionary approach taken by the two Inspectors in the White Moss and Park Road decisions may equally and rightly apply here. Whilst such a conclusion may not only be viewed as consistent with the previous approach, it also now enjoys the support of the High Court in the form of the dismissal of the Shavington case<sup>41</sup> (previously advised of by the Council) which had sought to demonstrate, by proxy reference to White Moss and Park Road, that **the 'precautionary approach' adopted by the two previous Inspectors, and as is applied here, was unlawful.** Such a view was comprehensively rejected by the Court. This case however also predated the publication of the revised Framework and the editing-out of paragraph 49 of the former document making reference to the requirement for Councils to demonstrate a five year supply of housing sites. However this changes little beyond the structure of the document. Paragraph 11 at sub paragraph d) though footnote 7 makes clear

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<sup>39</sup> St Modwen Developments Ltd v Secretary of State for Communities and Local Government [2017] EWCA Civ 1643.

<sup>40</sup> APP/R0660/W/17/3176449 appended to the Council's NPPF revisions submission IDXX.

<sup>41</sup> [2018] EWHC 2906 (admin). Case No. CO/1032/2018.

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that where a local authority cannot demonstrate a five year supply of deliverable housing sites policies most important for determining the application can be considered out-of-date. The delegation of the need to identify a supply to a foot note does not diminish the status of the policy as **paragraph 3 of the rFramework makes clear; 'The Framework should be read as a whole (including footnotes and annexes).**

409. On the basis of the evidence presented, the Council is unable to demonstrate a five year supply of housing sites. In accordance with paragraph 11 of the rFramework therefore, the policies most important for determining these applications are out-of-date. Their status as such will thus need to be taken into account in the final planning balance.

*Need for a mixed use development*

The relevant preceding paragraphs for the Appellant are 110-112.  
The relevant preceding paragraphs for the Council are 279-283.

410. The Council argue in closing that disaggregating the employment component of the scheme and accounting for it in the context of employment floor space would add some 10% to the appropriate employment floor space required by **policy. This would amount the Council suggest to 'very significant levels of unplanned growth'**. However, the supply of employment land, over and above development plan targets or otherwise, has hitherto not formed part of the **Council's case, that application having always been viewed as a mixed use scheme, led by the significant residential component that has always remained the focus of the Council's and the Secretary of States considerations.** This is the right approach as to do otherwise would be to invite independent evaluation of its constituent elements across the board. The Secretary of State is invited to consider the proposal as a whole and against the substantive policy issues hitherto set out.

*Distortion of the Council's Spatial Vision*

The relevant preceding paragraphs for the Appellant are 112-121.  
The relevant preceding paragraphs for the Council are 284-287 & 325-326.

411. The Council argue that as Nantwich has achieved target numbers identified in the CELPS and to allow further development above that number would serve now only to distort the spatial vision of the strategy in conflict with its broad strategic policies PG2 and PG7. However, the numbers set out therein are expressed as neither a ceiling not a target to be reached. Moreover, the supporting material for the policy advises such numbers as being an indicative distribution, and no more. Whilst a development of a scale reaching way beyond these aspirational targets may well be seen as distorting the spatial vision, in the context of the phrasing characterised above, the development proposed here cannot be considered of that magnitude. Indeed, it also remains consistent with the policies of the rFramework in paragraphs 59 and 60, which continue to emphasise the imperative of significantly boosting the supply of homes, and in so doing, determining the minimum, not the maximum number of homes needed in differing circumstances. There is therefore no breach of

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policies PG2 and PG7 of the CELPS, and therefore no policy-based harm to consider in the planning balance in this regard.

#### The benefits of the scheme

The relevant preceding paragraphs for the Appellant are 126-128.

The relevant preceding paragraphs for the Council are 291-294 & 303-322.

412. The construction of new housing would create jobs, and support growth, as would new space for employment development. Notwithstanding the **Council's view that the employment component of the scheme is not** required, such provision, in close proximity to services, new residential property and transport links is likely to prove an attractive offer, and would readily therefore contribute to the growth of the local economy. Nantwich is also one of the preferred locations for development in the CELPS and there is no dispute that in locational terms at least, the site is in a sustainable location. Such recognised benefits garner a medium measure of weight.
413. The provision of a new primary school site to meet future educational provision, the **children's play area, and** extensive areas of public open space including a new village green and an enlarged LNCA would represent significant additional social benefits, not just to new occupiers of the development but to those in the locality as well. There would be contributions towards new bus stops and an extensive service linking with the town centre and railway station in addition to new path and cycle path networks offering alternative transport modes to the town and its services. Beyond necessary mitigation, these are also measurable social benefits that weigh in favour of the proposals.
414. In both the local and national context the delivery of significant numbers of market housing in a sustainable location is a significant benefit. Nationally, it is a government policy imperative to boost the supply of housing and this is given fresh emphasis in the recently published rFramework. Locally, although the Council fear the final yield of the site within the five year supply period may be curtailed this is rebutted convincingly by the appellant, and the site will in all probability make a contribution to housing numbers within the anticipated part of the plan period. This has all the more value given the identified shortfall in delivery. In both contexts therefore the delivery of market housing merits substantial weight being afforded in favour of the scheme.
415. The proposal would not provide affordable housing above that anticipated by policy, nor would it be above the level expected on other sites. However, such provision would be a tangible benefit when judged against the identified need in the district. Nor is there a suggestion that the contribution, if lost, would be made up from other developments. In light of the above, this contribution to affordable housing also merits significant weight.
416. It was clear from the representations made at the Inquiry that there was a significant degree of apprehension amongst local residents over any increase in traffic numbers in the locality as a result of the development proposed. However, such apprehension does not have the support of technical evidence **that would convincingly rebut the appellant's view, not challenged by the**

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Council, that no severe highway harms would result from the scheme. Such concerns therefore carry the most minimal of weight.

### Planning balance

417. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Such a consideration of importance is the presumption in favour of sustainable development set out in paragraph 11 of the rFramework. The question of a 5 year housing land supply in relation to these appeals is very finely balanced. It is therefore recommended, in accordance with reasoning adopted in the White Moss and Park Road appeals, and as now endorsed by the Shavington case<sup>42</sup>, that a precautionary approach is applied, taking the worst-case position within the range on housing land supply presented, and apply the **'tilted balance'** in sub-paragraph d) of paragraph 11 of the rFramework in the determination of these appeals. This makes clear that where the policies most important for the determination of the proposals are out-of-date, permission should be granted unless other policies of the rFramework dictate otherwise, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
418. In terms of the adverse impacts of the proposal, the appeal sites form part of the Open Countryside on the borders of Nantwich. As such the development is in clear conflict with the letter and purpose of Policies PG6, SD1 and SD2 of the CELPS, Policy RES5 of the CNLP and Policies GS, H1 and H5 of the S&BNP. However, the degrees of harm to visual amenity here, because of the very specific urbanised context of the site and the contribution open green space makes to the scheme, would, in actuality, be limited in extent.
419. It is also the case that the proposals would result in the loss of BMV and again this would be in conflict with Policy SE2 of the CELPS. No other substantive harms have been identified and other effects of the development can be effectively mitigated through the provisions of the section 106 obligations, thus rendering them neutral in the planning balance.
420. Set against these identified harms the development would deliver up to 189 dwellings. In the context of the national imperative to significantly boost the supply of homes, the identified shortfall in housing delivery over the plan period, and supported by the indicators that it may come forward to the market relatively quickly, this is a clear benefit meriting significant weight in favour of the scheme. This is the more so in light that the site the scheme would also include up to 30% affordable homes, secured through the S106 agreement. Given that there is an undisputed need for affordable housing in Cheshire East, which the appeal scheme would help meet, this is again a benefit meriting significant weight in favour of the proposals.

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<sup>42</sup> Ibid.

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421. The development would also bring economic benefits in terms of direct and indirect employment during its construction phase, expenditure into the local economy and sustain further enterprise through the mixed uses on offer. Moreover, there are other social benefits in terms of the open space, improvements to sustainable transport connectivity and the scope for the development of a further primary education facility. These latter benefits would accrue not only to occupiers of the residential development proposed, but to others within the vicinity as well. Taken together these positive attributes can be afforded a medium degree of weight.
422. The Secretary of State will be mindful that both the CELPS and the S&BNP are relatively new components of the development plan, each of which has seen the subject considerable investment in terms of local resource and commitment and are which both relatively recently adopted and made. Moreover, there are also incipient signs that delivery of housing sites may indeed pickup more in accordance with expectations later in the plan period. The policies of the development plan should not therefore be set aside lightly. However, against the conflict with these policies, for which there is a presumption development shall be determined in accordance with, there are some material considerations of considerable importance and weight to consider.
423. The first is that despite the conflict with countryside policies, the degree of **harm to visual amenity is in fact limited, and reflected in the Council's position** on the proposals from the outset. More significantly however, the Council has been found unable to demonstrate a five year supply of housing land and this, in accordance with paragraph 11 of the rFramework and its attendant foot note 7, triggers the presumption in favour of sustainable development heralded therein on the basis that policies most important to the determination of the cases are out-of-date. The policies referred to above (PG6 and SE2 of the CELPS, Policy RES5 of the CNLP and Policies GS1, H1 and H5 of the S&BNP) have to be viewed as being the most import of policies for the determination of these proposals as they are critical to the permitting of residential development in open countryside and immediately adjacent to settlement boundaries. It must follow therefore that in light of the supply position they are out of date, thus diminishing the weight to be afforded them in the planning balance.
424. Moreover, it might be right that the aims and purposes of Policy RG6 remain consistent with those of the rFramework (as the Council maintain). However, in the absence of a five year supply of housing land it has to be considered somewhat Canute-like to argue that the settlement boundaries drawn to reflect the past aspirations of the former local plan (2006-2011) can still be held to be not-out-of date. This is a conclusion all the more compelling given the evidence of appeals being allowed and the Council granting planning permission for development outwith these boundaries in years subsequent to their anticipated utility in order to meet supply. Neither does it come as a surprise that the LP Inspector for the CELPS anticipated that such boundaries would have to be reviewed in the future allocations component of the plan. This position is again reflected in the reasoning of the Inspector in the Park Road Appeal<sup>43</sup>.

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<sup>43</sup> Ibid, paragraph 16 thereof.

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425. All of these weighty considerations combine to reduce the weight to be applied to these policies in the light of the very particular supply situation identified in this case. Whilst there remains conflict with the policies of the development plan, these proposals would bring forward substantial benefits. These benefits are such that they are not significantly or demonstrably outweighed by the lesser harms identified. The proposals, presented in both appeals, therefore constitute the sustainable development for which the rFramework presumes in favour of.

#### Recommendation

426. I recommend that both appeals should be allowed and planning permission granted subject to the attached Schedules of Conditions.

*David Morgan*

INSPECTOR

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## Schedule of Conditions

### Appeal A

1. Details of appearance, access landscaping, layout and scale (hereinafter called **"the reserved matters"**) shall be submitted to and approved in writing by the local planning authority (LPA) before any development begins, and the development shall be carried out as approved.
2. Application for approval of all the reserved matters shall be made to the LPA not later than three years from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
3. This permission shall refer to the following drawing numbers unless any other condition attached to the permission indicates otherwise:

Mixed Use and Access Applications Diagram – dwg SK15 Rev C  
(11 November 2017)

Mixed Use and Access Applications Diagram – dwg SK16 Rev C  
(11 November 2017)

Mixed Use and Access Applications Diagram – dwg SK17 Rev C  
(11 November 2017)

Mixed Use and Access Applications Diagram – dwg SK19 Rev D  
(11 November 2017)

4. No development shall commence until details of a scheme for the disposal of foul and surface water from the development has been submitted to and approved in writing by the LPA. The scheme shall make provision, inter alia for the following:
  - a. this site to be drained on a totally separate system with all surface water flows ultimately discharging in to the nearby watercourse
  - b. a scheme to limit the surface water run-off generated by the proposed development
  - c. a scheme for the management of overland flow
  - d. the discharge of surface water from the proposed development to mimic that which discharges from the existing site.
  - e. if a single rate of discharge is proposed, this is to be the mean annual run-off ( $Q_{bar}$ ) from the existing undeveloped greenfield site. For discharges above the allowable rate, attenuation for up to the 1% annual probability event, including allowances for climate change.
  - f. the discharge of surface water, wherever practicable, by Sustainable Drainage Systems (SuDS).
  - g. Surface water from car parking areas less than 0.5 hectares and roads to discharge to watercourse via deep sealed trapped gullies.
  - h. Surface water from car parking areas greater than 0.5 hectares in area, to have oil interceptor facilities such that at least 6 minutes retention is provided for a storm of 12.5mm rainfall per hour.

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The development shall not be occupied until the approved scheme of foul and/or surface water disposal has been implemented to the satisfaction of the LPA.

5. No development shall commence until a scheme for the provision and management of an 8 metre wide buffer zone alongside the watercourse on the northern boundary measured from the bank top (defined as the point at which the bank meets the level of the surrounding land) has been submitted to and approved in writing by the LPA. The scheme shall include:
- plans showing the extent and layout of the buffer zone
  - details of any proposed planting scheme (for example, native species)
  - details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.

This buffer zone shall be free from built development other than the proposed access road. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the LPA.

6. No development shall commence within the application site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the LPA.
7. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the LPA. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
- a. the hours of construction work and deliveries
  - b. the parking of vehicles of site operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials used in constructing the development
  - e. wheel washing facilities
  - f. measures to control the emission of dust and dirt during construction.
  - g. details of any piling operations including details of hours of piling operations, the method of piling, duration of the pile driving operations (expected starting date and completion date), and prior notification to the occupiers of potentially affected properties
  - h. details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint



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- i. control of noise and disturbance during the construction phase, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes
  - j. waste management: there shall be no burning of materials on site during demolition/construction.
8. No development shall take place on the commercial and retail element until a detailed noise mitigation scheme to protect the proposed dwellings from noise, taking into account the conclusions and recommendations of the Noise Report submitted with the application, shall be submitted to and agreed in writing by the LPA. The approved mitigation measures shall be implemented before the first occupation of the dwelling to which it relates.
  9. Prior to the commencement of development:
    - a. A contaminated land Phase 2 investigation shall be carried out and the results submitted to, and approved in writing by the LPA.
    - b. If the Phase 2 investigations indicate that remediation is necessary, a Remediation Statement including details of the timescale for the work to be undertaken shall be submitted to, and approved in writing by, the LPA. The remedial scheme in the approved Remediation Statement shall then be carried out in accordance with the submitted details.
    - c. Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.
  10. No development shall commence until a scheme of destination signage to local facilities, including schools, the town centre and railway station, to be provided at junctions of the cycleway/footway and highway facilities shall be submitted to and agreed in writing by the LPA. The approved scheme shall be provided in parallel with the cycleway/footway and highway facilities.
  11. No development shall commence until schemes for the provision of MOVA traffic signal control systems to be installed at the site access from Peter Destapleigh Way and at the Audlem Road/Peter Destapleigh Way traffic signal junctions, has been submitted to and approved in writing by the LPA . Such MOVA systems shall be installed in accordance with approved details prior to the first occupation of the development hereby permitted.
  12. The Reserved Matters application shall include details of parking provision for each of the buildings proposed. No building hereby permitted shall be occupied until the parking and vehicle turning areas for that building have been constructed in accordance with the details shown on the approved plan. These areas shall be reserved exclusively thereafter for the parking and turning of vehicles and shall not be obstructed in any way.
  13. Prior to the first occupation of the development hereby permitted a Travel Plan shall be submitted to and approved in writing by the LPA. The Travel Plan shall

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include, inter alia, a timetable for implementation and provision for monitoring and review. None of the building hereby permitted shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation after or before occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review, as long as any part of the development is occupied.

14. No development shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the LPA. The approved scheme shall be implemented and retained as operational thereafter.
15. Prior to first occupation of each unit, Electric Vehicle Infrastructure shall be provided to the following specification, in accordance with a scheme, submitted to and approved in writing by the LPA which shall include the location of each unit:
  - A single Mode 2 compliant Electric Vehicle Charging Point per property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kW charging.
  - 5% staff parking on the office units with 7kW Rapid EVP with cabling provided for a further 5% (to enable the easy installation of additional units).

The EV infrastructure shall be installed in accordance with the approved details and thereafter be retained.

16. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey shall be carried out by a suitably qualified person to check for nesting birds and the results submitted to the LPA. Where nests are found in any hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to LPA before any further works within the exclusion zone take place.
17. Prior to the commencement of development detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds shall be submitted to and approved in writing by the LPA. The approved features shall be permanently installed prior to the first occupation of the development hereby permitted and thereafter retained, unless otherwise agreed in writing by the LPA.
18. The reserved matters application shall be accompanied by a detailed Ecological Mitigation strategy including a great crested newt mitigation strategy informed by the recommendations of the submitted Protected Species Impact Assessment and Mitigation Strategy dated 2013 prepared by CES

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Ecology (CES: 969/03-13/JG-FD). The development shall be implemented in accordance with the measures of the approved ecological mitigation strategy.

19. Prior to the commencement of each phase of development details of the proposed lighting scheme should be submitted to and approved in writing by the Local Planning Authority.
  - a) The details shall include the location, height, design and luminance and ensure the lighting is designed to minimise the potential loss of amenity caused by light spillage onto adjoining properties. The lighting shall thereafter be installed and operated in accordance with the approved details.
  - b) The scheme should include dark areas and avoid light spill upon bat roost features, boundary hedgerows and trees. The scheme should also include details of: Number and location of proposed luminaires; Luminaire light distribution type; Lamp type, lamp wattage and spectral distribution; Mounting height; Orientation direction; Beam angle; Type of control gear; Proposed lighting regime; and Projected light distribution maps of each lamp. The lighting scheme shall be installed in accordance with the approved details.
20. All trees with bat roost potential as identified by the Peter Destapleigh Way Ecological Addendum Report 857368 (RSK September 2017) shall be retained, unless otherwise agreed in writing by the Local Planning Authority
21. The first reserved matters applications shall include a Design Code for the site and all reserved matters application shall comply with provisions of the Masterplan submitted with the application and the approved Design Code.
22. Prior to the commencement of each phase of development a scheme for landscaping shall be submitted to the Local Planning Authority and approved in writing. The approved landscaping scheme shall include details of any trees and hedgerows to be retained and/or removed, details of the type and location of Tree and Hedge Protection Measures, planting plans of additional planting, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes and proposed numbers/densities and an implementation programme.

The landscaping scheme shall be completed in accordance with the following: -

- a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.
- b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428 (1989) Code of Practice for General Landscape Operations (excluding hard surfaces).

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- c) All new tree plantings shall be positioned in accordance with the requirements of Table 3 of British Standard BSD5837: 2005 Trees in Relation to Construction: Recommendations.
  - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
23. An Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement in accordance with BS5837: 2012 Trees in Relation to Design, Demolition and Construction – Recommendations shall be submitted in support of any reserved matters application which shall evaluate the direct and indirect impact of the development on trees and provide measures for their protection.
  24. No phase of development shall commence until details of the positions, design, materials and type of boundary treatment to be erected have been submitted to and approved in writing by the LPA. No building hereby permitted shall be occupied until the boundary treatment pertaining to that property has been implemented in accordance with the approved details.
  25. The Reserved Matters application for each phase of development shall include details of bin storage or recycling for the properties within that phase. The approved bin storage facilities shall be provided prior to the first occupation of any building.
  26. Notwithstanding the details shown on plan reference no. BIR.3790.09D (September 2012) access to the development herein permitted shall be exclusively from Peter Destapeleigh Way as shown on plan reference no. dwg SK16 Rev C (11 November 2017)
  27. Unless otherwise agreed in writing, none of the dwellings hereby permitted shall be first occupied until access to broadband services has been provided in accordance with an action plan that has previously been submitted to and approved in writing by the LPA.

#### Appeal B

1. The development hereby approved shall commence within three years of the date of this permission.
2. This permission shall refer to the following drawing numbers unless any other condition attached to the permission indicates otherwise:
  - a. Site Location Plan reference no. BIR.3790\_13
  - b. Site Access General Arrangement Plan reference no. SCP/10141/D03/ Rev D (May 2015).
3. No development shall commence until there has been submitted to and approved by the LPA a scheme of landscaping and replacement planting for the site indicating inter alia the positions of all existing trees and hedgerows within and around the site, indications of those to be retained, also the number,

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species, heights on planting and positions of all additional trees, shrubs and bushes to be planted.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the LPA gives written consent to any variation.
5. Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with BS5837: 2012 Trees in Relation to Design, Demolition and Construction : Recommendations, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the Local Planning Authority.
  - (a) No development or other operations shall take place except in complete accordance with the approved protection scheme.
  - (b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
  - (c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
  - (d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
6. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
7. Prior to development commencing, a detailed Ecological Mitigation strategy including a great crested newt mitigation strategy informed by the recommendations of the submitted Protected Species Impact Assessment and Mitigation Strategy dated MARCH 2013 REVISION) prepared by CES Ecology (CES: 969/03-13/JG-FD) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the measures of the approved ecological mitigation strategy.
8. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey shall be carried out by a suitably qualified person to check for nesting birds and the results submitted to the LPA. Where nests are

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found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to LPA before any further works within the exclusion zone take place.

9. Prior to the commencement of development details of the proposed lighting scheme should be submitted to and approved in writing by the Local Planning Authority. The scheme should include dark areas and avoid light spill upon bat roost features, boundary hedgerows and trees. The scheme should also include details of: Number and location of proposed luminaires; Luminaire light distribution type; Lamp type, lamp wattage and spectral distribution; Mounting height; Orientation direction; Beam angle; Type of control gear; Proposed lighting regime; and Projected light distribution maps of each lamp. The lighting scheme shall be installed in accordance with the approved details.
10. Prior to the commencement of development , and to minimise the impact of the access road on potential wildlife habitat provided by the existing ditch located adjacent to the southern site boundary, the detailed design of the ditch crossing shall be submitted to and approved in writing by the LPA . The access road shall be constructed in full accordance with the approved details.
11. No development shall commence on site unless and until a Deed of variation under s106A TCPA 1990 (as amended) has been entered into in relation to the S106 Agreement dated 20 March 2000 between Jennings Holdings Ltd (1), Ernest Henry Edwards, Rosemarie Lilian Corfield, James Frederick Moss, Irene Moss, John Williams and Jill Barbara Williams (2), Crewe and Nantwich BC (3) and Cheshire County Council (4) to ensure that the Local Nature Conservation Area is delivered, maintained and managed under this permission.

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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

**Mr Reuben Taylor of Queen's Counsel**

**Instructed by the Solicitor to  
Cheshire East Council**

He called:

Mr Richard Taylor BA (Hons) BTP MRTPI

Mr Adrian Fisher BSc MTPL MRTPI

FOR THE APPELLANT:

**Mr Paul Tucker of Queen's  
Counsel**

instructed by Patrick Downes, Harris  
Lamb on behalf of Müller Property  
Group

Assisted by Mr Philip Robson  
of Counsel

He called:

Mr Jonathan Berry BA (Hons) Dip LA CMLI AIEMA M ArborA

Mr Patrick Downes BSc (Hons) MRICS

Mr Matthew Weddaburn BSc MA MRTPI

Mr William Booker BSc (Hons)

INTERESTED PERSONS:

Councillor M Theobald                      Stapeley & District Parish Council

Mr P Cullen                                      Resident

Councillor P Groves                          Cheshire East Council

Mr P Staley                                      Resident

Ms J Crawford                                  Resident

Ms G Barry                                       Resident

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Mr K Roberts

Resident

Councillor A Martin

Councillor

#### INQUIRY DOCUMENTS (IDs)

1. Appearances – Appellant
2. Planning SoCG
3. Housing SoCG
4. Draft s106
5. Revised plans – Appellant
6. Revised Appendix 14 (Mr Fisher) – Council
7. Openings – Appellant
8. Openings – Council
9. Statement Councillor Groves
10. Statement Councillor Theobald
11. Statement Mr Cullen
12. Statement Mr Staley
13. Statement Ms Barry
14. Amended red line drawing
15. Strategic sites list with references
16. Wokingham High Court Decision – Council
17. E mail site LPSA 2
18. Map – LPS 27
19. Appendix E CELPS (Housing trajectory)
20. **Appellant's housing evidence amended** table 17
21. CD of Traffic issues – Mr Staley
22. Extract PPG paragraph 26
23. Accident Record of area (map) – Appellant
24. Aerial photograph highway improvements – Appellant
25. Bus timetables – Appellant
26. List draft conditions
27. Agricultural land analysis – Appellant
28. Stapley and Batherton Neighbourhood Plan
29. Amended landscape condition
30. CIL compliance schedule
31. Updated s 106
32. Councillor Theobald comments on s106
33. Amended housing supply table – Appellant
34. Letters/email from D Roberts/H Thompson

#### DOCUMENTS RECEIVED AFTER THE ADJOURNMENT OF THE INQUIRY

- 1a Final list of Core Documents
- 2a Closings Appellant
- 3a Closings Council
- 4a Grounds for Claim to High Court (Shavington case) – Council
- 5a Comments on rFramework – Appellant
- 6a Comments on rFramework – Council
- 7a Final comments on Council's submissions** - Appellant



CORE DOCUMENTS

<b>Background (A)</b>	
	<b>National Planning and Ministerial Statement</b>
A9	The Plan for Growth (2011)
A10	Supporting Local Growth (2011)
	<b>Local Plan Policy and Guidance</b>
A11	Extracts of Adopted Crewe and Nantwich Replacement Local Plan (2005) (“CNRLP”)
A12	Secretary of State’s Direction (Saved Policies) February 2008
A13	Removed
A14	Removed
A15	Removed
A16	Interim Planning Policy on Release of Housing Land (February 2011)
A19	Extract of the Draft Nantwich Town Strategy
	<b>Emerging Local Plan Background Documents</b>
A20A	Extracts from the Cheshire East Local Plan Strategy 2010 – 2030 (“LPS”)
A24	Extracts of Cheshire East Strategic Housing Market Assessment (2010)
A25	CEC Strategic Housing Land Availability Assessment (March 2012)
A26	CEC Strategic Housing Land Availability Assessment Letter (4 <sup>th</sup> December 2013)
A27	Letter of representation from The Home Builders Federation to the SHLAA update methodology (January 2014)
A28	Letter from Muller Property Group to the SHLAA update methodology (January 2014)
A35	Extract from Annual Monitor on Affordable Housing Provision
A36	Stapeley and Batherton Neighbourhood Plan, Referendum Version (SBNP)
A37	Stapeley and Batherton Neighbourhood Plan Examiner’s Report
A38	Council Decision on report of SBNP
A39	Cheshire East Local Plan Strategy 2010 – 2030 July 2017
A40	Report on the Examination of the Cheshire East Local Plan Strategy Development Plan Document, 20 June 2017
A41	Inspector’s Views on Further Modifications Needed to the Local Plan Strategy (Proposed Changes), 13 December 2016
A42	Inspector’s Interim Views on the legal compliance and soundness of the submitted Local Plan Strategy, 6 November 2014
A43	Inspector’s Further Interim Views on the additional evidence produced by the Council during the suspension of the examination and its implications for the submitted Local Plan Strategy, 11 December 2015
A44	Cheshire East Local Plan: Nantwich Town Report, March 2016
A45	Crewe and Nantwich Replacement Local Plan, 2011

<b>Technical Papers (B)</b>	
B3	Extract of Manual for Streets 2 – Wider Application of the Principles (CIHT, 2010)
B4	Extract of Manual for Streets (2007)
B17	Transport for Statistics Bulletin
B18	Walking in Britain
B19	South Worcestershire interim conclusions on the South Worcestershire Development Plan
B20	LDC initial findings report (Sept 2013)
B21	Strategic Housing Land Availability Assessment and the development plan document preparation

B22	Cheshire East Council Housing Supply and Delivery Topic Paper (August 2016)
B23	Cheshire East Council Housing Monitoring Update (published August 2017, base date 31st March 2017)

### High Court and Supreme Court Cases (C)

C11	High Court Judgement West Lancashire vs Secretary of State for Communities and Local Government (Neutral Citation Number: [2017] EWHC (Admin))
C12	Supreme Court Judgement Carnworth, Suffolk Coastal District

### Appeal Cases (D)

	<b>Ministerial Appeal Decisions</b>
	<b>Inspector Appeal Decisions</b>
D29	Planning Inspectorate appeal reference: APP/R0660/W/17/3166469. White Moss, Butterton Lane, Barthomley, Crewe CW1 5UJ. 8 <sup>th</sup> November 2017
D30	Planning Inspectorate appeal reference: APP/R0660/W/17/3168917. Land to the south of Park Road, Willaston, Cheshire. 4 <sup>th</sup> January 2018
D31	Planning Inspectorate appeal reference: APP/M4320/W/17/3167849. Land to the south of Andrews Lane, Formby L37 27H. 5 <sup>th</sup> December 2017

### Relevant Applications (E)

E1	Decision Notice for the extant permission - construction of a new access road into Stapeley Water Gardens" (planning application reference P00/0829)
E2	Letter from CEC confirming that planning application reference P00/0829 is extant
E3	Cronkinson Farm Schedule 106 Agreement 2000

### Landscape Documents (F)

F1	Extract of the Guidelines for landscape and Visual Impact Assessment, 3rd Edition The Landscape Institute and IEMA 2013
F2	Extract of the Landscape Character Assessment – Guidance for England and Scotland – Scottish Natural Heritage and the Countryside Agency (2002)
F3	Site Context Plan (2064/P01a JB/JE January 2014)
F4	Site Setting (Aerial Photograph) (2064/P04 JB/JE January 2014)
F5	Extract from the Countryside Agency (now Natural England), Character Area 61 Description
F6	Extract of Cheshire Landscape Character Assessment SPD – Type 7: East Lowland Plain
F7	Extract of Cheshire Landscape Character Assessment SPD – ELP 1: Ravensmoor
F8	Munro Planting Scheme – Appeal B
F9	Tyler Grange Winter Photographs (January 2014) (2064/P03 JB/LG January 2014)
F10	Winter viewpoint locations (TG Ref: 2064/P03)

### Ecology & Arboricultural Documents (G)

G1	Extract of English Nature Great Crested Newt Mitigation Guidelines 2001
G2	Extract of Natural England LPA Standing Advice Species Sheet Great Crested Newts
G3	Extract of Bats {Natural England LPA Standing Advice Species Sheets}
G4	Extract of Badger {Natural England LPA Standing Advice Species Sheets}
G5	Extract of Birds {Natural England LPA Standing Advice Species Sheets}
G6	Extract of Water Vole {Natural England LPA Standing Advice Species Sheets}

G7	Extract of Natural England Advice Note European Protected Species & The Planning Process Natural England's Application of the 'Three Tests' to Licence Applications
G8	Extract of Cheshire East Borough Council (Stapeley – the Maylands, Broad Lane) Tree Preservation Order 2013

## APPEAL A

<b>Appeal A - Application Documents (H1)</b>	
H1	Covering Letter September 2012
H2	Application Forms
H3	Site Location Plan
H4	Site Setting (Aerial Photograph)
H5	Indicative Masterplan
H6	Archaeological Report
H7	Transport Assessment
H8	Framework Travel Plan
H9	Statement of Community Involvement
H10	Retail Statement
H11	Nantwich Housing Market Assessment
H12	Design and Access Statement
H13	Planning Statement
H14	Arboricultural Implications Assessment
H15	Movement and topography
H16	Landscape Character Plan
H17	Index to views
H18	Viewpoint Location Plan
H19	Viewpoints
H20	Landscape Visual Impact Assessment
H21	Flood Risk Assessment
H22	Phase 1 Contamination Report
H23	Protected Species Impact Assessment and Mitigation Strategy (2012)

<b>Consultee Responses (I)</b>	
I1	Environmental Health (Noise / Air / Light)
I2	Cheshire Wildlife
I3	United Utilities
I4	Network Rail
I5	Public Rights of Way
I6	Natural England
I7	Bob Hindhaugh Associates Ltd on behalf of Stapeley Parish Council
I8	Nantwich Town Council
I9	Reaseheath College
I10	Highways
I11	Arboricultural
I12	Design
I13	Landscape

<b>Documents submitted after the initial submission (J)</b>	
J1	Revised Arboricultural Impact Assessment Phase 2 – Report Ref NWS/11/10/AIA P2 25 <sup>th</sup> May 2012

J2	Revised Air Quality Assessment – Report Ref AQ0310 Dec 2012
J3	Tree Plan – Drawing No. NWS/SP/03/12/01 – 12 <sup>th</sup> March 2013
J4	Tree Constraints Plan Tile 1 – Report Ref NWS/11/10/TCA/01 – 9 <sup>th</sup> November 2011
J5	Tree Constraints Plan Tile 2 – Report Ref NWS/11/10/TCA/02 – 9 <sup>th</sup> November 2011
J6	Tree Constraints Plan Tile 3 – Report Ref NWS/11/10/TCA/03 – 9 <sup>th</sup> November 2011
J7	Tree Constraints Plan Tile 4 – Report Ref NWS/11/10/TCA/04 – 9 <sup>th</sup> November 2011
J8	Great Crested Newt Survey
J9	Noise Assessment
J10	9.1.13 – SCP Technical Note
J11	11.1.13 – SCP Technical Note – Response to Parish Council
J12	14.1.13 SCP Technical Note – Sensitivity Test
J13	11.3.13 – SCP Technical Note

<b>Reporting and Decision (K)</b>	
K1	Planning Officers Report to Planning Committee
K2	Formal Decision Notice
K3	Secretary of State First Decision letter 17/03/15
K4	Original Inspector’s Report
K5	Consent Order 3/07/15
K6	Secretary of State Second Decision letter 11/08/16
K7	Consent Order
K8	DCLG letter of 12/04/17, inviting further representations
K9	DCLG letter of 03/08/17 relating to the re-opening of the inquiry
K10	Updated Officer’s Report to Cheshire East Council Strategic Planning Board of 22/11/17
K11	Strategic Planning Board Report on applications 12/3747N and 12/3746N, 31/1/18

## APPEAL B

<b>Appeal B - Application Documents (L)</b>	
L1	Covering Letter September 2012
L2	Application Forms
L3	Site Location Plan
L4	Site Access
L5	Transport Statement
L6	Protected Species Impact Assessment and Mitigation Strategy (2012)
L7	Design and Access Statement
L8	Planning Statement
	<b>Updated Application Documents Appeals A and B</b>
L9	Updated Masterplan Documents and Access Drawings
L10	Land Research Letter – BMV – 25/9/17
L11	Redmore Environmental – Air Quality Assessment 29/9/17
L12	Shields Arboricultural Impact Assessment – 26/9/17
L13	RSK Ecological Addendum Report Sept. 2017
L14	Betts Hydro – Flood Risk and Drainage Addendum 26/9/17
L15	SCP – Transport Technical Note 3/10/17
L16	Landscape and Visual Technical Note 26/9/17
L17	Lighthouse Acoustics – Acoustic Note 29/9/17

<b>Consultee Responses (M)</b>
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M1	Environment Agency
M2	Environmental Health
M3	Natural England
M4	Public Rights of Way
M5	Nantwich Town Council
M6	Reaseheath College
M7	Bob Hindhaugh Associates Ltd on behalf of Stapeley Parish Council
M8	Highways
M9	Arboricultural
M10	Cheshire Wildlife
M11	Affordable Housing

<b>Documents submitted after the initial submission (N)</b>
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N1	Flood Risk Assessment
N2	Great Crested Newt Survey (Revised November 2012)
N3	SCP Technical Note - 11.01.13
N4	Arboricultural Implication Assessment Phase 2
N5	Protected Species Impact Assessment and Mitigation Strategy (March 2013)

<b>Reporting and Decision (O)</b>
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O1	1 <sup>st</sup> Planning Officers Report to Planning Committee
O2	2 <sup>nd</sup> Planning Officer's Report to Planning Committee
O3	Strategic Planning Board Meeting - 19/6/13 Notes of Planning Application 12/3746N

<b>Supreme Court Judgements (P)</b>
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P1	Removed
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<b>Appeal Court Judgements (Q)</b>
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Q1	Suffolk Coastal Appeal Court Judgement
Q2	St Modwen Appeal Court Judgment



# Ministry of Housing, Communities & Local Government

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

EP3



## Appeal Decision

Inquiry held on 15–18 and 24–25 February 2022

Site visit made on 28 February 2022

by Andrew Dawe BSc (Hons), MSc, MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> June 2022

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Appeal Ref: APP/D1265/W/21/3284485

Station Road, Stalbridge, North Dorset DT10 2RJ (Easting 374204, Northing 118026)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Dorset Council.
  - The application Ref 2/2019/1799/OUT, dated 18 December 2019, was refused by notice dated 10 September 2021.
  - The development proposed is Outline planning application for the erection of up to 130 dwellings including affordable housing with public open space, structural planting and landscaping and sustainable drainage system (SuDS) with vehicular access point from Station Road. All matters reserved except for means of vehicular access.
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### Decision

1. The appeal is allowed and planning permission is granted for: Develop land by the erection of up to 130 No. dwellings (including affordable housing), form vehicular access from Station Road, public open space, landscaping and sustainable drainage system (SuDS) (Outline application to determine access) at Station Road, Stalbridge, North Dorset DT10 2RJ (Easting 374204, Northing 118026) in accordance with the terms of the application, Ref 2/2019/1799/OUT, dated 18 December 2019, subject to the conditions in the attached Annex.

### Preliminary Matters

2. For clarity, the site address in the above header is taken from the original planning application form, albeit that I note the **Council's decision notice and the appeal form** refer to Dorset as opposed to North Dorset and that the grid reference for the site is recorded as being slightly different with Easting 374230 and Northing 117990. Although different, I have no basis to consider that the address on the application form cannot be attributed to the appeal site.
3. The description of development in the above header is also taken from the original planning application form. The different **description on the Council's decision notice** is cross-referred to on the appeal form as being that which **represents the Council's agreement to the change, albeit that the** revised wording set out on the appeal form is different again. As the description on the decision notice is agreed by the Council, I have determined the appeal on that basis and included that amended description in the above decision.



4. The appeal relates to an outline planning application with all matters reserved for future consideration other than access. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. The Appellant has however submitted a Development Framework Plan which, although not a plan sought for approval by the Appellant nevertheless shows, amongst other things, the proposed developable area; access and movement on the site, albeit that the Appellant confirmed at the Inquiry that access approval is only being sought at this outline stage for the access point to Station Road; and green infrastructure on the site; and which I have therefore taken into consideration. I have determined the appeal on that basis.
5. **The Council's third reason for refusal in its decision notice relates to the lack of a section 106 agreement at that time to secure affordable housing or other off-site contributions required to make the development acceptable in planning terms.** Such a certified document was submitted during the Inquiry. At the start of the Inquiry, I left the matter of whether or not acceptable provision would be made in respect of affordable housing and infrastructure to service the proposed development as a main issue on the basis that there remained a dispute between the parties on the matter of education provision. However, there is no dispute over the level of the proposed financial contribution. **The Council's concern relates to the capacity of the existing school and any interim measures required to accommodate additional pupils, which I have dealt with under 'Other matters' rather than as a main issue.**
6. The Council raised concerns at the Inquiry about the impartiality of the evidence of **the Appellant's** planning witness, who is currently employed by the Appellant. In this context, the Council refers to another case relating to an appeal decision of the Upper Tribunal (Lands Chamber) relating to a certificate of appropriate alternative development, known as the '**Leech Homes**' case. The question there related to the principle of whether the witness was aware of their primary duty to the Tribunal in relation to giving expert evidence, and were willing and able, despite the interest or connection with the litigation or a party thereto, to carry out that duty.
7. Having regard to the current appeal, the witness concerned clearly declared in his Proof of Evidence (PoE) that the PoE is true and has been prepared in accordance with the guidance of the RTPI, of which he is a member; that the opinions expressed in his evidence are his true and professional opinions; and that he is aware that his duty as a professional planner was to the Inquiry, irrespective of by whom he is employed. Notwithstanding the submission of the Council on this matter, I have received or heard no substantive evidence to indicate that the witness concerned has acted improperly having regard to the above declaration. As such, I have not assigned less weight to the witness' evidence as a result of the **Council's** concerns on this matter. Notwithstanding this, it is also the case, as was also stated in the Leech Homes case, that in relation to matters of opinion on issues of planning judgement, I am well equipped to form my own judgement on those issues, having regard to all of the evidence presented.

## Main Issues

8. The main issues are:

- i) **the effect of the proposed development in terms of the Council's spatial strategy, with particular regard to housing distribution and location and sustainable travel, having regard to local and national policy;**
- ii) the effect of the proposed development on the landscape character and appearance of the area, with particular regard to that relating to the countryside comprising the site and surrounding area and the setting of the existing settlement of Stalbridge;
- iii) the existing housing need and land supply position at local and strategic level.

## Reasons

### *Housing distribution and location and sustainable travel*

9. Policy 2 of the North Dorset Local Plan Part 1 (the Local Plan) states that all development should be located in accordance with the spatial strategy for North Dorset. It highlights that the four main towns will function as the main service centres in the District and will be the main focus for growth, both for the vast majority of housing and other development. It goes on to identify Stalbridge and eighteen larger villages as the focus for growth to meet the local needs outside of the four main towns. It does not highlight there to be a sequential approach with Stalbridge necessarily being the first preference ahead of the larger villages. However, that policy also highlights that outside of the defined boundaries of the four main towns, Stalbridge and the larger villages, the remainder of the District will be subject to countryside policies where development will be strictly controlled unless it is required to enable essential rural needs to be met. It goes on to state that at Stalbridge and all **the District's villages, the focus will be on meeting local** (rather than strategic) needs.
10. Policy 20 of the Local Plan sets out that development in the countryside outside defined settlement boundaries will only be permitted if it is of a type appropriate in the countryside, as listed in the supporting text, or for any other **type of development, it can be demonstrated that there is an 'overriding need'** for it to be located in the countryside. The proposed development, being located outside of the defined settlement boundary, and not fulfilling any of the criteria for being a type appropriate in the countryside under policy 20, would therefore conflict with policies 2 and 20 of the Local Plan.
11. Policy 6 of the Local Plan relates to housing distribution and amongst other things states that in the countryside (including Stalbridge and the villages) the level of housing and affordable housing provision will be the cumulative number of new homes delivered to contribute towards meeting identified local and essential rural needs; and that at least 825 dwellings will be provided in the

countryside (including Stalbridge and the villages) during the period 2011-2031. In this respect, I note that the Council highlights that the total of completions, extant planning permissions it anticipates being completed in the next five years, and a further 503 consented/allocated dwellings, amounts to 1711 dwellings. Whilst that figure would be dependent on the extent to which those not yet built are completed, it is clearly likely that whilst the policy figure of 825 dwellings is not a cap, it would be significantly exceeded. On that basis, the proposed additional major housing development in the location concerned would be in conflict with that principle of meeting a local need. I also note the **Council's figure of c.33%** existing consented expansion in the number of dwellings in Stalbridge since 2011 and that the proposals would clearly add to that cumulatively.

12. Section 5 of the National Planning Policy Framework (the Framework) relates to delivering a sufficient supply of homes and I have no reason to consider that the above Local Plan policies are not seeking to achieve this important principle. I shall consider separately below whether or not the Council is able to demonstrate a five year supply of deliverable housing sites.
13. The proposed development would be located immediately adjacent to the existing settlement. Furthermore, it would make provision for pedestrian access from the site to link to existing footways into the town and to the nearest bus stops. Additionally, it is agreed by the Council and Appellant that Stalbridge contains a range of services and facilities to meet the day to day needs of its residents, with the local centre about 800 metres away and other facilities and amenities within a 1.4 kilometres walking and cycling distance, which is generally accepted as being a reasonable walking distance. From my observations I have no substantive basis upon which to find otherwise.
14. In this respect, the services available in Stalbridge include a primary school and pre-school, a superstore and café, a post office, a pharmacy, opticians, Stalbridge Hub incorporating a community library, Stalbridge Hall, places of worship, a petrol station including a small convenience store, and a small number of other independent shops and services, public houses and takeaway food outlets, and various businesses including those located on Station Road Business Park. There is not however a GP surgery, hospital, secondary school, bank/building society, cinema/theatre, leisure centre and swimming pool. Notwithstanding the recreation ground, and the presence of a private tennis club, there are therefore limited sports facilities in the town, albeit that there are a number of sports teams, clubs and societies based in Stalbridge and the surrounding area.
15. I have also had regard to the 2018 Joint Retail, Commercial and Leisure Study (JRCLS) which highlights that there are only a small number of retail units within the town centre such that it has a more limited role and function in the **District's** network and hierarchy of centres, predominantly meeting the more day-to-day needs of its local resident catchment population. It finds that the centre has an average convenience provision mainly catering for the more frequent top-up shopping needs of the local catchment population, as well as the population of surrounding areas. It does however also state there to be an overall food and convenience provision below the national average, but noting the presence of the supermarket as performing an important role above what would be expected for a town of this size. The JRCLS also finds that although comparison provision in the town is below the national average, it adequately

meets the needs of the local resident catchment. Notwithstanding this, it goes onto find that Stalbridge has a number of weaknesses and gaps in its offer that are impacting on its overall vitality and viability, with most concern relating to the vacancy rate being significantly higher than the national average. It also highlights that leisure services are poorly represented in the town centre and that there is below average provision of both leisure and financial services with no banks, restaurants or cafes present. It finds that overall Stalbridge is struggling and is not a healthy and viable centre.

16. Notwithstanding the above position, it remains the case that Stalbridge currently provides an adequate, albeit restricted, overall level of services and facilities, including those listed above. The level concerned reflects the **town's** position in the spatial strategy, alongside the eighteen larger villages, as the focus for growth to meet the local needs outside of the four main towns. Whilst the centre may be struggling in terms of its vitality and viability, I have no substantive evidence to indicate that the proposed development would worsen that position. If anything, it would provide the potential for additional local expenditure and support of such services and facilities albeit that there is no evidence to indicate the extent to which that would be likely.
17. There was some debate at the Inquiry as to whether the supermarket in the town centre was of a nature to be likely to attract use by all local people in terms of the range and cost of products, and the extent to which it would be likely to be used for main food shopping trips as opposed to topping up. However, I have no substantive evidence before me as to these factors, including the extent to which it is used by local people. Nevertheless, from my observations, albeit acknowledging this to be a snapshot in time, I saw that it is a significant sized store, selling a wide range of products, centrally located within Stalbridge in terms of convenience of location.
18. I note that my colleague in the relatively recent Land South of Lower Road appeal decision<sup>1</sup>, with reference to the number of houses under Local Plan policy 6 and where the number had nearly doubled, acknowledged that there may well be a tipping point for Stalbridge, but that that proposal was not it and that the range of services and facilities would be satisfactory. I have acknowledged that the extent to which housing numbers in Stalbridge and the larger villages have already exceeded the 825 dwellings set out in policy 6 is significant. However, it remains the case that it is not a cap on new housing and although the proposed development would cumulatively add up to a further 130 dwellings, there is no substantive evidence to indicate that a tipping point would be reached with the appeal scheme either, albeit there is not an established need for any more local housing in relation to policy 6.
19. Measured from the proposed site access, several individual destinations in the town centre, including the superstore, would be at slightly further walking distances than the 800 metres which would be the generally preferred maximum, reflecting the peripheral location of the site on the edge of the town. Walking distances would also be increased slightly depending on the position of a particular dwelling on the site. However, it would remain the case that due to the good degree of proposed connectivity with the existing footways, albeit without a direct connection to the Trailway, there would be a reasonable option for people to walk or cycle to those destinations in the town.

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<sup>1</sup> Appeal Ref. APP/D1265/W/20/3265743

20. As referred to above, the proposals would not include a direct pedestrian link to the adjacent Trailway in terms of minimising walking distances to some local facilities and services and maximising accessibility to that route from a recreational perspective. However, whilst it would be a slightly longer walk, there would be a footway constructed from the site access alongside Station Road that would link to the Trailway. That additional length of walk would be unlikely to be such as to significantly reduce or deter use of the Trailway. Furthermore, from a safety perspective, as well as that new roadside footway being of appropriate width, there would be provision through planning obligations to allow for the extension of the 30mph speed limit on Station Road in the vicinity of the proposed site access. Use of the Trailway, together with other local rights of way, would also be encouraged through planning obligations relating to financial contributions towards their improvement and maintenance.
21. In terms of travel to destinations further afield, the context relating to Dorset generally, as set out in the Dorset Council Bus Service Improvement Plan 2021 (the BSIP), is one of significant challenges to accessing local services, healthcare, work, and education, resulting in rural isolation. In the case of Stalbridge, there are bus stops serving local bus services within a reasonable walking distance of the site. **Based on the Council's evidence**, those services comprise an approximately two hourly service in the main during week-days. However, there is only a very restricted service on Saturdays to Yeovil and none in the later evenings. As such, whilst there would be some degree of choice over the private car, for weekdays in particular, the level of convenience for a variety of potential destinations, such as a wider range of shops, services and facilities, including to larger settlements, would be fairly limited. As such, for those with access to a car, there would likely remain a high degree of reliance on the car for those purposes, albeit that travel distances would not necessarily be great. The Appellant also highlights that there is a school bus serving Sturminster Newton High School, which has not been disputed, and which would avoid reliance on private car use to that particular destination.
22. Furthermore, in terms of access to employment destinations, as well as those locally, including immediately adjacent to the site, at least a small proportion of prospective residents would be likely to work from home thereby potentially avoiding the need to conduct employment related travel on a regular basis. Henstridge Village and employment opportunities at Henstridge Airfield would also be potentially accessible by cycle in terms of the distance and nature of the intervening roads. However, poor weather conditions would be a potential deterrent given the distances involved as would the lack of fully well-lit routes after dark. Nevertheless, those destinations would only be a relatively short car journey thereby minimising use of that mode for such activity.
23. For longer distance travel, although there is no train station in Stalbridge, the nearest one at Templecombe would only be a relatively short distance away. In terms of the distance and the nature of the intervening road, the choice of cycling to that station may be restricted to a small number of people. Nevertheless, it would only be a relatively short car journey with car parking available at the station, thereby encouraging use of that more sustainable longer distance rail transport.
24. Having regard to the extent of reliance on the private car, the implementation of a Travel Plan to encourage prospective residents to use alternative modes of

transport could be secured through a condition. The proposals would also include provision through planning obligations for issuing sustainable travel vouchers to the first occupier of each dwelling proposed. Whilst such measures, along with provision for cycle parking, would be likely to fulfil that purpose to some degree, it is unclear as to the extent to which that would significantly influence modal splits away from the private car.

25. The likely levels of reliance on the private motor car would be likely to also result in some degree of environmental harm as a result of vehicle emissions. However, I have no substantive evidence to indicate that the level of increase concerned would worsen the existing situation in and around Stalbridge to an extent that would represent an unacceptable level of harm. It also remains the case that increased use of electric vehicles would be likely to lessen those emissions, provision for which could be secured by a condition to ensure the implementation of measures for electric vehicle charging on the site.
26. I conclude on this issue that the proposed development would conflict with the **Council's** spatial strategy set out in Local Plan policies 2, 6 and 20. Furthermore, for the above reasons, the proposed development would have some specific shortcomings in terms of that spatial strategy, with particular regard to housing distribution and location and sustainable travel, having regard to local and national policy. However, also for the above reasons, the extent of that harm relating to such shortcomings would be moderate, which I shall consider further in the planning balance.

#### *Landscape character and appearance*

27. Local Plan policy 2 relates to the Core Spatial Strategy referred to above in terms of the principle of all development being located in accordance with it. In respect of this issue, this policy supports the general principle set out in paragraph 174 of the Framework of recognising the intrinsic character and beauty of the countryside.
28. Policy 4 of the Local Plan states amongst other things that the natural environment of North Dorset and the ecosystem services it supports will be enhanced through the protection of environmental assets and the establishment of a coherent ecological network of designated sites and stepping stone sites linked via corridor features. It goes on to say that developments are expected to respect the natural environment including the designated sites, valued landscapes and other features that make it special. Development should be shaped by the natural environment so that the benefits it provides are enhanced and not degraded. Furthermore, in terms of landscape character, policy 4 states that this will be protected through retention of the features that characterise the area; and where significant impact is likely to arise as a result of a development proposal, developers will be required to clearly demonstrate that the impact on the landscape has been mitigated and that important landscape features have been incorporated into the development scheme.
29. Having regard specifically to valued landscapes, there is no particular definition set out in policy 4. However, as referred to above, it is mentioned in the same context of other features that make the natural environment special. As recorded in the supporting text to policy 4 of the Local Plan, the landscape of North Dorset is highly valued with almost 40% of the District being covered by Area of Outstanding Natural Beauty (AONB) designations. The appeal site is not

- within or in the close vicinity of such an AONB and neither does it comprise any other designated landscape. Nevertheless, that does not mean that it could not be considered a valued landscape.
30. Paragraph 174 of the Framework relates to conserving and enhancing the natural environment and states that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other things protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan; and, as referred to above, recognising the intrinsic character and beauty of the countryside.
  31. The Appellant has undertaken a Landscape and Visual Impact Assessment, which I shall take into consideration along with all other relevant evidence, including various agreed viewpoints which helped my observations when visiting the site and surrounding area.
  32. The site is located immediately on the edge of the built-up area of Stalbridge, with industrial/employment use buildings immediately to the west, beyond which is a large residential area and the centre of the settlement beyond that. Nevertheless, the site comprises an open field surrounded by hedgerows and trees, typical of the countryside which continues from that edge of the settlement, and contributes to a pleasant open setting to that part of the town. On that western edge of the site, The Sidings starter industrial units, and associated currently undeveloped land to their south, would be immediately adjacent to that part of the site. The remaining western boundary is separated from the larger industrial buildings in that vicinity, and a Site of Nature Conservation Interest (SNCI) to the south-west, by the Stalbridge Trailway, alongside which are various, generally not large, trees and hedgerow. There are a small number of dwellings on Station Road just to the east of the site which although close to Stalbridge are clearly separate from it.
  33. The route of the Trailway was formerly that of a railway line running to the east of the town. That and any associated buildings would have been a feature in between the town and open countryside to the east of the line. However, from historic maps provided by the Appellant, which I have no basis to consider cannot be considered to be accurate, the railway line has not been a characteristic, distinct dividing feature confining the town from the countryside beyond. Furthermore, and in any case, the Trailway currently only forms an edge to a relatively short section of the built-up area of the town on its eastern side, notwithstanding its relationship with ongoing new housing development relating to the Land South of Lower Road appeal referred to previously. As such it is not a feature that has represented a clear edge to that side of the settlement generally. Additionally, the degree to which that edge is retained is weakened in the immediate vicinity of the site by the presence of The Sidings which is to the east of that route.
  34. The site is located within the Blackmore Vale and Vale of Wardour National Character Area (NCA). At the regional level, as set out in the Dorset Landscape Character Assessment (2009), it is located within the Clay Vale Landscape Character Type (LCT); and at the local level, as set out in the North Dorset District Council Landscape Character Assessment (2008), it is located in the Blackmore Vale Landscape Character Area (LCA).

35. In considering the NCA, **the area's profile** describes, amongst other things, that it is steeped in a long history of pastoral agriculture, characterised by hedged fields with an abundance of hedgerow trees, many of them veteran, and that it is productive pastureland. It goes on to set out statements of environmental opportunity which highlight the need to protect, manage and enhance the diverse but coherent pastoral landscape character components and to manage the simple patterns of land use maintained by the long history of agriculture.
36. In relation to the regional LCT, the key characteristics comprise, amongst others, its flat to gently undulating or bowl shaped clay landform; flanked and defined by surrounding limestone, chalk and/or greensand hills and ridges; a homogenous grassland landscape with a patchwork of small to medium sized fields, woods or ribbons of trees and dense trimmed hedgerows; distinctive mature hedgerow oaks which dot the landscape in a distinctive pattern; its long tradition of dairy farming; a dense network of twisting narrow lanes lined by thick hedgerows; evenly scattered hamlets, small villages and farmsteads often associated with groups of trees; and it having a peaceful, undeveloped and secluded rural atmosphere. In North Dorset the Clay Vale Landscape is represented by the broader scale landscape of the Blackmore Vale. The overall management objective for the LCT is to conserve the patterns that contribute to the rural tranquil landscape of winding lanes and small scattered settlements.
37. With regard to the LCA, this has the following key characteristics:
- a broad expansive clay Vale which is tranquil and unified;
  - a unique mosaic of woods, straight hedgerows and grassland fields **'dotted' with distinctive mature hedgerow Oaks;**
  - open views across the undulating to flat pastoral landscape to the chalk escarpment backdrop;
  - dense network of twisting lanes often with grass verges and sharp double 90 degree bends;
  - small hump backed bridges with low stone or brick parapets;
  - many very small villages and hamlets built with locally distinctive materials, such as stone, redbrick, tile and thatch;
  - a network of ditches, streams and brooks which drain into the tributaries of the Stour; and
  - Lydlinch Common (an SSSI) and Stock Gaylard Deer Park (an SNCI) are both key locally important features.
38. Some of the above characteristics are evident in relation to the site itself and its immediate surroundings. However, other features relating to the last five bullet points are less evident at this peripheral location of the LCA, reflective of the location adjacent to the larger settlement of Stalbridge. This is notwithstanding the small number of houses fronting the road just to the east of the site which mostly exhibit no clear or consistent use of locally distinctive materials.
39. Therefore, whilst in the countryside, the site is not deeply rural, being immediately adjacent to Stalbridge, albeit projecting away from it. The



- proposed development would clearly result in the loss of a field that is typical of the LCA, LCT and NCA. Furthermore, in projecting outwards into the countryside, there would be some interruption of views across the pastoral landscape. However, its close proximity to the existing settlement would minimise the extent to which it would stand out as an alien feature. For the same reason, together with the close proximity to Station Road, it is not in a highly tranquil location such that the degree to which the proposed development would intrude in terms of lighting and noise would be lessened.
40. Furthermore, the characteristic hedgerows around the edge of the site would be largely retained, other than in relation to the formation of the proposed site access, along with protected hedgerow trees. Additionally, those existing public views of the pastoral landscape, across the site and to the countryside generally, are currently fairly limited and localised, and often with intervening existing vegetation, as I will consider further below. That existing vegetation, along with proposed new planting would also be likely to have the effect of softening or screening, at least partially, the proposed development from public vantage points, more so over time as new planting would mature.
41. In terms of the setting of Stalbridge, the town currently extends down the **slope of the Vale's edge from the** Limestone Ridge. Although the older, historic part of town sits higher up, as is the case to the south-east of the town, the settlement pattern noticeably includes development all the way to, and in some cases beyond those side slopes, including the industrial buildings immediately to the west of the site. The proposed development would inevitably extend the extent of protrusion beyond the **Vale's side slopes** and into the currently pleasant open setting, projecting beyond the Trailway to a noticeably greater extent than The Sidings. However, there would remain open fields to the south and east of the site, and to the north on the opposite side of Station Road, which would to some degree maintain a generally open setting to the town, albeit to a lesser degree. Furthermore, it would be a continuation of other relatively modern development as opposed to a direct continuation from the **older historic part of the town further up the Vale's slopes**, and in a situation where I have found that the Trailway itself, and the railway before it, is not a feature that has represented a clear edge to that side of the settlement generally.
42. I have also had regard to the relationship of the proposed development with that being progressed relating to the previously referred to Land South of Lower Road appeal, and other recently approved new housing development to the south/south-east of the town. Although both would be seen from certain vantage points, it would be in the context of a noticeable, albeit not large, degree of separation both in terms of distance and the extent to which they would be softened or screened by intervening vegetation or townscape, depending on the vantage point. In this respect, the proposed development would not be clearly seen from local vantage points as an amalgamation with the existing expansion of the town, but instead an additional branch to the settlement, closely associated with an existing key vehicular route serving Stalbridge. As such, in this respect, the extent of any harm in terms of the landscape's ability to cumulatively assimilate an additional major housing development would be minimised.
43. The proposed development would therefore represent an intrusion into the existing countryside landscape and would inevitably cause some harm to its

intrinsic character and beauty. However, for the above reasons, even were I to find it to represent a valued landscape, the extent of any harm to the landscape character, whether relating to the NCA, LCT or LCA, would only be to a moderate degree.

44. Visually, the site is fairly well contained with viewpoints largely confined to being very localised. In this respect, notwithstanding the issues relating to character of the landscape, the proposed development would be unlikely to harmfully affect views from within the wider area. Furthermore, in more distant views from higher ground to the east, the proposed development would be seen more cumulatively with the rest of Stalbridge, including new development. In that context the extent to which the proposals would stand out would be likely to be limited due to the intervening distance and extent of the existing settlement against which it would be seen.
45. Outward views of the countryside from the Trailway would be obscured to varying degrees by the proposed development. However, that would only relate to a relatively short stretch of that pedestrian route and where such views are currently in any case softened or screened by intervening vegetation. The proposed development, as viewed from easterly vantage points, would also have the benefit of at least partially screening or softening those adjacent existing less attractive industrial buildings that are prominently visible on the edge of the town. However, this is with the acknowledgment that it would not require the full eastwards projection of the proposal to achieve such a benefit.
46. The Council also refers to the relationship of the site with Stalbridge Park and its distinctive walls. However, due in particular to the noticeable degree of separation of the site from Stalbridge Park, I consider the proposed development unlikely to harmfully affect that feature.
47. For the above reasons, I conclude on this issue that the proposed development would cause some harm to the landscape character and appearance of the area, with particular regard to that relating to the countryside comprising the site and surrounding area and the setting of the existing settlement of Stalbridge. As such, specifically in respect of this issue, it would be in conflict with policies 2 and 4 of the Local Plan and paragraph 174 of the Framework. However, again for the above reasons, the extent of that harm would be moderate, which I shall consider further in the planning balance.
48. In respect of this issue, the Council, in its original decision notice also makes reference to Policies 6, 7, 20 and 24 of the Local Plan. However, policy 6 relates to housing distribution and not specifically to this main issue. Furthermore, policy 20, whilst concerning the restriction of the type of development considered to be appropriate in the countryside, and relevant to the first main issue, does not specifically relate to the particular matters concerning this second main issue. Policies 7 and 24 relate to design and layout and highlight respectively, amongst other things, that development should have an appropriate density and be designed to improve the character and quality of the area within which it is located. In these respects, at this outline stage, I have no clear basis to consider that the proposals would be likely to be in conflict with those two policies, particularly as more detailed design and layout would be dealt with at the reserved matters stage.

*Existing housing need and land supply*

49. Having regard to whether or not the Council can demonstrate a five year supply of deliverable housing sites (5 year HLS), the difference between the Council and Appellant on this matter relates to the disputed deliverability of nine sites and I have no substantive basis to consider otherwise. As such, in relation to a 5 year requirement of 1992 dwellings, the Council considers there to be 5.17 years' worth of supply whilst the Appellant, as confirmed in the Appendix to their closing submissions, considers it to be 3.78 years. I have had regard to the evidence of both parties taking account of the Framework's definition of 'deliverable' in this context and consider each of the disputed sites below.
50. Site A01 – Land adjacent to Wincombe Business Park, Shaftesbury.
51. There is a resolution to grant full planning permission for 162 dwellings, subject to the signing of a Section 106 Agreement (s106), and associated necessary widening/realignment of Wincombe Lane has commenced. Furthermore, the Council is hopeful that the s106 will be completed shortly. There is therefore evidence of the developer's clear intent to progress this development within the 5 year period and no obvious obstacle highlighted by the Council in respect of the signing of the s106. The question remains as to the extent of development likely to be delivered within the 5 year period. Notwithstanding the anticipated signing of the s106 in the near future, there remains uncertainty as to the timing of this and therefore also the subsequent submission of details for discharging any conditions. The developer indicated in June 2021 that on the assumption of planning permission being granted in early Autumn 2021, 40-41 dwellings per annum (dpa) would be delivered. Despite the Council highlighting that other volume housebuilders are achieving 50-60 dpa, I have no substantive basis to veer from that indicated by the developer for this particular site. Even without that ongoing uncertainty, based on the above trajectory of 40-41 dpa, at the very most this would set back the anticipated 40-41 in 2022/23 by approximately half that number. Allowing for the ongoing uncertainty as to exactly when permission will be granted and any pre-commencement conditions discharged, I consider that there is not clear evidence of delivery in 2022/23. As such, for the basis of calculating the 5 year HLS I have deducted 40 units from the full 162, resulting in a deliverable supply of 122 within the 5 years.
52. Site A02 – Ham Farm and Newhouse Farm, Gillingham.
53. Outline planning permission was granted for 961 dwellings in September 2021 and the principal road required to unlock the delivery of this site is now well underway. Reserved matters are required to be submitted for the first phase within 2 years of planning permission and as yet no application has been received by the Council. Furthermore, under the planning conditions, there is a 4 year period within which to commence the first phase. The Council accepts that the majority of the proposed dwellings will be delivered beyond the 5 year period with a modest number within it. However, without any information from a prospective developer of the site, and in the absence of any reserved matter application, I cannot be sufficiently certain that even the 100 dwellings put forward by the Council will be delivered in the 5 year period. I have therefore deducted those 100 units from the 5 year HLS.

54. Site A03 – Lodden Lakes Phase 2, Gillingham.
55. Outline planning permission has been granted for 115 dwellings and a reserved matters application has also recently been submitted and validated. There remains no certainty as to the timescale for determining that application or whether there are any issues relating to it that will cause delay albeit I acknowledge it was subject to pre-application discussion with the Council. The Council consider that development of Phase 2 is likely to follow straight on from the completion of Phase 1 in 2024. There is no evidence provided from the developer to confirm that although I consider it is a reasonable assumption to make subject to satisfactory approval of reserved matters and any pre-commencement conditions. The submission of a reserved matters application shortly after having secured planning permission is also an indication of intent to proceed quickly. Given that such a start time would be approximately two years away, there appears to be sufficient contingency in the meantime for approval of reserved matters, conditions and site preparation. I therefore consider that commencement on site in 2024 to be a reasonable assumption, obviously subject to achieving the necessary reserved matters approval. On that basis I consider that the 60 dwellings indicated by the Council for completion in the 5 years period to be reasonable.
56. Site A04 – Park Farm, Gillingham.
57. Outline planning permission was granted in November 2021 for up to 634 dwellings and pre-application advice has been sought in relation to the submission of a reserved matters application for a first phase of around 300 dwellings. The **developer's** intention for submission of such an application was indicated to be February 2022 with a start on site expected in the summer of 2023. The Council indicated that the submission is now likely to be in the second quarter of this year. There is however no clear evidence on that timing, including any updated information from the developer concerned. The Council accepts that the majority of the dwellings will be built beyond the 5 year period. However, given the above uncertainty, and despite the degree to which the developer is active, sizeable and Dorset-based, there is not clear evidence that even the suggested modest quantum of 50 dwellings put forward by the Council for completion in the 5 year period would be fulfilled. As such, I have deducted those 50 dwellings from the 5 year HLS.
58. Site A05 – Land north and east of Blandford Forum, Blandford.
59. This site is allocated in the Neighbourhood Plan for a mix of uses including residential. An outline planning application was submitted in September 2020 for 600 dwellings, with full permission requested for 167 dwellings at this stage. Information from the developer in October 2021 indicated that completions would begin in 2024/25 with the majority being in 2025/26. However, those assumptions were based on anticipated planning permission early in 2022. I have received no clear evidence to indicate the timescale for a decision being taken, albeit that the Council states that its officers who assisted in the production of the Neighbourhood Plan are not aware of any major impediments to planning permission being granted. Furthermore, my attention was drawn to some objections having been made to the application. Although the Council indicated that these were not in principle objections, and even if they could be addressed, there is no clear indication as to the extent to which this could delay any planning permission being granted. I therefore have no

substantive basis upon which to consider there to be a realistic likely number of dwellings, if any, which would be completed within the 5 year period, despite the developer being Dorset-based and active across a number of sites across the county. For this reason, I have deducted the 49 dwellings put forward by the Council from the 5 year HLS.

60. Site A08 – Land east of Franwill Industrial Estate, Pimperne.

61. The site is allocated for up to 15 dwellings in the Pimperne Neighbourhood Plan and a full planning application for 15 dwellings was submitted in 2020. Whilst the allocation suggests local support and that a full planning application indicates intent to develop the site, the application nevertheless remains undetermined after a substantial period of time. Furthermore, whilst the principle is established through the allocation, there remain outstanding matters relating to the specific application that require resolution prior to a decision being taken. For these reasons, I have insufficient certainty that the application concerned will result in the completion of dwellings on the site within the 5 year period and so have deducted the 15 dwellings concerned from the 5 year HLS.

62. Site A09 – Land at Bittles Green, Motcombe.

63. The site is allocated for about 10 dwellings in the Motcombe Neighbourhood Plan and although an outline planning application submitted for 15 dwellings has remained undetermined for a substantial period of time, the Council confirmed that the s106 is ready for engrossment and that the decision is ready for issuing. The developer, in an email dated 1 October 2021, set out the anticipated delivery of the 12 dwellings in 2025/26. Whilst there remains three years before 2025/26, there is no indication as to the assumptions made at the time of that email about when planning permission would be granted. That permission, even if issued around the time of the Inquiry would have been approximately 5 months on from the above email and I have no substantive evidence to indicate whether or not that would affect the anticipated programme. Furthermore, any consent would be in outline only with reserved matters still required to be dealt with. There is therefore not clear evidence that the 12 houses concerned will be completed within the 5 year period and so I have deducted them from the 5 year HLS.

64. Site A10 – **St Mary's Hill, Blandford St Mary.**

65. Development is underway on this site, relating to planning permission for a total of 350 dwellings in two phases. The Council has received completion certificates for a total of 41 dwellings up to the end of December 2021, albeit with 10 of those in the previous 2020/21 period and thereby predating the current 5 year period and indicating that development is slightly ahead of the programme predicted in an email from the developer dated 5 August 2020. Nevertheless, a rate of 31 completions to the end of 2021 within the 2021/22 period indicates alignment with the developers predicted 42 in that period as a whole as set out in the above email, based on business forecasting and expected sales rates allowing for Covid. In that email, 47 completions were then predicted for 2022/23, 60 in each of 2023/24 and 2024/25, and 80 in 2025/26 with the remainder in the following year outside of the 5 year period. For the last three of those years within the current 5 year period, the higher figure takes account of an assumption that there would be two sales outlets from 2023/24. Notwithstanding the existing rate of completions, I have no

more up-to-date evidence to indicate whether those ongoing predictions of the developer from over a year and a half ago still apply, including whether it remains the intention for two sales outlets and the basis upon which that would result in more completions. I acknowledge the point made by the Council that a rate of 60 dpa is not unreasonable for a volume housebuilder on a large site, and the example of this having been achieved by Persimmon Homes on a site in Blandford St Mary. However, I do not have full details of the circumstances of that or other cases to enable a proper comparison. Based on the evidence provided for the site in question, in the absence of any more up-to-date information since August 2020, **and while acknowledging the Appellant's figure** of 200 based on an average of 40 dpa, the only clear basis for ongoing predicted completion rates is the actual rate within the first year, broadly in line with the originally predicted 42 dpa. As such, across the 5 year period this would result in a figure of 210 completions as opposed to the **Council's figure of 269**. I have therefore deducted 59 dwellings from the 5 year HLS.

66. Site A11 – Wessex Park Homes, Shillingstone Lane, Okeford Fitzpaine.
67. This site is the subject of prior approvals and one full planning permission for a number of developments ranging from between 1 and 4 dwellings, each one in itself therefore not defined as major development and still extant, totalling 44 dwellings. They would therefore be regarded as deliverable unless there is clear evidence that homes will not be delivered within the 5 year period. In this respect, the above approvals/permissions were granted in the period between September 2019 and December 2020 without any indication of forthcoming intent to commence their construction. Nevertheless, that is not to say that this could not occur, including taking account of the need to discharge any pre-commencement conditions. I acknowledge that an outline planning application has since been submitted for 70 dwellings on the site which remains to be determined and is not included by the Council in the 5 year HLS. Reference is made in the Planning, Design and Access Statement, relating to that application, to the more appropriate replacement of existing light industrial buildings with purpose built dwellings rather than conversions, citing that many of the approved dwellings would be over large and do not make good use of the internal floorspace available. That Statement also goes on to state that the prior approval applications were submitted to establish the principle of residential use across the site. However, these factors in themselves do not indicate that the extant approvals/permissions could not still be implemented. As such, I consider that there is not clear evidence that 44 homes will not be delivered on this site within the 5 year period and so I have retained that figure within the 5 year HLS.
68. Based on the above findings, **I have deducted 325 dwellings from the Council's** claimed supply of 2060 dwellings. This reduces the supply to 1735 dwellings against a requirement for 1992 dwellings. On that basis I conclude on the matter of 5 year HLS that **the Council can demonstrate 4.35 years' worth** of supply. I shall consider this further in the planning balance along with matters relating to the Housing Delivery Test (HDT) and measures that the Council is taking to address supply, including pipeline development beyond the 5 year period.

*Other matters*

69. I have had regard to concern that the proposed housing development would stop any future growth of the existing industrial area. In this respect the submitted Development Framework Plan shows provision for a 2 metre high acoustic fence alongside the western site boundary, relating to the prevention of noise transmission from the adjacent industrial uses. I have no substantive basis to consider that any new industrial uses would be likely to cause such additional noise as to be restricted, taking account of such mitigation measures.
70. Furthermore, together with the general principle of the proposed of dwellings being set away from the boundaries concerned, as shown on the Development Framework Plan, appropriate noise mitigation measures for the proposed development could be secured by condition. The Council raises some concern about the effect on the amenities of prospective residents if those measures resulted in windows having to be kept shut with a reliance on mechanical ventilation. However, I have no substantive basis to consider that any noise mitigation measures would be likely to harmfully affect those amenities, subject to further consideration at any reserved matters/conditions discharge stage.
71. In terms of the effect of the proposed development on the nearby Stalbridge Site of Nature Conservation Interest (SNCI), additional recreational use of this area would be inevitable. However, the area is already open to the public and measures could be put in place to ensure protection during construction, such as a Construction Environmental Management Plan secured by a condition. A financial contribution, via a planning obligation, towards measures to strengthen and maintain the habitat is also proposed thereby making it more robust in light of increased pressures. As such the proposed development would be unlikely to harmfully impact on the integrity of the SNCI.
72. In terms of the effect of the proposed development on local infrastructure, I have considered this in terms of the existing local facilities and services under the first main issue. Furthermore, the proposed development would make provision for appropriate financial contributions towards various local infrastructure to mitigate for any additional impacts, which are covered in more detail below under '*conditions and planning obligations*' including in relation to local primary and secondary education, healthcare, library services, leisure, sport and play facilities, local allotments, and rights of way.
73. In relation to primary school provision, the proposed financial contribution would be at the appropriate level to mitigate for the proposed development. However, the Council raises concern about the capacity of the existing school, projected to worsen, and the less than ideal situation if interim measures are required to accommodate additional pupils. This would not be an ideal situation whether it were to come about as a result of the proposed development alone or that the latter would add additional pressure to an already anticipated situation, albeit that there would be some time lag before such demand would be realised. Nevertheless, with the proposed financial contribution in place, I have no substantive basis to consider any measures to ensure adequate provision of education could not be acceptably provided, including on an interim basis.

74. The proposed development would inevitably introduce increased traffic in and around Stalbridge. The submitted Transport Assessment predicts likely trip generation and flow distribution and has been assessed by the Highway Authority (HA) as being satisfactory and robust. As such, the HA consider that the cumulative impact of the development would not be severe, having regard to the Framework. I have no substantive basis to consider differently or that there would be unacceptable harm caused in this respect.
75. Having regard to the water and sewerage system, I have no substantive evidence to indicate that this would not be able to cope with the proposed development. The proposals would include appropriate measures for the site relating to surface water drainage which could also be secured by condition. Furthermore, the Dorset Council Flood Risk Management Team raise no objections subject to such appropriate conditions. I have no substantive basis to consider differently.
76. Taking account of proposed on-site mitigation grassland creation, there would nevertheless be a net loss of grassland on the site. This would comprise the loss of existing semi-improved grassland. However, I have not received any substantive evidence to indicate that the existing grassland is of anything other than local interest or that is of particularly high ecological value. Furthermore, there are opportunities relating to the proposed development to provide enhanced habitat on the boundaries of the site and in the areas of proposed public open space which would be likely to at least partially mitigate for the loss of existing grassland. The proposals also include provision for an off-site biodiversity mitigation financial contribution to off-set the net loss on the site itself. The clear basis and need for that contribution is further identified in the submitted Biodiversity Plan Certificate of Approval which refers to such compensation being calculated in line with the Dorset Biodiversity Compensation Framework, and I have no substantive basis to consider otherwise. I cannot be certain that there would be any biodiversity net gain. However, for the above reasons, the proposed development would not cause unacceptable harm to biodiversity.
77. The Council and Appellant agree that the proposed development, both in isolation or cumulatively with other development, would not be likely to have any significant adverse effects on the Rooksmoor Special Area of Conservation (SAC). This is because any increased traffic flows would not cause the levels to **exceed Natural England's thresholds**, having regard to air quality. The Council highlights that this does not amount to no effect. However, whilst that may be the case, I have not received any substantive evidence to indicate any likely harm arising from any such effect.

#### *Conditions and planning obligations*

78. The Council has submitted 21 suggested conditions were I minded to allow the appeal. Some were subject to suggested amendments by the Appellant and Council during the course of the Inquiry. One of those original conditions, relating to provision of a link from the site onto the North Dorset Trailway, was agreed at the Inquiry to be unreasonable in terms of potential conflict with any need to provide an acoustic barrier along the boundary concerned. I have therefore omitted that condition. One further condition was also suggested during the Inquiry, relating to provision for a vehicular/pedestrian/cycle link-up to the adjacent land. The amended suggested conditions are generally agreed



by the Appellant, subject to some suggested amendments. I have considered these in the light of advice in the National Planning Practice Guidance and have, in the interests of clarity and precision, amended some of the wording. I have referred to the condition numbers, cross referenced to the attached annex, in brackets for clarity purposes.

79. The standard conditions (1, 2 and 3) would be necessary to ensure the submission of details relating to the reserved matters, the timescale for that, and the timescale for commencement of development. For certainty, a condition requiring the development to be carried out in accordance with the approved plans would also be necessary (4).
80. The following conditions would be necessary in the interests of highway safety: to ensure that the highway layout, turning and parking areas are completed in accordance with approved details (5); to secure provision of the first 15 meters of the proposed vehicular access prior to occupation of the development (6); to secure the approved visibility splays at the site access (7); to secure provision of a 2 metre wide footway from the site access to link with the existing footway to the west of the site, also in the interests of encouraging sustainable means of travel (8); and to ensure that construction activity is conducted in accordance with a Construction Traffic Management Plan, also in the interests of protecting local amenity (9).
81. In the interests of environmental sustainability, a condition would be necessary to secure provision for electric vehicle charging on the site (10). Also, to encourage the use of alternative modes of transport to the car, conditions would be necessary to secure provision for cycle parking (11); and the implementation of a Travel Plan (12).
82. In order to provide acceptable drainage for the proposed development, conditions would be necessary to secure the implementation of a surface water management scheme (13) and the maintenance and management of the surface water sustainable drainage scheme (14). Furthermore, in the interests of protecting the local environment and the health of prospective residents, a condition would be necessary to ensure that any contamination not previously identified on the site is appropriately remediated (15).
83. So as to provide acceptable living conditions for prospective residents of the proposed development, a condition would be necessary to secure the implementation of any noise mitigation measures identified as being needed (16).
84. In the interests of protecting the local environment and ecology, conditions would be necessary to secure the implementation of a Construction Environment Management Plan (17); adherence to the submitted Biodiversity Plan (18); implementation of an appropriate lighting scheme having regard to the protection of bats (19); and the implementation of a landscape and ecological management plan (20).
85. In order not to prejudice any potential future development of the adjacent land, the condition referred to above would also be necessary to ensure the implementation of a vehicular/pedestrian/cycle link-up to the relevant site boundary (21).

86. Planning Obligations have been submitted within a Unilateral Undertaking (UU) under Section 106 of the Act, making provision for the following:

- 40% of the proposed dwellings shall be affordable housing, in accordance with policy 8 of the Local Plan concerning the provision of affordable housing, and paragraph 65 of the Framework.
- Provision of on-site open space and associated works specification and management plan, including provision for a local equipped area for play. This would be in accordance with Local Plan policy 15 relating to the provision of green infrastructure and would be necessary in the interests of the amenities of prospective residents, the visual quality of the site and provision of a buffer to existing retained and enhanced site boundary hedgerows and trees.
- Provision for issuing sustainable travel vouchers to the first occupier of each dwelling which would be necessary in the interests of encouraging sustainable travel.
- Appropriate financial contributions towards the Trailway Strategic Project in the vicinity of the site; the provision of local allotments; Local Nature Reserve mitigation and maintenance; local play facilities maintenance; and local rights of way; all relating to likely increased use arising from the proposed development; and towards biodiversity mitigation. These would all be in accordance with Local Plan policy 15 relating to the provision of green infrastructure. They would also be necessary, respectively, in the interests of sustainable travel and the health benefits of using the Trailway; enabling local food production, along with the associated health and well-being and sustainability benefits relating to allotments; specifically relating to the nearby SNCI, which I shall address further below; the health and well-being benefits of play facilities, specifically relating to maintaining and/or upgrading those facilities at Jarvis Field Play Area and/or the Park Grove recreation grounds; the health and well-being of prospective residents and local accessibility relating to improvements to and maintenance of gates, stiles and bridleway and footpath surfaces of local rights of way; and to offset the net loss of grassland on the site.
- Appropriate financial contributions towards community, leisure and indoor sports facilities; primary and secondary education; local healthcare; library services; all to mitigate the increased use of such local services/facilities by prospective residents of the proposed development, and in accordance with Local Plan policy 14 relating to the provision of social infrastructure. These would also be necessary, respectively, in the interests of the health and well-being of prospective residents; providing appropriate access to education and, in respect of the secondary level, for the enhancement or provision of specialist provision and/or science provision at Sturminster Newton High School; provision of appropriate access to healthcare, specifically contributing to provision of a new clinical room in any of the surgeries that would be impacted upon by the proposed development within the Blackmore Vale GP partnership; and retaining and developing libraries as community hubs.

- Appropriate financial contribution towards the costs of making and, if confirmed, implementing a road traffic regulation order to extend the 30mph speed limit on Station Road in the vicinity of the proposed site access. This would be necessary in the interests of highway safety.
87. Having regard to the Local Nature Reserve mitigation and maintenance contributions, the UU sets out that these would relate to the nature reserve at Rooksmoor and/or Stalbridge local nature reserve off Station Road and/or Blackmoor Vale Commons and Moors Site of Special Scientific Interest (SSSI). However, with the exception of Stalbridge SNCI, there is no substantive evidence to indicate that sufficient harm would otherwise be caused to the integrity of the sites concerned to justify the need for measures supported by the contribution concerned. I have therefore not taken into account that element of the UU relating to potential contributions to the nature reserve at Rooksmoor and/or Blackmoor Vale Commons and Moors SSSI.
88. In relation to the proposed financial contribution for pedestrian/cycle connectivity, there was some discussion at the Inquiry as to what this would be used towards. From the evidence and that discussion, no specific works have been identified and no safety reasons have been identified. This is also in light of there being other proposed contributions relating to the Trailway and local rights of way. There is therefore no clear justification for this separate contribution and so I have not taken it into account in my decision.

*Planning balance*

89. I have found that the proposed development would be in conflict with the **Council's spatial strategy set out in Local Plan policies 2, 6 and 20**. It would also have some specific shortcomings in terms of that spatial strategy, with particular regard to housing distribution and location and sustainable travel, having regard to local and national policy, which I have found would amount to moderate harm in respect of this issue.
90. I have also found that the proposed development would cause some harm to the landscape character and appearance of the area, with particular regard to that relating to the countryside comprising the site and surrounding area and the setting of the existing settlement of Stalbridge. For the reasons set out, I have found that the extent of that harm would again be moderate.
91. The Council is not able to demonstrate a 5 year HLS and I have found the figure to **be 4.35 years' worth of supply**. Furthermore, there is a poor record of recent completions identified through the Housing Delivery Test (HDT) whereby delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. As such, having regard to paragraph 11(d) of the Framework, the most important policies for determining the appeal are out-of-date and the tilted balance is engaged.
92. Having regard to the poor housing delivery performance in recent years referred to above, the Council has not produced an Action Plan to address this. However, notwithstanding the 5 year HLS position, in terms of meeting the housing requirement within the Plan period as a whole going beyond the 5 year period, it is evident that there are factors that indicate how the Council is being proactive in trying to achieve that. These include, amongst others, the substantial urban extension, through allocated sites relating to Gillingham where s106 Agreements relating to planning obligations have now been signed

and the primary new road serving them is anticipated to be completed later this year; other pipeline development beyond the 5 year period including sites with outline planning permission for housing; supporting Neighbourhood Plans and associated housing allocations; gaining funding as part of the Brownfield Land Release Fund, including sites in the north of the county albeit amounting to only 40 homes; supporting community land trusts and development of a Building Better Lives programme. I also note that the Council has shown some flexibility in approving development beyond settlement boundaries.

93. Whilst the above factors are important, there is no clear evidence or guarantee that this will ensure that the housing requirement will be met within the Plan period. The Council is also clearly in the process of producing its emerging Local Plan with the implications that would have for provision of new housing on an ongoing basis. However, due to the early stage it is at towards adoption, only limited weight can be afforded it.
94. **Having regard to the Government's objective of significantly boosting** the supply of homes, the proposed development would have the benefit of contributing up to 130 dwellings towards the supply of housing in the District. There cannot be certainty as to the speed at which the proposed development would be progressed once commenced or whether the full 130 dwellings would be included in a detailed proposal. However, in terms of what can be controlled, even if all of the proposed dwellings would not necessarily be built within the 5 year period, the Appellant is in agreement with a condition that would ensure that development commences relatively quickly on site, within 1 year from the final approval of the reserved matters, which themselves would be submitted within 2 years of any planning permission. Of those up to 130 dwellings, the proposed 40% contribution to the supply of needed affordable housing in the District as a whole would, despite being at the Local Plan policy compliant level, be an added benefit. Those combined benefits alone would therefore attract significant weight. This is particularly in the scenario whereby the Council is not currently able to demonstrate a 5 year HLS.
95. There would also be likely significant economic benefits relating to the provision of construction related jobs during the construction phase, albeit on a temporary basis for the duration of that phase; and then in terms of local spending by prospective residents of the proposed development, such as in shops and in relation to other services and facilities. Furthermore, the proposed on-site public open space and play provision, although required in respect of the proposed development and not directly accessed from the Trailway, would also be likely to benefit existing local people to a degree in terms of providing additional choice alongside that which already exists locally.
96. Notwithstanding my findings in relation to the main issues, I have found there to be no other matters that would cause unacceptable harm, subject to appropriate conditions and planning obligations where applicable.
97. Taking all of the above into account, in applying paragraph 11(d)(ii) of the Framework, the extent to which there would be adverse impacts of granting planning permission relating to the first and second main issues, would not significantly and demonstrably outweigh the above benefits of the proposed development, when assessed against the policies in the Framework taken as a whole.

Conclusion

98. For the reasons given above I conclude that the appeal should be allowed.

*Andrew Dawe*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Martin Carter – Counsel, Kings Chambers

Instructed by Peter Dutton

He called:

Silke Gruner (for round table discussion (RTD) on landscape character and appearance matters)

Associated Director of Landscape Architect and Urban Designer, CSA Environmental

Ben Pycroft (for RTD on housing need and land supply matters)

Director, Emery Planning

Nigel Weeks

Consultant, Stirling Maynard Transportation

Peter Dutton

Planning Manager, Gladman Developments Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

George Mackenzie – Counsel, FTB Chambers

Instructed by Philip Crowther, Dorset Council Legal Services

He called:

Helen Lilley

Senior Landscape Architect, Planning Service, Dorset Council

Jo Witherden

Planning Consultant, Dorset Planning Consultant Limited

Philip Reese

Senior Planning Policy Officer, Community Planning Team, Dorset Council

And also Robert Lennis, Area Lead (Major Projects) Eastern Planning Dorset Council in respect of the RTD on conditions and planning obligations.

### INTERESTED PARTIES:

Cllr Graham Carr-Jones

Ward Member for Stalbridge and Marnhull, Dorset Council  
Cabinet Member for Housing & Community Safety

Stuart Waite

Member of Stalbridge Town Council

## INQUIRY DOCUMENTS (IDs)

1. Opening submissions of the Appellant.
2. Opening statement on behalf of the Council.
3. Statement made by Cllr Carr-Jones.
4. Extracts from The Institution of Highways & Transportation 2000 document: Guidelines for Providing for Journeys on Foot, submitted by the Council.
5. Table received from the Council relating to the latest status of sites in the North Dorset 6-10 year supply with outline permission at 1 April 2021.
6. Site visit itinerary.
7. Statement made by Stuart Waite.
8. Email from the Council confirming validation of a reserved matters application for Lodden Lakes Phase 2 (site A03 in the Scott Schedule).
9. Response from the Appellant to the above ID8 email.
10. Unilateral Undertaking (undated) including manuscript amendments.
11. **Council's** suggested amendments to revised conditions.
12. Updated CIL Compliance Schedule submitted by the Council.
13. Email from the Council with attached agenda item relating to Lower Road appeal, including putative reasons for refusal.
14. Judgement relating to Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government and Central Bedfordshire Council.
15. Upper Tribunal decision relating to matter between Leech Homes Ltd and Northumberland County Council.
16. Certified copy of Unilateral Undertaking.
17. Closing statement on behalf of the Council.
18. Closing submissions of the Appellant.

## ANNEX - CONDITIONS

1. No part of the development hereby approved shall commence until details of all reserved matters, including layout, appearance, scale, and landscaping have been submitted to and approved in writing by the Local Planning Authority.
2. An application for approval of any 'reserved matter' shall be made not later than the expiration of 2 years beginning with the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of 1 year from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: CSA/4521/100 Rev A (Location Plan); P19094-00-05 (Site Access Drawing).
5. Notwithstanding the information shown on the approved plans, prior to the commencement of any works on site, details of the geometric highway layout, turning and parking areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried-out and completed in accordance with the approved details and retained in the approved form thereafter.
6. Before the development is occupied or utilised, the first 15.00 metres of the vehicle access, measured from the rear edge of the highway, shall be laid out and constructed to a specification firstly submitted to and approved in writing by the Local Planning Authority.
7. Prior to occupation of any dwelling hereby approved, the visibility splay areas as shown on the approved plans (ref: Drawing Number P19094-00-05) shall be provided to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway. The splay areas shall thereafter be maintained and kept free from all obstructions.
8. No dwelling hereby approved shall be occupied until a 2.00m wide footway running from the site entrance westwards to join up with the existing footway outside Station Road Business Park, as shown on Dwg No P19094-00-05, has been provided and made available for use in accordance with details which shall firstly have been submitted to and approved in writing by the Local Planning Authority.



9. Prior to commencement of any works on site, a Construction Traffic **Management Plan ('CTMP')** shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include:

- construction vehicle details (number, size, type, and frequency of movement)
- a programme of construction works and anticipated deliveries/timings of deliveries to avoid, where possible, peak traffic periods
- a framework for managing abnormal loads
- **contractors' arrangements (compound, storage, parking, turning, surfacing and drainage)**
- wheel cleaning facilities
- vehicle cleaning facilities
- a scheme for inspecting the highways serving the site prior to work commencing and at regular, agreed intervals during the construction phase
- a scheme of appropriate signing of vehicle route to the site
- a route plan for all contractors and suppliers to be advised on
- temporary traffic management measures where necessary.

Development shall take place in accordance with the approved CTMP.

10. Prior to the construction of any part of the development above damp proof course level, a scheme to enable the charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations within the development (along with a timetable for their provision), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and timetable and retained as such thereafter.

11. Prior to the first occupation of any dwelling hereby approved, a scheme detailing cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be installed as approved prior to the first occupation of the dwelling and shall be retained as such and kept free from obstruction and be available for the purpose specified thereafter.

12. Prior to the first occupation of the development, a Full Travel Plan based on the principles set out in the Framework Travel Plan dated December 2019 shall be submitted to and approved in writing by the Local Planning Authority. The Full Travel Plan shall as a minimum include:

- i. Measures for promoting sustainable modes of travel to residents of the development;
- ii. **Arrangements for monitoring and reviewing the Travel Plan's objectives;**

- iii. Appointment of a Travel Plan Co-Ordinator;
- iv. Travel Information Packs for the first occupiers of each completed dwelling;
- v. Measures for disseminating updated sustainable travel information and Travel Plan updates to residents for the duration of the Travel Plan's lifetime.

The Full Travel Plan shall be implemented in accordance with the approved details and the development shall be carried-out and operated in accordance with the approved Travel Plan thereafter.

13. Prior to the commencement of any works on site, a surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the Local Planning Authority. The surface water scheme thereby approved, shall be implemented in accordance with the approved details before the development is completed.
14. Prior to commencement of any works on site, details of the maintenance & management of the surface water sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These shall include a plan which covers the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.
15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, no further work shall take place until a remediation strategy for dealing with that contamination has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved remediation strategy. Following completion of the measures set out in the approved remediation strategy a verification report shall be submitted to the Local Planning Authority demonstrating compliance with the said strategy.
16. The application for reserved matters for 'layout' and 'appearance' made pursuant to Condition 1 of this planning permission, shall be accompanied by a noise mitigation scheme setting out the measures that shall be implemented to mitigate any potential adverse effects arising from noise sources (including for the avoidance of doubt the site currently known as Hunts Food Service). The noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority, and the approved

scheme shall be implemented in full prior to the occupation of any dwelling requiring such mitigation measures and maintained in perpetuity thereafter.

17. Prior to commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority demonstrating mitigation strategies to be used on site during development. As a minimum the CEMP shall include details of the following:

- Measures to control the emission of dust, dirt and smoke during construction, together with a scheme to control noise and vibration during the construction phase of the development;
- Measures to protect all retained and newly created hedgerows and trees with an appropriate buffer for the duration of the construction period in line with BS 5827:2012 and the recommendations of the submitted Arboricultural Impact Assessment prepared by CSA Environmental (November 2019); and
- Avoidance measures in relation to the potential presence of nesting birds, badgers, hedgehogs, dormice and reptiles for the duration of the construction period.

The approved CEMP shall be adhered to throughout the construction period for the development.

18. The development hereby approved shall be completed in accordance with **the certified submitted Biodiversity Plan ('BP') (dated 1 July 2021) and any** subsequent reserved matters application(s) shall provide detail of the ecological enhancement measures contained therein. Any measures relating to the construction phase shall be adhered to throughout the construction of the development. Any measures relating to the operational phase shall be implemented in accordance with the BP and shall thereafter be retained for the life of the development.

19. Prior to the construction of any dwelling hereby approved above damp proof course, a detailed lighting scheme shall be submitted to and approved in writing by the Local Planning Authority (the scheme shall be designed by a **suitably qualified person and in accordance with the Bat Conservation Trust's** Guidance Note 08/18 (Bats and artificial lighting in the UK), and take account of the proposed bat mitigation measures set out in Section D of the approved Biodiversity Plan dated 1 July 2021). The development shall thereafter be completed and maintained in accordance with the approved details.

20. Prior to commencement of any works on-site, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. The content of the LEMP shall have due regard to the certified Biodiversity Plan (BP) and include the following:

- a) Description and evaluation of features existing and/or to be created and managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management as set out in the BP.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body (or bodies) responsible for its delivery. The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Development shall take place in accordance with the approved LEMP which shall be adhered to for the lifetime of the development.

21. The application for reserved matters for layout made pursuant to Condition 1 of this planning permission, shall show details of a vehicular/pedestrian/cycle link-**up to the site's boundary with Title Number DT406057**. Prior to the first occupation of 75% of the proposed dwellings, the vehicular/pedestrian/cycle link-up shall be constructed in accordance with the approved details.

EP4



Ministry of Housing,  
Communities &  
Local Government

Our ref: APP/Z1510/V/17/3180729

Mr Jonathan Dixon  
Savills (UK) Ltd  
Unex House  
132-134 Hills Road  
Cambridge  
CB2 8PA

8 July 2019

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY DAVID WILSON HOMES EASTERN  
LAND EAST OF GLENEAGLES WAY, HATFIELD PEVEREL, CM3 2JT  
APPLICATION REF: 16/02156/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Brian Cook BA (Hons) DipTP MRTPI, who held a public local inquiry from 12 December 2017 to 30 January 2018 into your client's application for outline planning permission for residential development of up to 120 dwellings, together with associated open space, landscaping, highways and drainage infrastructure works on land east of Gleneagles Way, Hatfield Peverel in accordance with application ref: 16/02156/OUT, dated 16 December 2016.
2. On 12 July 2017, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that that planning permission be granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated and agrees with his recommendation. He has decided to grant planning permission subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Procedural matters**

5. On 21 June 2018 the Secretary of State wrote to the main parties to afford them an opportunity to comment on the implications, if any, of the judgement of the Court of

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Justice of the European Union (CJEU) in Case C-323/17 People Over Wind and Sweetman v Coillte Teoranta on the correct application of the Habitats Directive 92/43/EEC, which was handed down on 12 April 2018.

6. On 1 August 2018, the Secretary of State wrote further to the main parties, to afford them an opportunity to make representations on the implications, if any, on the new National Planning Policy Framework, which was published on 24 July 2018.
7. On 2 October 2018, the Secretary of State wrote further to the main parties, to afford them an opportunity to make representations on the implications, if any, on the revised guidance on how councils should assess their housing need, which was published on 13 September 2018, and on new household projections for England published by the Office of National Statistics on 20 September 2018.
8. On 5 March 2019, the Secretary of State wrote to the main parties, to afford them an opportunity to make representations on the implications, if any, on the following documentation:
  - Written Ministerial Statement (WMS) on housing and planning issued on 19 February 2019
  - 2018 Housing Delivery Test measurement data published on 19 February 2019
  - The Government's response to the technical consultation on updates to national planning policy and guidance, dealing with the calculation of Local Housing Need and other matters, including the People Over Wind and Sweetman v Coillte Teoranta issue, published 19 February 2019.
  - Revised National Planning Policy Framework, published on 19 February 2019.
  - Updated guidance for council's on how to assess their housing needs (document).
  - Braintree District Council's latest published 5 year supply statement, January 2019 (see also paragraphs 36 to 43 of this letter).
  - Latest position statement with regard to the emerging Hatfield Peverel Neighbourhood Plan, and weight to be attached to that.
  - Three recent planning casework decisions (brought to the Secretary of State's attention by the Stone Path Meadow Residents Group - SPMRG).
9. A list of representations received in response to these letters, is set out at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
10. In addition, a number of representations were received following the close of the inquiry. These raised a variety of issues, and are dealt with under the considerations of main issues below. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. A list of representations which have been received since the inquiry is also at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

## **Policy and statutory considerations**

11. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
12. In this case the development plan consists of the saved policies of the Braintree District Local Plan Review (LPR) adopted in 2005 and the Braintree District Core Strategy (CS), adopted in 2011. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR25-32.
13. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the revised Framework.

### *Emerging plan*

14. The emerging plan comprises the Braintree New Local Plan (BNLP) and the Hatfield Peverel Neighbourhood Development Plan (NDP). The Secretary of State considers that the emerging BNLP policies of most relevance to this case include those set out in IR34-38 and the emerging NDP policies of most relevance are HPE1, HPE2 and HPE6 as described at IR41-42.
15. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
16. At the time of the Inquiry the examination hearings into part 1 of the BNLP were due to commence in January 2018, with Part 2 to follow at a later date. The Secretary of State notes that on 8 June 2018, the Inspector for the emerging Local Plan wrote to the three local planning authority areas covered by the Part 1 Examination, setting out his views as to the further steps he considered necessary in order for the Section 1 Plan to be made sound and legally-compliant, and seeking views on options to pursue these matters. A joint response from the three authorities dated 19 October proposed suspending the Examination until February 2019, with a view to sitting again in June. In the light of these letters, and for the reasons given in IR425-428, the Secretary of State agrees with the Inspector that only limited weight should be given to the BNLP.
17. The Secretary of State notes that while some progress has been made with regard to the NDP since the close of the Inquiry, the further examination of the NDP has not yet concluded. For the above reasons, and for the reasons given in IR429-431, the



Secretary of State agrees with the Inspector that very limited weight can be given to the NDP at this stage.

## **Main issues**

### *Policies in the Framework on delivering a wide choice of high quality homes*

18. For the reasons given in IR420-422, the Secretary of State agrees with the Inspector that the Green Infrastructure Plan and Design and Access Statement set important context and establish important principles at this outline application stage, and that there is no evidence to suggest that the application site will not provide a range of high quality homes.

### *The extent to which the proposed development is consistent with the development plan for the area*

19. For the reasons given in IR435-437, the Secretary of State agrees with the Inspector that although as a policy for the supply of housing policy CS1 should be considered out of date, the spatial strategy within it should still be afforded some weight, and he considers that a moderate weighting is appropriate. The Secretary of State further agrees with the Inspector for the reasons in IR435-437 that the appeal proposals would be in accordance with the spatial strategy. For the reasons given in IR438-446, the Secretary of State further agrees with the Inspector that there is a conflict with adopted development plan policies RLP2 and CS5, concerning development outside of defined boundaries of settlements, where countryside policies apply. The Secretary of State further agrees with the Inspector that the conflict with policies RLP2 and CS5 should attract moderate weight when it comes to the overall planning balance, given that they would act to restrict the supply of housing and frustrate the aim of the Framework paragraph 59. He notes that the local planning authority in their representation of 22 October 2018 share his view as to the weight to be attached to policies RLP2 and CS5 at this time.

### *The effect of the development on the landscape character of the area and the visual impact that the development would have*

20. The Secretary of State agrees with the Inspector's view in IR448 that it is necessary to take into account the context of the appeal site, and notes the historic pattern of growth described in IR 448-449. For the reasons given in IR450-458 the Secretary of State agrees with the Inspector at IR459 that the studies presented set an important context for an assessment of the effect of the development proposed on the character of the landscape, and that none of the studies suggest that suitably designed development could not be accommodated. However, the Secretary of State also acknowledges that the development would have some adverse effect on landscape character by the replacement of a small arable field with a housing development. The impact however would be very localised and limited.
21. In terms of visual impact, for the reasons given in IR461-472, the Secretary of State agrees with the Inspector's assessments of the impact of the development on views

across the site to the landscape beyond and views back towards the settlement edge from distance.

22. For the reasons given in IR473-478 the Secretary of State agrees with the Inspector that the development would not be detrimental to any distinctive landscape features and would integrate successfully into the local landscape, and enhance the settlement edge as it appears as a feature in the landscape. He finds no conflict with the landscape elements of policy RLP 80, or of the third paragraph of policy CS8.
23. For the reasons given in IR479, the Secretary of State agrees with the Inspector that while harm in relation to visual impact has been identified, this can only attract limited weight. In particular, he agrees with the Inspector's view on the very limited weight to be attached to policy HPE6 of the emerging NDP concerning protected views, given concerns around the evidence base supporting that policy as well as the more general point around progress on that plan.

#### *The effect of the development on community infrastructure*

##### *Education*

24. The Secretary of State notes that by virtue of his decision on this case and on the proposals at land off Stone Path Drive, Hatfield Peverel, that the four residential developments listed in the letter attached to the Education Statement of Common Ground (Inquiry Document ID1.8) are now being taken forward. There is therefore a need for additional primary school capacity. While the issue will resolve itself over time through the operation of the admissions policy, there would be a short term impact which is most likely to manifest itself through additional journeys to school, either by bus or private car.

##### *Health*

25. The Secretary of State notes the Inspector's summary of evidence submitted on health matters at IR487-489, and has considered the subsequent closure of the Sydney House and Laurels surgeries to new registrations.
26. The Secretary of State remains of the view, for the reasons set out by the Inspector in IR490-492, that in terms of both health and education, the Appellant has entered into planning obligations to make all the contributions that have been requested to mitigate any effect from the appeal scheme, and that a finding of conflict with policy CS11 in those circumstances would not be appropriate.

##### *Erosion of gap between Hatfield and Witham*

27. For the reasons given in IR493-494, the Secretary of State agrees with the Inspector that this matter has "material planning consideration" status, and that there would be a conflict with emerging NDP policy HPE1. He notes the current position with the emerging BNLP described in IR495, and the matters at IR497-498 which could fall to be addressed by the appointed examiner for the emerging NDP.
28. For the reasons given in IR500-504, the Secretary of State agrees with the Inspector that the loss of the field to residential development would have no perceptible effect on the effective gap between Hatfield Peverel and Witham, and that only very limited weight can be given to the conflict with policy HPE1.

### *Loss of best and most versatile agricultural land*

29. All parties were content to proceed on the basis that the application site should be considered to be best and most versatile agricultural land. For the reasons given in IR505-509, the Secretary of State agrees that the application proposal would not protect best and most versatile agricultural land as required by policy CS8, and also that policy CS8 is inconsistent with paragraphs 170, 171 and footnote 53 of the Framework. In accordance with Framework paragraph 213, the Secretary of State finds that limited weight should be given to the conflict with policy CS8.

### *Other matters*

30. A post-inquiry representation referred to the cancellation of one bus route that served Hatfield Peverel. The Secretary of State has taken this into account, but remains of the view that Hatfield Peverel still demonstrates good public transport links.

### *Appropriate Assessment*

31. Following the reference back to parties exercise described in paragraph 5 of this letter, the Secretary of State has concluded that the screening assessment undertaken for the purposes of this application and presented to the inquiry is no longer legally sound.

32. Therefore, as competent authority for the purposes of the Conservation of Habitats and Species Regulations 2010, the Secretary of State has carried out a new screening. He has concluded on the basis of this screening that an Appropriate Assessment is required, and has carried out that assessment, consulting Natural England as the appropriate nature conservation body. Both the screening and appropriate assessment are attached to this decision letter at Annex C. On the basis of his appropriate assessment, and for the reasons set out in that assessment, the Secretary of State considers that he can safely conclude that the proposed development would not adversely affect the integrity of any European site.

33. The Secretary of State notes that under paragraph 177 of the Framework, the presumption in favour of sustainable development does not apply where a plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the that the plan or project will not adversely affect the integrity of the habitats site.

### *Five year housing land supply*

34. The Secretary of State has considered the Inspector's findings as regards housing land supply at IR512-516. However, following the publication of the revised Framework, guidance on the calculation of local housing need, and revised household forecasts, he has set out his own conclusions below.

35. Paragraph 73 of the Framework indicates that in the circumstances of this case, local housing need should be applied. The Secretary of State has therefore calculated the local housing need figure based on the methodology published alongside the revised Framework 19 February 2019.

36. On 11 April 2019, the local authority published an Addendum to their Monitoring Report, and a 5 Year Supply Site Trajectory. This reflected the Housing Delivery Test 2018 data

published in February 2019; new affordability ratios published by the Office for National Statistics on 28 March 2019, and additional information relating to supply of sites.

37. In summary, the Addendum set out a 5 year land supply position for the authority of 5.29 years. While the version of the monitoring statement on which the Secretary of State referred back to parties was published on 15 January 2019, given the minor change in the authority's assessment from 5.42 years supply to 5.29 years, and given his conclusions below, the Secretary of State did not consider it necessary to further refer back to parties on this issue.
38. The Secretary of State has reviewed the material published on 11 April 2019, and has also considered the representations of parties made on this issue in response to his letter of 5 March 2019 and, subsequent emails recirculating representations that had been received.
39. Planning Practice Guidance states that in principle an authority will need to be able to demonstrate a 5 year land supply at any point to deal with applications and appeals, unless it is choosing to confirm its 5 year land supply, in which case it need demonstrate it only once per year. *Paragraph: 038 Reference ID: 3-038-20180913*
40. In this case, the authority has not chosen to confirm its 5 year land supply. Paragraph 74 of the National Planning Policy Framework sets out that this can only be carried out through a recently adopted plan (defined in footnote 38 of the Framework) or subsequent annual position statement. In the circumstances, the Secretary of State has therefore considered the latest evidence before him.
41. Having reviewed the housing trajectory published on 11 April 2019, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission does not meet the requirement in the Framework Glossary definition of "deliverable" that there be clear evidence that housing completions will begin on site within five years. He has therefore removed 10 sites from the housing trajectory, these are listed at Annex D to this letter.
42. The Secretary of State considers that, bearing this definition in mind, the authority are able to demonstrate around 4.15 years supply.
43. The Secretary of State has therefore concluded that the authority is unable to demonstrate a 5 year housing land supply. Given this finding, and the objective of significantly boosting the supply of new homes, he attaches great weight to the provision of housing.

### **Planning conditions**

44. The Secretary of State has given consideration to the Inspector's analysis at IR394-413, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy tests set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.

## **Planning obligations**

45. Having had regard to the Inspector's analysis at IR414-417, the planning obligation dated 8 January 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR418 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.
46. The Secretary of State has taken into account the number of planning obligations which have been entered into on or after 6 April 2010 which provide for the funding or provision of a project or type of infrastructure for which an obligation has been proposed in relation to the application. Having had regard to the Inspector's analysis at IR414-417, the Secretary of State concludes that the obligations are compliant with Regulations 123(3), as amended.

## **Planning balance and overall conclusion**

47. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies RLP 2 and CS5 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
48. The Secretary of State has concluded that the authority is not able to demonstrate a 5-year supply of housing land, therefore the presumption in favour of sustainable development applies because of the effect of paragraph 177 of the revised Framework (as set out in paragraph 33 of this letter above).
49. The Secretary of State considers that the housing benefits of the proposal carry great weight, and the economic benefits in terms of jobs and increased expenditure carry moderate weight. He attaches limited weight to the enhanced biodiversity arising from the new boundary planting.
50. The Secretary of State considers that the conflict with the adopted development plan policies attract moderate weight, and that harm caused in relation to visual impact is limited. He further concludes that only very limited weight can be attached to conflict with policy HPE6 of the emerging NDP. He attaches very limited weight to the conflict with emerging policy HPE1 which seeks to address the coalescence of settlements and limited weight to the conflict with policy CS8 (BMVL).
51. Overall, the Secretary of State concludes that there are material considerations that indicate that the proposal should be determined other than in accordance with the development plan. He therefore concludes that planning permission should be granted.

## **Formal decision**

52. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants outline planning permission subject to the conditions set out in Annex B of this decision letter for residential development of up to 120 dwellings, together with associated open space, landscaping, highways and drainage infrastructure works on land east of Gleneagles Way, Hatfield Peverel in accordance with application ref: 16/02156/OUT, dated 16 December 2016.

53. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### **Right to challenge the decision**

54. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
55. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
56. A copy of this letter has been sent to Braintree District Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Andrew Lynch*

Andrew Lynch  
Authorised by the Secretary of State to sign in that behalf

## Annex A – Schedule of representations

### General representations

Party	Date
Mr East	14 and 26 March, 23 May and 7 September 2018
Rt Hon Priti Patel MP, encl correspondence from Mr East and Mr Ellison	15 March 2018
Mr Kearns	22 March, 18 April and 5 June 2018
Cllr Derrick	6 April 2018
Mr Simmonds	6 June 2018
Rt Hon Priti Patel MP	2 October 2018
Hatfield Peverel Parish Council	12 November 2018 and 18 February 2019

### Representations received in response to the Secretary of State's reference back letter of 21 June 2018

Party	Date
Hatfield Peverel Parish Council	6 August (x3) 2018

### Representations received in response to the Secretary of State's reference back letter of 1 August 2018

Party	Date
Hatfield Peverel Parish Council	14 and 29 August (x2) and 5 September 2018
Savills	15 August 2018

### Representations received in response to the Secretary of State's reference back letter of 2 October 2018

Party	Date
Hatfield Peverel Parish Council	10 and 22 October 2018
Savills	11 and 19 October 2018
Braintree District Council	22 October 2018

### Representations received in response to the Secretary of State's reference back letter of 5 March 2019

Party	Date
Hatfield Peverel Parish Council	25 March, 2 and 18 April 2019
Savills	25 March (x3) and 2 April (x2) 2019
Braintree District Council	26 March 2019

## Annex B List of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 120 dwellings, parking, public open space, landscaping, surface water attenuation and associated infrastructure and demonstrate compliance with the approved plans listed below and broad compliance with the approved plans listed below:  
Approved Plans:

Location Plan:	1296/01 FINAL
Access Details:	45604-P-SK205
- 5) Prior to first occupation of the development hereby permitted the provision of the following works shall have been completed, details of which shall have been submitted to and approved in writing by the local planning authority prior to implementation:
  - The access to the application site shown in principle on drawing 45604-P-SK205
  - The cycle/pedestrian access between Gleneagles Way and Glebefield Road as shown in principle on Drawing 45604-P-SK200
  - Improved no entry signage at the end of the A12 southbound off-slip for drivers on The Street, plus improved speed limit signs and road markings for drivers leaving the A12 as show in principle on Drawing 45604-P-SK202
  - Improvements to the visibility splay from Gleneagles Way towards the A12 southbound off-slip shown on Drawing 45604-P-SK20 to include trimming/removal of vegetation/trees, relocation/replacement of signs/street furniture/lamp column(s), regrading/hardening of highway land.
  - A footway and (A12) road signage improvements at The Street/A12 north bound on-slip junction as shown in principle on Drawing 45604-P-SK201.
  - Improvements to the (A12) road signage, kerb alignment and road markings at The Street/Maldon Road as shown in principle on Drawing 45604-P-SK201.
  - The provision of dropped kerbs and associated works where the footway from Hatfield Peverel to Witham crosses the A12 northbound on-slip to the south of the Petrol Filling Station (former Lynfield Motors site), Hatfield Road, Witham.
  - The provision of a zebra crossing on B1019 Maldon Road in the approximate position shown on Drawing 45604-P-SK207
- 6) **No building erected on the site shall exceed two storeys in height or have a maximum ridge height of more than 9 metres.**
- 7) Any Reserved Matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels.



The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall be carried out in accordance with the approved levels.

- 8) Together with any submission of reserved matters, details of sound insulation measures must be submitted to and approved in writing by the local planning authority. The details must demonstrate that internal noise levels do not exceed 35 dB LAeq 16 hour in living rooms during the daytime (07:00 - 23:00) and also do not exceed 30 dB LAeq 8 hour in bedrooms during the night-time period (23:00 - 07:00) as set out in BS 8233: 2014. In addition, the details must demonstrate that maximum night-time noise levels in bedrooms should not exceed 42 dB L<sub>Amax</sub> more than 10 to 15 times per night. The development must be carried out in accordance with the approved details.
- 9) Together with any submission of reserved matters, details of the proposed boundary mitigation (noise barrier) must be submitted to and approved in writing by the local planning authority. The details must demonstrate that external noise levels will not exceed 55 dB LAeq 16 hour in any of the private residential gardens. The development must be carried out in accordance with the approved details.
- 10) Prior to the commencement of development hereby permitted, a wildlife protection plan shall be submitted and approved by the local planning authority identifying appropriate measures for the safeguarding of protected species and their habitats within that Phase. The plan shall include:
  - an appropriate scale plan showing protection zones where any construction activities are restricted and where protective measures will be installed or implemented;
  - details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
  - details of how development work will be planned to mitigate potential impacts on protected species, as informed by the project ecologist;
  - a person responsible for:
    - a) compliance with legal consents relating to nature conservation;
    - b) compliance with planning conditions relating to nature conservation;
    - c) installation of physical protection measures during construction;
    - d) implementation of sensitive working practices during construction;
    - e) regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
    - f) provision of training and information about the importance of "Wildlife Protection Zones" to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

- 11) Any Reserved Matters application relating to landscaping as required by Condition 1 of this permission shall incorporate for the written approval of the local planning authority a detailed specification of hard and soft landscaping works for each phase of the development. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and

lighting. The scheme and details shall be implemented as approved. The scheme and details shall provide for the following:

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed as part of that scheme by the local planning authority.

Prior to the occupation of each dwelling, the hardstanding associated with that dwelling shall be fully laid out.

Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species.

Any Reserved Matters application relating to landscaping shall be accompanied by cross section drawings showing the relative heights of the proposed dwellings in association with landscape features.

12) No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall be implemented as approved. The Statement shall provide for:

- Safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works.
- A scheme to control noise and vibration during the construction phase
- Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.

- 13) Demolition or construction works, including starting of machinery and delivery to and removal of materials from the site shall take place only between 08.00 hours and 18.00 hours on Monday to Friday; 08.00 hours to 13.00 hours on Saturday; and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 14) Details of any proposed external lighting to the site for each phase of the development shall be submitted to, and approved in writing by, the local planning authority as part of any Reserved Matters application. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). For the avoidance of doubt the details shall also:
- identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- All lighting shall be installed, maintained and operated in accordance with the approved details.
- 15) No piling shall be undertaken on the site in connection with the construction of the development until details of a system of piling and resultant noise and vibration levels has been submitted to and approved in writing by the local planning authority. The approved details shall be adhered to throughout the construction process.
- 16) No development or preliminary groundworks shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following completion of the programme of archaeological evaluation as approved within the written scheme of investigation.

No development or preliminary groundworks shall commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

Within 6 months of the completion of fieldwork a post-excavation assessment shall be submitted to the local planning authority. This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum and submission of a publication report.

- 17) No development shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted

to and approved in writing by the local planning authority. The approved scheme shall subsequently be implemented prior to occupation.

The scheme shall include but not be limited to:

- Limiting discharge rate to 1.25l/s/ha;
- Providing sufficient storage to manage the 1 in 100 year + 40% climate change storm event on site with no flooding of the formal drainage system during the 1 in 30 year event. Provide sufficient storage so that no flooding will occur during the 1 in 30 year event in the case of pump failure;
- Provide adequate treatment across all elements of the development.

18) No development shall commence until a Maintenance Plan detailing the maintenance arrangements for each phase of the development, including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and approved in writing by the local planning authority. The Maintenance Plan shall be implemented as approved.

The applicant or any successor in title or adopting authority shall maintain yearly logs of maintenance which shall be carried out in accordance with any approved Maintenance Plan for each phase of the development. These shall be available for inspection upon a request by the local planning authority.

19) No development shall commence until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

20) No development shall commence until a foul water strategy has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the local planning authority.

21) As part of the submission of the first reserved matters application as detailed within Condition 1, an Arboricultural Method Statement (AMS) shall be submitted and approved in writing by the local planning authority. The AMS will include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, site storage and other construction related facilities. The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (to include frequency of visits; and key works which will need to be monitored) and how they will record their monitoring and supervision of the site.

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

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities within that Phase of the development and shall remain in place until after the completion of the development.

The local planning authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

- 22) No above ground works shall commence in the relevant phase of the development until details of the location of refuse bins, recycling materials storage areas and collection points shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter so retained.
- 23) No clearance of trees, shrubs or hedges in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.
- 24) Prior to the commencement of above ground construction of the relevant phase of the development details of a scheme for the provision of nest and roost sites for birds and bats shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and thereafter so retained.
- 25) Prior to submission of the first application for Reserved Matters pursuant to this planning permission an updated survey of the application site will have been carried out by a suitably qualified and experienced ecologist to investigate the potential presence on the application site of badgers, bats, reptiles and Great Crested Newts.

Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority for approval as part of the first application for Reserved Matters pursuant to this planning permission.

- 26) In the event that development is not commenced (or, having commenced, is suspended for more than 12 months) within three years of the planning consent, further surveys for Great Crested Newts as necessary shall be undertaken of all suitable ponds within 500 metres of the application site. Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority within 8 months of the completion of the survey and a mitigation/compensation scheme, if required shall be provided for approval prior to the commencement of development. Mitigation/compensation works shall be carried out in accordance with the approved scheme.
- 27) Prior to the submission of the first reserved matters application, details must be submitted to demonstrate that ambient concentrations of nitrogen dioxide will not exceed the UK annual mean objective concentration of 40µg/m<sup>3</sup> at any residential property location within the development.
- 28) Prior to first occupation of the development hereby approved, the Developer shall **be responsible for the provision and implementation of a Residents' Travel**

Information Pack for sustainable transport, approved by the local planning authority, (to include six one day travel vouchers for use with the relevant local public transport operator).

- 29) Prior to the first occupation of the development hereby permitted the overhead electricity cables crossing the site east /west shall be diverted underground.

## **Annex C – Screening & Appropriate Assessment**

### **RECORD OF THE HABITATS REGULATIONS ASSESSMENT UNDERTAKEN UNDER REGULATION 61 OF THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 AS AMENDED FOR AN APPLICATION UNDER THE TOWN AND COUNTRY PLANNING ACT 1990**

**Project Title and Location: Called-In planning application No. APP/Z1510/V/17/3180729 Land east of Gleneagles Way, Hatfield Peverel CM3 2JT**

**Project description:- erection of 120 dwellings, together with associated public open space, landscaping, highways and drainage infrastructure works. (Planning Application Ref: 16/02156/OUT, dated 16 December 2016.)**

**Completion Date: November 2018**

#### **Project description – further information**

1. The project site and surroundings are described at paragraphs 19 – 24 of the Inspector’s report arising from a public inquiry held into this application between 12 December 2017 and 30 January 2018. The project proposal is described at paragraphs 44 – 45 of that report, in the planning application documentation and in the Environmental Statement. A copy of the inspector’s report is attached to this assessment.

#### **Competent authority**

2. The above project, having been called-in by the Secretary of State for Housing, Communities and Local Government, is to be determined by him using his powers under section 77 of the Town and Country Planning Act 1990. The Secretary of State is therefore the ‘competent authority’ for the purposes of the Conservation of Habitats and Species Regulations 2017.

## **Part 1 - Screening**

3. A Screening Opinion provided to the Inquiry (produced by Braintree District Council took account of mitigation measures at the screening stage and concluded that no Appropriate Assessment was required. A judgment in the Court of Justice of the European Union (CJEU) in People Over Wind and Sweetman and Coillte Teoranta (12 April 2018) means this assessment is no longer legally sound.
4. It will now fall to the Secretary of State to take a screening decision for this application, taking into account any relevant information. As part of this process, a reference back to parties was undertaken, to enable further relevant evidence to be addressed by parties to the Inquiry.

## **Screening Assessment**

### *Relevant documentation*

5. The Secretary of State has taken into account the document “Habitats Regulations Assessment Report Land North East of Gleneagles Way, Hatfield Peverel, Essex” (“HRA Report”) dated June 2018. In this Screening, all references to sections, unless otherwise stated, are to that document. He has also taken into account comments made by parties to whom this document was circulated on 12 July 2018, namely the local planning authority, Rule 6 parties to the Inquiry, and the developer in the cases heard at the same Inquiry, Refs: APP/Z1510/W/16/3162004 and APP/Z1510/V/17/3180725: both on Land off Stone Path Drive, Hatfield Peverel, CM3 2LG.
6. The Secretary of State notes and agrees with sections 1 and 2 of the HRA Report, which set out relevant background and context, the legislative and policy background, factual information about the SAC, SPA and RAMSAR site and its relation to the application site, and the conservation status of the SAC, SPA and RAMSAR site.
7. With regard to the issue raised by Hatfield Peverel Parish Council at paragraph 11.c of their response, he has considered the new Zones of Influence set out in the RAMS update provided by SPMRG in their response to the Stone Path Drive cases, and has had particular regard to the methodology used for arriving at these zones. He is content that it is appropriate to consider only the Blackwater Estuary SPA and the relevant part of the Essex Estuaries SAC for the purposes of this Assessment.

### *Consideration and Conclusions*

8. In screening the proposals before him, the Secretary of State needs to conclude whether they would be likely to have a significant effect on the internationally important interest features of the site, either alone, or in combination with other projects.
9. The conservation objectives for the Essex Estuaries Special Area of Conservation are:  
**Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;**
  - **The extent and distribution of qualifying natural habitats**
  - **The structure and function (including typical species) of qualifying natural habitats, and**
  - **The supporting processes on which qualifying natural habitats rely**
10. The conservation objectives for the Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area are:



**Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;**

- **The extent and distribution of the habitats of the qualifying features**
- **The structure and function of the habitats of the qualifying features**
- **The supporting processes on which the habitats of the qualifying features rely**
- **The population of each of the qualifying features, and,**
- **The distribution of the qualifying features within the site.**

11. The Secretary of State has carefully considered section 3 of the HRA Report on Potential Adverse Impacts, in particular 3.4 and 3.5. He concludes that the development proposals, with proposed conditions 4, 17, 18 and 19, should have no significant impact on designated sites in respect of urbanisation, atmospheric pollution, water abstraction and water quality.
12. The Secretary of State considers that, in the absence of mitigation or avoidance measures, there would be the potential for the application proposal to give rise to a likely significant effect due to increased disturbance from recreational activities, namely walking and dog-walking. He considers that the distance from the designated sites means that regular visits from new residents would be unlikely, and that the public open space provided as an integral element of the proposals, together with links to the existing public right of way would provide opportunities for informal recreation for both new and existing residents. He therefore concludes that the proposals are not likely to have a significant effect on the interest features of the SAC, SPA, or RAMSAR site, when considered in isolation.
13. The Secretary of State does however find that the proposal, in the absence of avoidance or mitigation measures, would have potential to contribute towards a significant effect on the interest features for which the SAC, SPA and RAMSAR site has been classified, when considered in combination with other plans and projects.
14. He has considered the issues raised by Hatfield Peverel Parish Council at paragraph 11.e of their response, concerning whether a median or worst-case estimate should form the basis of estimates of impact.
15. While he has found potential to contribute towards a significant effect on the interest features for which the SAC, SPA and RAMSAR site has been classified, through walking, dog walking and informal recreation, when considered in combination with other plans and projects, the Secretary of State disagrees that a worst-case scenario should be used for the purposes of this assessment. The test at this screening stage is one of a likely significant effect. In the Secretary of State's opinion, this test requires estimating the most likely impact based on available evidence, rather than the worst potential impact.

#### *Overall conclusions*

16. The Secretary of State has concluded that the proposal, in the absence of avoidance or mitigation measures, would have potential to contribute towards a significant effect on the interest features for which the SAC, SPA and RAMSAR site has been classified, when considered in combination with other plans and projects.
17. In light of that conclusion the Secretary of State considers that, in light of the judgment of the CJEU mentioned above, the correct course of action is to undertake an Appropriate Assessment.
18. As the competent authority in this case, he has gone on to carry out such an assessment in Part 2 of this document.

## **Part 2 – Appropriate Assessment**

19. The Secretary of State has identified at the screening stage potential to contribute towards a significant effect on the interest features for which the SAC, SPA and RAMSAR site has been classified, when considered in combination with other plans and projects, and has determined that an Appropriate Assessment is required.
20. In accordance with the People Over Wind and Sweetman and Coillte Teoranta ruling, avoidance or mitigation measures can only be considered at this Appropriate Assessment stage. This Appropriate Assessment now needs to consider whether it can be concluded that the proposal will not adversely affect the integrity of the site. In the event it is concluded that the mitigated project will adversely affect the integrity of the protected sites considered, the Appropriate Assessment will need to consider whether it can be demonstrated that there are no alternatives and there are imperative reasons of overriding public interest as to why it must proceed.

### *Relevant documentation*

21. The Secretary of State has had regard to the previously mentioned document “Habitats Regulations Assessment Report Land North East of Gleneagles Way, Hatfield Peverel, Essex” dated June 2018, (“the HRA Report”) and the responses received thereto following reference back to parties. In addition, he has also had regard to documents considered at the Public Inquiry, as set out in Annex A of the Inspector’s report, in particular Core Documents Set C, “Documents submitted by David Wilson Homes Eastern” and “Documents submitted during the Inquiry by the parties”.
22. The Secretary of State’s appropriate assessment has not simply relied on and adopted the above information and responses to it. Rather, the Secretary of State has considered the relevant information independently, and reached his own conclusions. He has also sought the views of Natural England as the appropriate nature conservation body on a draft of this assessment, which are summarised at paragraph(s) 31-32 of this Appropriate Assessment.

### *Consideration*

23. At the prior screening stage, the Secretary of State has already concluded that the application proposals would not be likely to have a significant effect on the SAC, SPA and RAMSAR site other than in respect of disturbance effects. In respect of disturbance effects, the Secretary of State has considered the proposed measures to avoid / mitigate the potential for significant impact on the SAC, SPA and RAMSAR site, set out in sections 4.1 and 4.2 of the HRA report.
24. The Secretary of State agrees that the provision of public open space and access to the Public Right of Way (PROW) network will provide opportunities for informal recreation and alleviate both existing and potential increased recreation at the SPA / RAMSAR site. He recognises that this provision is an integral part of the scheme, and not a proposed mitigation measure.
25. The Secretary of State also considers that the provision of information to support the use of the local footpath network, together with a proportionate financial contribution towards improvements to the PROW network will also serve to encourage new residents to utilise existing public rights of way in the vicinity, and support the diversion of visitors away from the designated sites.

26. The Secretary of State further agrees that the financial contribution towards the Essex Recreation Disturbance Avoidance Monitoring Strategy (RAMS) visitor monitoring surveys at the Blackwater Estuary will help to identify any management measures which may be necessary to mitigate and manage for potential impacts at the designated site.
27. He has paid close attention to the case made by Hatfield Peverel Parish Council in their response, in which they cite Case C-142/16 Commission v Germany contending that monitoring is not mitigation. The Secretary of State notes that in paragraph 37 of the report of Case C-142/16, that the impact assessment proposing the mitigation measure in question did not contain definitive data regarding its effectiveness, and merely stated that its effectiveness could only be confirmed following several years of monitoring.
28. The Secretary of State has considered the precise wording of the signed and dated S106 Agreement provided to the Inquiry, which was the subject of discussion at a round table session on the final sitting day of the Inquiry. The Blackwater Estuary Mitigation Contribution Purposes are defined as being used towards:
- “...the provision of visitor management measures (which may include surveys) to raise awareness of the effects of visitor disturbance at the Blackwater Estuary SPA/RAMSAR site”
29. The Secretary of State considers that this envisages that the contribution could be used towards other measures, and has taken into account the note on the RAMS update provided by SPMRG in their response which states at paragraph 4.4.3 that the three most common forms of generic mitigation are: habitat creation, education and communication, all of which would seem to be allowable under the wording of the S106 Agreement. He therefore concludes that in this case, there is sufficient certainty that a robust mitigation will be provided if required.
30. For the above reasons, the Secretary of State considers that the proposed package of on and off-site measures would be sufficient to ensure no likely significant adverse effect on the SAC / SPA / RAMSAR site, either in isolation or in combination with other plans or proposals.

*Natural England's advice*

31. Natural England have advised, consistent with their previous comments that a financial contribution towards 'offsite' mitigation measures at the Blackwater Estuary would be required. The mitigation measures that will be funded are consistent with the aims and aspirations of the emerging Essex Coast disturbance Avoidance and Mitigation Strategy (RAMS).
32. Provided the contribution is fully secured, Natural England agree that the proposal would not have an adverse effect on the integrity (AEoI) of the Essex Estuaries SAC and Blackwater SPA and Ramsar site, either when considered alone or in combination with other plans or projects.

*Consideration and Conclusions*

33. Having concluded that the proposal will not adversely affect the integrity of the SAC / SPA / RAMSAR site, and having given careful consideration to the advice of Natural England the Secretary of State has considered how the proposed mitigation / avoidance measures

needed to ensure the acceptability of the proposal are to be secured should the application be granted.

34. Promoting the local footpath network by supplying all new residents with a map and guide to local (circular) walking routes is secured by Condition 28.
35. The “green infrastructure” package for this development, including public access to the adjacent PROW which will provide a link to a circular walk to the PROW network to be available all year round is an integral part of the proposals. Taken together with a financial contribution towards improvements to the Public Rights of Way (PRoW) network within the vicinity of Hatfield Peverel, secured by Schedule 10 of the s106 agreement dated 8 January 2018, the Secretary of State is satisfied that these will provide an opportunity for dog walkers in close proximity to the development site, thus diverting them away from visiting the Blackwater Estuary (Mid-Essex Coast Phase 4) SPA & Ramsar site.
36. The financial contribution towards the Essex Recreation Disturbance Avoidance Monitoring Strategy (RAMS) is secured by Schedule 9 of the s106 agreement dated 8 January 2018.
37. Accordingly, the Secretary of State is satisfied that if the application were granted outline planning permission, the mitigation and avoidance measures he has deemed necessary to make the application proposal acceptable could be secured. In the light of this conclusion, he has not needed to go on to consider whether it can be demonstrated that there are no alternatives and there are imperative reasons of over-riding public interest as to why it must proceed.
38. Copies of the technical information and correspondence referred to in this Assessment may be obtained by application to the address at the bottom of the first page of the decision letter.

**Annex D - Sites removed from housing trajectory published on 11 April 2019**

Local Plan Site reference	Planning Application reference	Name and address of site
GOSF 251	BTE/17/0610/OUT BTE/18/2007/FUL	Land South of The Limes Gosfield
GGHR 283 HASA 293	BTE/17/0575/OUT BTE/18/1749/FUL	Land east of Sudbury Road Halstead
	BTE/16/0569/OUT	Land NE of Inworth Rd Feering
KELV 335	BTE/17/0418/OUT	Station Field, Land west of Kelvedon Station Station Road (Monks Farm) Kelvedon
RIDG 359	BTE/17/1325/OUT BTE/19/0635/FUL	SE side Ashen Rd, at junction with Tilbury Rd Ridgewell
EARC 225	BTE/15/1580/OUT	Land rear of Halstead Road Earls Colne
WIS 10X	BTE/14/1528/OUT	Former Bowls Club And Land At Old Ivy Chimneys Hatfield Road Witham
WITN 426	BTE/15/1273 BTE/19/0026/FUL	Land north of Conrad Road Witham
WIS 09	BTE/12/1071	Land south of Maltings Lane Witham
BOS6H	BTE/15/1319	Land West of Panfield Lane

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# Report to the Secretary of State for Housing, Communities and Local Government

by Brian Cook BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Date: 20 March 2018

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THE TOWN AND COUNTRY PLANNING ACT 1990

BRAINTREE DISTRICT COUNCIL

APPLICATION BY

DAVID WILSON HOMES EASTERN

Inquiry Held on 12 December 2017

Land east of Gleneagles Way, Hatfield Peverel CM3 2JT

File Ref(s): APP/Z1510/V/17/3180729

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<https://www.gov.uk/planning-inspectorate>

File Ref: APP/Z1510/V/17/3180729

Land east of Gleneagles Way, Hatfield Peverel CM3 2JT

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 12 July 2017.
- The application is made by David Wilson Homes Eastern to Braintree District Council.
- The application Ref 16/02156/OUT is dated 16 December 2016.
- The development proposed is erection of 120 dwellings, together with associated public open space, landscaping, highways and drainage infrastructure works.

Summary of Recommendation: The application be approved.

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Procedural Matters

***Matters common to all three schemes considered at the Inquiry***

1. The Inquiry opened on 12 December 2017 and sat for eight days. I carried out an unaccompanied visit to the site and a tour of the surrounding area on 3 January which included viewpoints to which I was directed by the parties. Closing submissions were made in writing in sequence during January. The Inquiry was closed in writing on 30 January 2018 following receipt of all outstanding documents including obligations entered into under s106 of the principal Act.
2. Three schemes were considered at the Inquiry; the application listed in the summary details above; an appeal against the refusal of an application by Gladman Developments Ltd (GDL) for outline planning permission for up to 80 dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, primary vehicular access off Stone Path Drive, and associated ancillary works on Land off Stone Path Drive, Hatfield Peverel, Essex (ref: APP/Z1510/W/16/3162004); and an outline application in the same terms but for up to 140 dwellings at the same address and submitted by the same applicant (ref: APP/Z1510/V/17/3180725).
3. In each case all matters except access are reserved for future determination.
4. The two applications were called in for determination by the Secretary of State on 12 July 2017. In each case the reason given was that he wished to be informed about:
  - i) Policies in the National Planning Policy Framework (Framework) on delivering a wide choice of high quality homes;
  - ii) The extent to which the proposed development is consistent with the development plan for the area; and
  - iii) Any other matters the Inspector considers relevant.
5. The appeal was recovered for determination by the Secretary of State on 12 October 2017. In this case the reason given for the direction under s79 of the principal Act was that, having called in application 16/01813/OUT (file ref: APP/Z1510/V/17/3180725) which affects the same site, the Secretary of State wishes to re-determine the appeal himself so that he can consider both proposals at the same time. The appeal was therefore recovered because of the particular circumstances.

6. No pre-Inquiry meeting was held. Instead, I issued two pre-Inquiry notes on 8 November 2017 (INSP1) and 5 December 2017 (INSP2) and a further email dated 7 December 2017 relating specifically to housing land supply issues (INSP3).
7. In response to these notes three documents were produced on behalf of both GDL and David Wilson Homes Eastern (DWH). These are Cumulative Air Quality Impact Assessment (ID1.4), a Transport/Highways Note (ID1.5) and a Statement of Common Ground (SOCG) with Essex County Council (ECC) on education issues (ID1.8). A further Briefing Note: Clarification of Presentation Provided by Mr John Webb (ID20) was produced following the submissions from interested persons on the first day of the Inquiry.
8. Some evidence was common to all three schemes. This included that on housing land supply which was heard, at the parties' request, by way of a round table discussion. Much of the policy evidence was also common to all three schemes.
9. I issued a further note following the close of the Inquiry sessions (INSP4). This concerned a heritage matter that is not relevant to this application and also sought clarification of the submissions made in respect of Core Strategy policy CS1. In short, I asked whether it was the whole policy that should be considered to be out of date or just that part of it relating to housing numbers and, depending on the answer to that, whether the spatial strategy embedded in the policy could still be considered current if the settlement boundaries predicated upon out of date housing supply numbers could not. The clarifications provided have been taken into account.
10. In a further response before the close of the Inquiry the Parish Council advised that a Habitats Regulation Assessment Screening Report was submitted to Natural England on 18 December 2017 and, further, that Natural England's comments were received by the Council on 25 January 2018. Although the comments have not been made available to the Inquiry, the Parish Council states '...at face value the comments appear positive enabling the Neighbourhood Development Plan to progress.' It further advises that a meeting has been arranged for 5 February with the Council to discuss the way forward and '...to agree how to expedite the Plan.'
11. GDL co-ordinated the core documents listed in Annex A. Although there are three sets, one for each GDL scheme and another for the conjoined Inquiry, all three sets are listed in each report since reference was made throughout to all three sets. DWH prepared its own core documents specific to the scheme that is the subject of this report. The documents listed as being submitted during the Inquiry relate to all three schemes. It is perhaps worth noting that only a limited number of the documents listed was referred to in the written and oral evidence.

### ***Matters specific to this application***

12. Before the Inquiry the Planning Inspectorate agreed to the request made by Hatfield Peverel Parish Council (HPPC) to be a made Rule 6 (6) party.
13. The application was supported by a number of documents which are listed as SAV1 to SAV28 inclusive in Annex A.
14. DWH has prepared and submitted a SOCG with each of the Council and HPPC (SOCG4 and SOCG 5 respectively). Each follows the same format. Among the



- matters that are agreed are the relevant policies of the adopted and emerging development plan, the application site and its surroundings, the application proposal and the position on a wide range of detailed considerations that are listed. Although the precise terms of each agreement is different (for example SOCG5 with HPPC does not acknowledge that the scheme would make a substantial contribution to the shortfall in five year housing land supply), each agrees that the Council cannot currently demonstrate a five year supply of housing land.
15. The SOCG between DWH and the Council records DWH's view that the objectively assessed housing need (OAHN) for market and affordable housing is higher than that proposed by the Council in the emerging development plan. In the event, this dispute was not pursued. DWH also records that it expects to contest the conclusions of the Council's updated five year housing land supply assessment when it is published.
16. There are five matters in dispute between DWH and HPPC. These are:
- a. The weight to be given to relevant policies in the adopted and emerging development plans;
  - b. The weight to be given to the conflict with the spatial strategy of the development plan;
  - c. The degree of harm to the rural character of the area and the landscape setting of the village and the weight to be given to that harm;
  - d. Whether the proposal would result in a loss of part of the significant gap of open countryside between the settlements of Hatfield Peverel and Witham such as to harm the identities of these separate settlements; and
  - e. Whether the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
17. An Obligation pursuant to s106 of the Act was entered into by DWH and the Council and a completed document (ID59) was submitted before the close of the Inquiry.
18. The Council issued a Screening Opinion on 28 August 2015 to the effect that a development of approximately 140 dwellings was not EIA development (paragraph 4.1 SOCG4). The Secretary of State came to the same view having considered the scheme both on its own and in combination with others.

#### The Site and Surroundings

19. The application site is about 5.2ha in extent and is situated on the north eastern side of Hatfield Peverel. To the north east again is the town of Witham.
20. The topography of the site, which is currently in use as arable farmland together with associated field margins, is generally flat. To the north east of the site is agricultural land and, beyond that, a fishing lake introduced following mineral extraction.
21. It is thus a greenfield site located outside but adjoining the built-up area of the village. In that respect it is bounded to the west by existing residential

development at Gleneagles Way, Wentworth Close, Birkdale Rise, Ferndown Way, Woodham Drive and Vicarage Crescent with the village beyond. A single private dwelling (Small Acres) lies immediately to the south. To the north is The Street (B1137) and the A12 slip road. The A12 links Ipswich, Colchester and Chelmsford to the M25 and east and central London beyond.

22. Agricultural vehicles use a break in the hedge in the south east corner to access the land. Other vehicular accesses are available from Birkdale Rise and Ferndown Way. A public right of way links Maldon Road to the south west of the application site with agricultural land to the north west. At present this path does not connect to the application site.
23. The site does not contain nor does it form part of any heritage asset or setting of any heritage asset. It lies within Flood Zone 1, the lowest probability of flooding.
24. The site is within the designated Hatfield Peverel Neighbourhood Plan (NDP) Area. The village is a Key Service Village (KSV) identified in the adopted development plan. Although slightly renamed, that status is maintained in the emerging plan. There is a good range of services and facilities in the village centre which is close to the application site. There are four bus stops within 0.5km of the application site used by various bus services. There are frequent services to Witham, Colchester, Chelmsford and other nearby settlements with less frequent services on Sundays. Trains run from the village to London Liverpool Street, Colchester, Braintree and other destinations.

## Planning Policy

### ***Adopted development plan***

25. The adopted development plan for the area includes the saved policies of the Braintree District Local Plan Review (LPR) adopted in 2005 and the Braintree District Core Strategy (CS), adopted in 2011. Included in the SOCGs is a lengthy list of what are termed policies relevant to the application. Included in CD11.1, set B and CD10.1, set B are those policies and the supporting text that are of particular relevance to the determination of this application.

### ***The LPR***

26. Policy RLP 2 states that new development will be confined to the areas within town development boundaries and village envelopes. Outside these areas countryside policies will apply although exceptions may be made for affordable housing schemes which comply with LPR policy RLP 6. Such considerations do not apply in this case. Policy RLP 3 sets out a number of criteria that all residential development within development boundaries and village envelopes must meet.
27. RLP 80 addresses landscape features and habitats. In essence it requires applicants to assess the impact of a proposed development on wildlife and distinctive landscape features and for proposals in mitigation of any impacts to be put forward. Development that would not integrate successfully into the local landscape will not be permitted.
28. Other LPR policies listed in the SOCG are in a form designed to ensure that the technical requirements of statutory and other consultees are given policy force.

The wording is generally in the form of not allowing development unless required measures are secured.

### *The CS*

29. Policy CS1 sets out the housing provision that will be made over the period 2009 to 2026. It also sets out where those new dwellings will be located. These include KSVs; Hatfield Peverel is such a village. Policy CS2 sets out the requirement for developments to provide affordable housing with the target percentage being determined by the location of the proposed development. A target of 40% applies on sites in rural areas.

30. The precise wording of policy CS5 is as follows:

*Development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.*

31. The natural environment and biodiversity is addressed by policy CS8. This is a policy that covers almost two sides of A4. The gist however is that developers are required to have regard to, or to take account of, the impact of the proposed development on a wide range of factors. Of relevance to this proposal are the protection and enhancement of the natural environment in the widest sense, the protection of the best and most versatile agricultural land, the character of the landscape and its sensitivity to change and the minimisation of exposure to flood risk.

32. Policy CS9 is in many respects a general design principles policy. A good provision of high quality and accessible green space including accessible natural green space to meet, among other things, amenity needs is secured by policy CS10. Policy CS11 sets out, in essence, that development contributions towards necessary infrastructure services and facilities will be secured through, among other things, planning obligations.

### **Emerging development plan**

#### *Braintree New Local Plan (BNLP)*

33. The BNLP was submitted to the Secretary of State in October 2017. The examination has therefore commenced. It is in two parts. Part 1 (CD12.3 set B) plans strategically across three local planning authority areas. At the time of the Inquiry the examination hearings were due to commence in January 2018. Part 2 (CD12.4 set B) relates to the Council area only. Hearing dates have yet to be arranged. There are a substantial number of representations raising fundamental issues with both parts of the BNLP. Those made by GDL are at CD33.1, set C.

34. Although in Part 1 policy SP 2 continues a spatial strategy for North Essex that seeks to accommodate development within or adjoining settlements according to their scale, sustainability and role, it also proposes three new garden communities one of which would be to the west of Braintree. Policy SP 3 sets out housing needs which for Braintree are 14,320 dwellings over the period 2013 to 2033 on the basis of an OAHN of 716 dwellings per annum.

35. Turning to part 2, the broad spatial strategy for the Council area is to concentrate development on the town of Braintree, planned new garden communities, Witham and the A12/Great Eastern Mainline corridor and Halstead. Hatfield Peverel lies within the A12/Great Eastern Mainline corridor and is identified as a KSV. Policy LPP 1 states:

*Within development boundaries, development will be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material adverse detriment to the existing character and historic interest of the settlement.*

*Development outside development boundaries will be strictly controlled to uses appropriate to the countryside to protect the intrinsic character and beauty of the countryside.*

36. Policy LPP 31 proposes a comprehensive redevelopment area on land between the A12 and the Great Eastern Main Line. This comprises four areas; the former Arla Dairy site; Sorrell's Field; Bury Farm; and a smaller site to the rear of Station Road. Among the list of things that the development will be expected to provide are financial contributions to early years and childcare provision, contributions towards primary and secondary education facilities and contributions to other community facilities including health provision as required by the NHS.
37. Landscape character and features are subject to policy LPP 71. This requires, in broad summary, applications for development to demonstrate an understanding of the landscape character of the area and show how the development proposed would fit in. Development that would not successfully integrate into the local landscape will not be permitted.
38. Green buffers are proposed through policy LPP 72 where it is considered desirable to prevent coalescence of two settlements. No green buffer is proposed between Hatfield Peverel and any other settlement such as Witham.

#### ***Hatfield Peverel Neighbourhood Development Plan (NDP)***

39. The NDP (CD15.2, set B) has been submitted for examination and the examiner appointed. At Appendices MR23 to MR 25 of Mr Renow's proof (HPPC1) is the exchange of letters between the examiner and HPPC. On 5 September 2017 the examiner set out the two 'important' matters about which she had 'serious concerns in respect of the progress of the examination and the (HP)NDP meeting the statutory Basic Conditions' (MR23). Having considered the reply dated 13 September 2017 from HPPC (MR24), she wrote again on 20 September declining to continue the examination while the necessary additional work was undertaken (MR25). The reason given was '...the issues raised are sufficiently substantive that I feel to do so runs the risk of undertaking work that could later be found to be abortive and incur unnecessary costs to the local authority.'
40. The NDP is subject to unresolved objections including those from GDL (CD33.2, set C) and DWH (SAV50 and SAV52).
41. Policy HPE1 creates a green wedge along the eastern development boundary of Hatfield Peverel to avoid coalescence with Witham. The policy sets out those types of development that would be permitted within the green wedge provided that the open nature of the area is maintained. The list is very similar to those

listed in Framework paragraph 89. However, the 'very special circumstances' caveat set out in Framework paragraph 87 is not included.

42. The retention of existing trees, hedgerows and habitats, the mitigation of their loss and the retention of natural boundary treatments and the provision of new areas through new development is the subject of policy HPE2. The protection of the landscape setting of the village through the preservation and enhancement of views identified by the community and the Hatfield Peverel Landscape Character Assessment is achieved through policy HPE6.

#### Relevant Planning History

43. An outline application for the erection of up to 145 dwellings and associated infrastructure was refused planning permission in April 2016.

#### The Proposals

44. The application has been submitted in outline with all matters except access reserved for future approval. Access would be via Birkdale Rise. Up to 120 dwellings would be provided with 40% being affordable housing.
45. The application was accompanied by a Design and Access statement (SAV7) and a Parameters Plan (SAV4). Both are illustrative only and not therefore for approval. They do however indicate how the development might be implemented.

#### The cases put by the parties

46. Although three separate developments were being considered at the Inquiry, that was not, in the main, how the evidence was presented and tested. This was inevitable and the most efficient use of Inquiry time as there was a significant degree of commonality in, for example, the evidence given on policy and housing land supply topics. Counsel for GDL adopted the submissions of Mr Tucker in respect of both these matters. Similarly, Mr Tucker adopted the submissions of Ms Osmund-Smith in a limited number of matters and the case made by GDL in that respect is therefore set out below.
47. Although Stone Path Meadow Residents Group (SPMRG) has no interest in this application, Ms Scott did call evidence and make submissions about both policy and housing land supply. Those are included below for completeness since Mr Tucker refers to them in his submissions on these matters. Relevant SPMRG documents are also listed in Annex A.
48. Closing submissions were submitted in the same sequence as they would have been presented at the Inquiry. The usual convention whereby the scheme promoter hears the cases against the proposal before making its case was thus observed. As will be clear, Mr Tucker has responded to points made by other advocates.
49. It is fair to say that he is quite critical of the way in which some arguments have been put by Mr Graham for HPPC and, to a much lesser extent, Ms Scott for SPMRG. In short, the criticisms are that the case has been developed, if not actually changed, from that trailed in the statement of case; evidence from witnesses has been misrepresented and concessions in cross examination ignored.

50. I believe there is some substance to all of those criticisms and I have had regard to that in coming to my conclusions. While I have recorded the flavour of the criticisms in presenting the case set out, the exact, sometimes robust, phrasing used has not been included. Each closing submission is nevertheless listed and available to read in full.

The case for David Wilson Homes Eastern

### ***Introduction***

51. The land use issues raised against the DWH scheme are comparatively modest and are accepted by the Council not to be sufficient to outweigh the benefits of the scheme. This, in the context of a District where there is agreed to be an immediate need for additional housing land. Moreover, whilst HPPC and a handful of residents from the Gleneagles Estate have challenged the DWH case, it is perhaps of note that most of the time at this inquiry has been spent on the merits of the GDL schemes; the site specific merits of the DWH site were discussed and challenged in less than a day.

52. It was stated in opening that this is a comparatively straightforward proposal. In reality nothing which has been presented over the course of the Inquiry to change that position.

53. It is agreed with the Council that there is a significant deficit against the required 5 Year Land Supply (5YHLS) and there therefore is an immediate need for additional housing, which will necessarily have to include land that is presently undeveloped.

54. It is agreed that there is an immediate need for additional affordable housing.

55. There is no statutory consultee who has objected to the application scheme.

56. The only policy objections (albeit not raised by the Council) relating to the DWH proposals relate to:

- i) breach of 'in principle' countryside policies which are based upon settlement boundaries which are agreed by the HPPC's planning witness to be out of date; and
- ii) breach of policies in respect of a draft and flawed NDP which can only be afforded the most limited weight;

57. Requested contributions to infrastructure etc. are provided for in full in the s106 obligation.

58. The application site is located in a sustainable location (in this respect DWH acknowledges and adopts the case made by GDL) and relates well to the settlement of Hatfield Peverel which it is agreed will need to accommodate additional growth.

### ***5 year housing land supply***

59. Framework paragraph 47 directs that local planning authorities must identify and update a "supply of specific deliverable sites" to provide 5 years' worth of housing against their housing requirements. Deliverable is defined in footnote 11:

*To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular, that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.*

60. In *St Modwen Developments Ltd v SOSCLG* [2017] EWCA Civ 1643 (paragraph 38, CD32.18 set C) the approach that should be taken to assessing whether a site is "deliverable" in the context of the footnote 11 definition is confirmed. Properly understood the judgment does no more than reiterate the ordinary and natural meaning of the words of the footnote. It does not, as Mr Graham sought to argue for HPPC, reduce the threshold for assessing yield from deliverable sites. In that case the Appellant was contending that only those sites with planning permission should be considered to be deliverable. Self-evidently, whether or not a site is counted into the exercise as "deliverable" is only the first step of the exercise - the crucial issue in this case is what comprises the likely yield of the deliverable sites. Doubtless this important distinction will be clear to the Secretary of State.
61. It appears from his closing submissions that Mr Graham has misinterpreted this important judgment. In response to HPPC's closing submissions, (paragraph 5, ID48) there is no judicial authority that "deliverable" means, as Mr Graham submits, 'non-fanciful'. The judgment of Lindblom LJ is clear that "deliverable" in the context of Framework paragraph 47 is defined solely by footnote 11. Mr Graham's submission in this regard is simply wrong.
62. To the minimum requirement to demonstrate a 5YHLS must be added a buffer of 5% or 20% depending upon whether there has "been a record of persistent under delivery". The courts have clarified what is meant by "persistent under delivery" in *Cotswold DC v SOSCLG* [2013] EWHC 3719 (paragraph 47, ID1.15). Essentially, whether under delivery has been persistent is a matter of planning judgment, considering a reasonable period of time for analysis and against a justifiable housing requirement which can include consideration of what is proposed in an adopted plan and evidence of need. Addressed below is why it is considered that a 20% buffer is appropriate.
63. The starting point for the numerical calculation of the 5YHLS is to identify an appropriate requirement against which to judge the available supply of deliverable sites. In this case the requirement of the adopted CS is based upon a hopelessly out of date figure derived from the "policy on" content of the long defunct Regional Spatial Strategy. In those circumstances it is agreed with all parties that it is appropriate to identify the OAHN based upon the most up to date evidence, without any policy adjustment.
64. What figure comprises the OAHN will be a matter of intense debate at the forthcoming examination in public of the emerging BNLP, to which there is intense dispute. That debate will take place in January 2018. However, given that the decisions of the Secretary of State will be made after this debate has taken place GDL/DWH in this Inquiry have taken the pragmatic decision not to use the Inquiry as a dry run for those arguments, but rather to accept for the

purposes of the Inquiry that the Council's figure is the correct one. Should compelling evidence arise to support a contrary position prior to the decision of the Secretary of State then that will be drawn to his attention in advance of that decision.

65. Thus, for the purposes of the Inquiry, Mr Spry adopts the Council's estimated OAHN of 716 dpa derived from the evidence base from the emerging BNLP. There is no disagreement between any of the parties to this Inquiry that this approach is reasonable and thus, this is the appropriate starting point.

66. The disagreement between the parties relates to the following areas:

- i) Liverpool or Sedgefield approach for addressing the shortfall: - The applicants and the Council have agreed, again for the purpose of this Inquiry, that the correct approach is Sedgefield. It is noted that the Council is pursuing the Liverpool methodology at their Local Plan examination, however it properly accepts, that without specific support from the examining Inspector, it could not reasonably support such an approach for the purpose of this Inquiry;
- ii) 5% or 20% buffer;
- iii) The supply of deliverable sites - There is a dispute between SPMRG and GDL/DWH on the sites that should be considered to be deliverable and therefore included in the supply with SPMRG arguing for the inclusion of draft local plan allocations. That position is expressly rejected by the Council which does not consider that those sites should be afforded sufficient weight to be included, given the stage in the process and the degree of unresolved controversy which relates to them. There is then the more important debate about the likely yield from a handful of disputed sites as between the Council and Mr Spry. This disagreement on yield on those sites is essentially one of judgment based upon agreed facts and is covered in detail in ID1.14 where the difference between the parties is reduced to a yield of 68 dwellings.

67. HPPC lead no evidence on the point. The submissions made in closing on which sites should be included must therefore be given no weight.

### *Liverpool v Sedgefield*

68. The only parties advocating for a "Liverpool" approach - ie spreading the shortfall over the whole of the local plan period - are the Rule 6 parties. The Council has agreed that this is not the correct method for calculating the 5YHLS position for this Inquiry, whilst arguing for that position through the BNLP examination. Its reasoning is robust - until the examining Inspector endorses a different approach then based upon recent appeal decisions, the "preferred" approach of Planning Practice Guidance (PPG) of the Sedgefield methodology is to be preferred.

69. Notably there was no discernibly logical argument put forward by either of the Rule 6 parties to support a contrary case for the use of Liverpool. The best that was offered was that the Liverpool methodology would be appropriate because when looking back at the record of under delivery it is claimed that the Council cannot meet its requirement in the short term and therefore Liverpool should be used - repeated in the SPMRG closing (paragraph 86(ii), ID49). With the greatest of respect, this is not sound planning. Not only is it in conflict with



guidance to the contrary in PPG, but also it has serious social consequences, given that the shortfall in delivery is not one which arises over the next 15 years but rather it exists right now, at the start of the 5 year period under consideration. Not to do so now means deferring the meeting of needs - which is the antithesis of the tone and content of Framework paragraph 47.

70. The argument is that it is simply not possible to deliver the undersupply in the first 5 years. It is accepted the PPG says that the undersupply should be addressed within 5 years "where possible". However, self-evidently the correct approach to this guidance is to start from a position that it is possible and only change that view where it is shown to be impossible. An impossibility cannot be proven through previous undersupply - the very problem the buffer seeks to address. An impossibility might be proven in cases where the LPA's area is highly constrained e.g. AONB, Green Belt, other designations, or where there is clear market evidence of saturated demand. However, it is strongly submitted that "not possible" is a high bar and one which is not close to being met in this case.
71. The illogic in respect of the DWH site is even more striking since it argues that a site should not be released to a national housebuilder in a sustainable location because there are concerns about the ability of the market to deliver.
72. Thus, if a local planning authority cannot meet its housing requirement, the answer is to release more sites, not to accept that past under delivery represents the benchmark for future delivery and to thereby leave more families without a home.
73. The reality of the Rule 6 parties' position is clear from the SOCG on Additional Housing Supply Sites (ID37). This shows that they need to convince the Secretary of State in respect of all of their points in order to demonstrate a marginal excess against the 5YHLS - i.e. it is only on their flawed analysis of the additional sites together with the use of the Liverpool method and with only a 5% buffer that they can mathematically demonstrate a marginal excess over the 5YHLS. If nothing else this evidences just how dire the position on 5YHLS is in this District. If objectors have to argue for a swathe of implausible assumptions and can still only just show a mathematical exceedance then the clear reality of the land supply position is Braintree falls significantly below what is needed. If there was any doubt to the contrary then no doubt the Council would not have readily conceded the absence of a 5YHLS a matter of weeks before the start of the BNLP examination hearings.
74. In her written evidence, Mrs Jarvis for HPPC attempted to make a somewhat curious secondary argument that even if there was a need for additional housing then development should be distributed evenly within the hierarchy of settlements at the tier within which Hatfield Peverel falls (paragraph 2.15, HPPC2) However, in cross examination that point was rapidly abandoned.
75. First, she accepted that the table within the adopted CS is a minimum figure and therefore one can conclude that the table does not form a basis for a mathematical exercise in allocating the shortfall of housing within the hierarchy. Second, when she was carefully taken through the emerging BNLP she readily accepted that it contained significant changes to the adopted strategy of housing distribution - most obviously in its dependence upon the new Garden Communities - but crucially given the enhanced role of Hatfield Peverel as part of

the A12 corridor of growth. With all due respect to Mrs Jarvis her point went nowhere and it certainly does not support the proposition that she intended that the DWH proposals are out of scale with the settlement, let alone the more radical distribution point made at paragraph 2.15 of her proof.

76. In conclusion, DWH, supported by the Council, strongly submit that the Sedgefield approach must be preferred for this Inquiry. The social dimension of sustainable development must require the shortfall to be delivered within the 5 years - to do otherwise is simply to put off the requirement to boost significantly the supply of housing and results in a failure to meet the requirements of those who want to own a home in this part of the country.

*The Buffer - 20% or 5%*

77. The Council argues for a 5% buffer, GDL/DWH for 20%. The evidential basis for the debate is the update (ID1.11) to table 5.1 in Mr Spry's proof of evidence (4/POE). This updated the completions figures for the early part of the period. The updated table shows:

- i) The Council has not met annual requirement figure since 2011/12;
- ii) There has been persistent and significant under-delivery between 2012-2017;
- iii) There is under-delivery against current half year (April to Sept 2017);
- iv) In combination, there has been under-delivery of housing against the requirement of:
  - 458 - 16.5 yrs
  - 1,002 - 10.5 yrs
  - 1,448 - 9.5 yrs

78. This table compellingly illustrates the inescapable conclusion that there has been persistent under delivery of housing in Braintree. Against this, the Council's unconvincing contention was to argue that it was "unfair" to judge them against an OAHN of 716 from 2013 when the figure was only introduced in November 2016. Rather it was argued that the lower Structure Plan figure should be used. However, the Council will have been well aware that an increased OAHN was likely given the household projections figures (detailed in the updated table 5.1) which were consistently in excess of the Structure Plan figure.

79. It is also clear that the Council was aware of the likely increase in OAHN as evidenced in the minutes of the Council's meeting on 30 June 2014 (1/POE, Appendix 2). Under agenda item 23 the Council decided to withdraw the Site Allocation Development Management Development Plan Document. One of the points noted by the Council was that the Framework would impact on the housing need figures derived from the CS and that under a Framework compliant methodology, those numbers would go up. It is disingenuous by the Council to now say at this Inquiry that they were not aware of the housing numbers going up; plainly they were aware of this from at least 30 June 2014. Therefore not only is it sound planning to backdate the OAHN to 2013, but the Council were also well aware of the requirement to increase their housing figures.

80. The Council's approach is wholly unconvincing. Not only would it be to "reward" tardy plan making but it means judging under-delivery against the wrong metric. The intention of the buffer is not one of "punishing" a local authority which would

then bring in concepts of fairness. Rather it is an objective exercise to determine whether or not there is a need to increase the well of sites from which the development industry can draw in order to achieve the OAHN. In this case it is now known that the target of the adopted plan was substantially below what it ought to have been in order to meet the agreed OAHN and that delivery was also well below the OAHN. It is therefore known that delivery was persistently below what it should have been and more importantly there is no suggestion that the lower Structure Plan target was somehow constraining delivery.

81. The Framework, published in 2012, could not be clearer at Framework paragraph 215: local planning authorities had a period of 12 months to bring policies into line with the Framework and after this date, the weight to be given to any pre-Framework policy would depend on the consistency with it. This includes, as it must, pre-Framework housing requirement figures, such as those used by the Council taken from the now-revoked East of England Plan. The Council ought to have updated their housing requirement in this 12-month period and done so in a way that reflects Framework paragraph 159 which establishes that this should meet "household and population projections" (the figures for which are included in Mr Spry's updated table 5.1 and would have been known to the Council at the time). They could have done so in a Framework compliant way with a partial review. They did not do this and still have not done this. The only Framework compliant way is therefore to back date the OAHN requirement to 2013/14.
82. The Council argue in their closing (paragraph 23 to 24, ID47) that the OAHN figure from 2013/14 was not the "target" at the time as that figure only became known in 2016. Target is the wrong word; it is about meeting housing need. The Framework is clear. Framework paragraph 47 bullet point 2 requires local planning authorities to identify sites to meet their "housing requirements", that means the need at the time. It does not mean the need as it was last identified. To adopt such an approach could result in years of need being unmet simply because a Council has not carried out the necessary work to assess the actual housing need in its area. Mr Cannon's approach would be another reward to the sluggish authority and must be rejected. Mr Spry's must be preferred as an approach that supports the Government's clear objective of boosting the supply of housing by assessing need as it actually is, not as it once was.
83. The appeal decisions cited by SPMRG on this point (paragraphs 90 – 92, ID49) are not on point. The first decision (ID44) was in the context of an authority that had over supplied for an 8 year period. Plainly this Council is a long way from this having undersupplied over a number of years. The second decision (ID43) is also in the context of an authority that had over supplied. The arguments of DWH on this point should be preferred.

### *Conclusions on 5YHLS*

84. If the Secretary of State accepts that the correct approach to calculating the land supply position in Braintree is Sedgefield/20%, then the supply is 3.3 years against the Council's OAHN figure. It is only if the Secretary of State concludes that all the stars have aligned and that the correct approach is Liverpool/5% with the additional sites put forward by the Rule 6 parties, that the Council could crawl over the line and show a 5YHLS - 5.38 years. It is GDL/DWHs' submissions that such a conclusion, given the weakness of the argument and absence of

supporting evidence, grossly over-stretches the elastic potential of planning judgment.

85. Should the Secretary of State conclude that the correct approach is Sedgefield/20% (or indeed Sedgefield/5, or Liverpool 5/20), then the Council cannot demonstrate a 5YHLS and there is a serious deficit against the minimum policy requirement of Government such that there is an immediate need to redress that deficit. Moreover relevant policy consequences kick in.
86. In the absence of a 5YHLS, Framework paragraph 49 says that "relevant policies for the supply of housing" are not to be considered up to date. The Supreme Court in *Suffolk Coastal DC v Hopkins Homes* [2017] UKSC 37 concluded that decision makers should adopt a narrow approach to identifying which policies should be considered as "relevant policies for the supply of housing" (paragraph 57, CD31.2 set C). However, this may not be the point of the exercise (paragraph 59):

*The important question is not how to define individual policies, but whether the result is a five-year supply in accordance with the objectives set by paragraph 47. If there is a failure in that respect, it matters not whether the failure is because of the inadequacies of the policies specifically concerned with housing provision, or because of the over-restrictive nature of other non-housing policies.*

87. The approach is endorsed at paragraph 83:

*If a planning authority that was in default of the requirement of a five-years supply were to continue to apply its environmental and amenity policies with full rigour, the objective of the Framework could be frustrated.*

88. The weight to be given to particular policies in the adopted and emerging local plans is addressed in due course. However, the point that must be taken from *Suffolk Coastal* is that where it is environmental (or other) policies that have resulted in the failure to demonstrate a 5YHLS, then those policies are as susceptible to having their weight reduced in the balance as those policies that fall within the definition of "relevant policies for the supply of housing".
89. HPPC's closing submissions on the ratio of *Suffolk Coastal* must be rejected (paragraph 36 and 37, ID48). The Supreme Court is not removing the s38(6) test; that is at the heart of decision making. It is a judgment about the weight to be given to policies where the plan is absent, silent or out of date. Mr Graham's approach of dismissing Framework paragraph 14 as "no more than guidance" rather than crucially important national policy which should be afforded substantial weight, is an invitation to the decision maker to fall into serious error.
90. Overall therefore it is firmly submitted:
- i) there is plainly a substantial deficit as against the minimum requirement to demonstrate a 5YHLS;
  - ii) the effect of that is that Framework paragraph 49 is engaged;
  - iii) that alone is sufficient to warrant engaging the presumption in Framework paragraph 14;
  - iv) it is agreed that there is no immediate prospect of the emerging BNLP being adopted and therefore the only means by which the deficit can

be addressed is through the grant of planning permissions in sustainable locations; and

- v) substantial weight should be afforded to the provision of general market housing which contributes to meeting that deficit.

### ***Landscape issues***

91. The Secretary of State is invited to place substantial reliance upon Jeremy Smith's proof of evidence (DWH3) and the landscape and visual impact assessment (LVIA) that underpins it which sets out the landscape considerations in a balanced and compelling way. That is not merely an exercise in advocacy, but for the following compelling reasons:

- i) the LVIA is the only LVIA which has been produced by anyone;
- ii) that LVIA was audited by the Council before it resolved to grant planning permission and was found to be methodologically sound;
- iii) no serious attack has been launched by anyone on the methodology of the LVIA. Whilst in cross examination HPPC sought to "test" some of the elements of the LVIA, HPPC had no comparable evidence to set against it;
- iv) the case in fact put to Mr Smith appeared to be to criticise him because he had taken localised viewpoints where either the application site will be seen in the context of immediately adjacent infrastructure or housing, or where it will be barely seen at all. Rather than making the HPPC's case, such arguments lead to the conclusion that the loss of this ordinary field, which is heavily influenced by adjacent urban development will give rise to no more than highly localised impacts which are readily capable of mitigation. What views will remain will be of housing from within the existing urban area - which is self-evidently characteristic and not harmful.

92. Thus, the reality from the Inquiry is that the totality of HPPC's landscape objections to the DWH scheme, both those put in a couple of pages of Mrs Jarvis's proof as well as the case put in cross examination, are deeply unconvincing. Whilst it is undoubtedly the case that the development of previously undeveloped land on the edge of a settlement gives rise to some inevitable harm, the loss of this otherwise unremarkable and unimportant area of agricultural land gives rise to harm at only the lowest end of the spectrum.

93. HPPC's case prior to the start of the Inquiry was that such a loss was not warranted - in particular because it will impinge upon an important view highlighted in the NDP and secondly that it will result in an unwarranted erosion of the gap between Hatfield Peverel and Witham. It is respectfully submitted that this approach is deeply a misguided one in both landscape and planning policy terms.

### ***Erosion of the Gap***

94. At policy HPE 1, the NDP seeks to prevent coalescence between Hatfield Peverel and Witham. It aims to do this by identifying a "green wedge" (page 24 – 25, CD16.3 set C). The previous version of this policy in an earlier draft of the NDP inappropriately references "Green Belt", rather than the provision of a green wedge as now included in the consultation draft of the NDP. While ostensibly recognising that this was inappropriate, the NDP policy now remarkably attempts

to promote a policy which is even more restrictive than Green Belt, as examined in evidence. Thus, in the Green Belt, planning permission ought to be granted if very special circumstances were evidenced, yet HPE1 provides no such provision. Similarly if a Green Belt were being established then a local planning authority would look to identify safeguarded land for future development to protect the inner boundary of the Green Belt, but here the HPE1 designation comes hard up against the settlement edge.

95. Mr Renow accepted in cross examination that the gap between Hatfield Peverel and Witham would still be almost a kilometre with the development. The assertions in paragraph 191 of HPPC's closing submissions were not put to Mr Smith and were not made by either HPPC witness.
96. The reality of policy HPE 1 is that it is trying to bestow Green Belt-style protection on the land between Hatfield Peverel and Witham, which probably provides an even more constrained policy context, contrary to any reasonable interpretation of the Framework.
97. It is also plain that this NDP policy draws no support from any credible evidence base, nor from adopted or emerging local plan policy. The BNLP (paragraphs 8.31 to 8.36 and policy LPP72, CD16.2 set C) sets out the thinking on green buffers by the Council. Notable by its absence is any protection for the gap between Hatfield Peverel and Witham, in which sits the DWH site.
98. Similarly the underlying landscape evidence base of the NDP does highlight concerns over coalescence, but not in relation to the tract of land within which the application site sits, which makes no mention at all about its supposed role in supporting an important gap.
99. It is noted that HPPC seeks some comfort in its approach from a single sentence email from an officer in the policy team of the Council (ID26), who provides a view which is patently at odds with that of the Council in promoting draft policy LPP72. It is unclear on what possible authority such an email might have been written, but the weight to be afforded to it must be very limited indeed. More importantly, policy HPE1 is subject to substantial and serious objection from both the public and the private sector which seriously diminishes the weight to be afforded to it. Most notably, there is an outstanding objection to this policy by the Essex County Council Spatial Planning Manager. In his objection he notes:

*ECC notes that this [policy HPE 1] is not consistent with Policy LPP 72... The area along the eastern boundary of Hatfield Peverel is subject to a development, which has been approved by BDC, but is subject to a call-in. Consequently, this would infer that BDC does not consider this area as meeting the requirements, which seek to prevent coalescence of settlements.*

100. It is remarkable that HPPC did not seek to draw this to the attention of the Inquiry. With respect however it is the death knell for any contention that any more than the most limited weight should be afforded to policy HPE1.

### *An Important View?*

101. Policy HPE 6 in the NDP (CD16.3 set C) seeks to:

*protect the landscape setting of the village through the preservation and enhancement of views identified by the community and the Hatfield Peverel Landscape Character Assessment (2015). Any proposed development, or alterations to an area within these views must ensure their key features can continue to be enjoyed including distant buildings, areas of landscape and open agricultural countryside.*

102. There are a whole host of reasons why this policy should be given very little, if any, weight in the final planning balance:

- i) As Mrs Jarvis accepted, it is not consistent with policy LPP72 in the BNLPP.
- ii) In 2015, the Landscape Partnership carried out a Local Landscape Character Assessment for Hatfield Peverel (LLCA) (CD18.4 set C) that forms a fundamental part of the evidence base for the Neighbourhood Plan. The DWH site is within LLCA 4 (page 23 CD18.4). This independent study produced by landscape experts, identifies the key views within the LLCA as shown on the plan on page 23. The blue arrow pointing northeast goes along the public right of way which runs approx. 200m south of the site save for a very thin sliver of land to the extreme south of the site proper which it is intended will provide a landscaped link to the footpath network. When that is compared with the key views that have been included in the NDP (page 33, CD16.3, set C), what is immediately striking is that the view within the proximity of the application site identified by the independent experts is not the one carried forward into viewpoint 5 in the NDP. The experts, undertaking an approach with a recognisable methodology, identify the views out from the start of the public right of way which runs along the southern/eastern boundary of the site and which will be covered by public open space in the application, that view will be entirely unaffected by the appeal proposals. The NDP, at viewpoint 5, dismisses this and instead promotes a view from the end of a residential cul-de-sac, with no entrance to a public right of way that looks directly across the development site.

The reasons given for this change by Mr Renow in cross examination were that these views were voted for by local people and are considered to be the views deserving of policy protection within the NDP although Mr Renow did fairly accept that VP5 in the NDP is clearly inconsistent with the LLCA. More fairly still, he accepted that this was not a proper basis to plan protected views. Therefore HPPC's own evidence given by the person who claims to be at the heart of the neighbourhood planning process, is that the view protected in the NDP has no proper evidential basis. Instead, as Mr Smith made clear in his evidence, the view along the public right of way, that does have landscape value, will have any impacts upon it mitigated through boundary planting and the provision of public open space.

- iii) The Workshop for Important Views document (CD 18.6 set C) which sets out the analysis that supposedly led to the inclusion of viewpoint 5 in the NDP as an important view, exposes the reality of the selection. This document, at page 6, where the potential views within LLCA 4 were considered, states as follows with regard to the view across the

application site that eventually became important view 5 in the NDP - "*Key features - line of tall trees, flat field, hedgerows and trees*", but perhaps most revealing "*Value to the community - not sure if this area has any value but the residents like the view*" (emphasis added). The true purpose of the identification of the important views is finally revealed when examining why some of the sites were removed from the NDP. The view of the River Ter (CD18.6 set C, page 2, row 6), that one might consider to be a quintessential view, was removed as it is "*Not subject to planning*". Likewise that the view over St. Andrews Church was removed despite being the "*Historic core of the settlement*". Thus, if the view in the NDP has any claim to be an important one then it is in the teeth of the evidence and based upon the fact that an unknown number of people seem to "like it". As put in cross examination, it is difficult to escape the inference that those promoting the NDP have sought to promote not the important view recommended by an expert but an unimportant view in order to make a case opposing the DWH site.

- iv) Mr Renow sought to criticise the DWH assessment for not having taken account of the views of the community. A landscape character assessment undertaken by a professional landscape architect is intended to convey the objective judgment of the "assessor" and therefore is very rarely materially influenced by the views of the public, unless representations raise an objectively justifiable concern which had not been previously considered. The point is that it is a professional piece of work, which follows recognised guidance, not an informal local referendum on popularity of views. Indeed, when the Neighbourhood Plan team did attempt to take the view of locals as to which views were "important" it did so in a haphazard and inconsistent way which deviated from its purported evidence base. However even on that approach it is of note that the view from Gleneagles Way (proposed to be protected in the NDP) came 4th out of 5 proposed views. So even on his own argument, it does not suggest that even the local community find the view particularly important.
- v) The final piece of evidence exposing the real intentions of the NDP is set out at CD18.3, set C - Hatfield Peverel Site Assessment 2017. The application site is considered at page 8. It identifies no beneficial opportunities at the site, despite those drafting this document in 2017 being aware of this application to develop the site. Mr Renow accepted in cross-examination that the non-preferred sites were marked in this document with no opportunities in contrast with the preferred sites. It is in short an admitted exercise in advocacy and not evidence worthy of the name. Mr Renow reasonably made the above concession and it must be given significant weight. Paragraph 99 of the HPPC closing submissions which row back from this concession on this point can be afforded no weight at all.
- vi) HPPC note in their closing submissions that policy HPE6 deals with views 'identified by the community and the Hatfield Peverel Landscape Character Assessment'. Those are the words in the policy, but so far as relevant to the appeal site those words are flatly contradicted by the evidence base (see above). Indeed Mr Renow properly accepted in



cross examination that the choice of views was only based upon community views - a process with no recognised methodology.

### *The emerging NP*

103. The reality is that the NDP, insofar as it addresses landscape issues, is a partial document. It is not a balanced piece of planning analysis that looks to meet housing need and protect landscapes meriting protection. The motivation appears to have been in part to stymie development in Hatfield Peverel other than on the Arla Dairy site. Consequently, the landscape policies within the NDP should be given very limited, if any, weight. They lack any balanced and considered evidence base and are subject to detailed and robust objection. Additionally, as will be addressed in more detail below, the NDP is some considerable way from being made and is best described as being "stalled" with no immediate hope of being restarted.

### *Landscape Conclusions*

104. The reality of the landscape evidence with regard to the DWH site as it has emerged to the Inquiry is that Mr Smith's approach and assessment withstood challenge and were essentially not contradicted by contrary evidence. The effects of the development on the wider landscape are assessed as minor. Likewise, the visual effects of the development are properly characterised as highly localised especially once the mitigation has matured. As Mr Smith's photographs readily demonstrate there will then be no intervisibility between Hatfield Peverel and Witham, both as a result of distance, intervening landscaping, proposed landscaping as well as the marked effects of the intervening ridge that Mr Smith described. That position will not alter even if the emerging BNLP allocations are endorsed. No proper challenge was raised to Mr Smith's assessment of the scheme against the Eastleigh test. To be blunt just as with landscape, the issue of an impact upon coalescence of settlement is a makeweight point as far as the Gleneagles site is concerned.
105. Regrettably, Mr Graham has not properly recorded the evidence of Mr Smith on landscape. He did not accept that there would be clear intervisibility between the application site and Witham - evidenced in the photo montages. Mr Smith did state that it would be possible to see Wood End Farm as one leaves Hatfield Peverel on the A12. This is not the same as views from the DWH site and nor would it impact upon coalescence.
106. HPPC seek to draw attention to the view from D's Diner as making a positive contribution to the character of the area (paragraph 193 ID48). As Mr Smith made clear in cross examination, this view includes the A12 on the left, the cycle path, an unsurfaced car park in the foreground and the existing housing and diner to the right. The proportion of the view that is occupied by the application site is relatively small and, most importantly the context of new homes in this view, would be existing urban development and substantial infrastructure to both the left and right. Using the Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA3) process there is no doubt that this visual effect would be less than significant.
107. Finally, DWH, through Mr Smith, produced a document to the Inquiry (Statement of Landscape Principles, ID46), which should be read alongside the parameters plan (SAV4) and the design and access statement (SAV7). This sets

out in plain terms the approach the developer will take to mitigating the limited landscape harms caused by the development. The conclusion the Secretary of State will be invited to make is that there are no supportable landscape reasons for refusing this scheme. HPPC seem to suggest (paragraph 192 ID48) that a 9 metre high barrier of planting along the eastern edge of the site would "detrimentally change the character of the locality". There is however already a belt of shrubs and trees along this edge of the site and these extend to above 15 metres in height. Some of the existing trees are non-native. The DWH proposals would augment and enhance the existing planting in a manner which is entirely in character with the area.

### **Planning**

108. DWH's planning case is set out in the proof of evidence from Mr Jonathan Dixon (DWH1), which was subject to only the most limited of challenges.
109. As stated in opening, the site is not in or adjacent to any heritage or landscape related designations and there are no technical reasons put forward to warrant the withholding of consent. The landscape objections put forward by HPPC have been addressed above and do not come close to providing a sound policy and legal basis for withholding consent, let alone comprising a basis to displace the presumption in favour of sustainable development.
110. The relevant policy issues in adopted and emerging local plans are limited to policies of minimum housing provision within the settlement hierarchy (CS1); general protection for the countryside (CS5); emerging policies on development boundaries (LPP 1); and policies in the NDP that have already been considered.
111. Dealing firstly with CS1. As Mrs Jarvis rightly accepted, this policy is presumed to be out of date as a result of the failure to show a 5YHLS. Therefore, it will carry reduced weight in the overall planning balance. However, it is also out of date and therefore of reduced weight, for several other reasons.
112. Had plan preparation proceeded properly, then the settlement boundaries, which were first established in the mid-1990s, would have been reviewed many years ago. However, there is nothing before the Inquiry to suggest that the settlement boundaries in the District have ever been subject to a comprehensive review (as opposed to merely amending settlement boundaries to accommodate strategic allocations), let alone in Hatfield Peverel. On the evidence it appears highly likely, therefore, that twenty year old boundaries have simply been rolled forward from an old (and a now-withdrawn) plan. Without an evidence base to support the policy, it is not enough to simply point at the words on the page and cry refuse - it must have an evidence base.
113. Mrs Jarvis suggested that the emerging BNL part 2 (CD16.2 set C) had been based upon a review of the boundaries. However, she was only able to provide a short report which appears to have been provided at an early stage of plan preparation to identify what principles would be applied to a future review (HPPC2, Appendix PJ3). It emphatically does not record or detail that any such review has taken place. When Mrs Jarvis was pressed, she readily conceded in cross examination that she had not been able to identify any documentation to support the proposition that the boundaries in the District have been reviewed as part of the emerging BNL process. It is plain from the evidence of all the

- planning witnesses, including HPPC, that Mr Dixon's approach to the out of datedness of settlement boundaries is manifest.
114. What is clear is that the Council readily accepts that in order to meet its immediate needs that greenfield land will need to be released.
115. Hatfield Peverel is a KSV within the adopted and emerging plans. Far from being preclusive of growth, that designation explicitly anticipates that the settlement can accommodate growth. Indeed in the emerging BNLP the settlements on the A12 corridor (including Hatfield Peverel) are identified as being a particular focus for growth - a point noted by HPPC in their closing submission (paragraph 70 ID48). Mrs Jarvis readily accepted that Hatfield Peverel could accommodate additional growth. However her point appeared to be that the development of the appeal site would lead to excessive growth. However the yardstick against which she sought to judge whether that was excessive related to a plan whose period has expired and relating to a table of indicative distribution of growth which is explicitly a minimum. When pressed, she accepted that there was no policy limitation which is breached by the grant of planning permission. Certainly it is untenable to contend that the grant of planning permission in this case would comprise disproportionate growth for Hatfield Peverel.
116. Given the considerable under supply, it is essential that further land comes forward for development in Hatfield Peverel to meet the unmet need. Given the very limited objections to this site (both in substance and number), the DWH site is well placed to help the Council get closer to delivering its housing requirement.
117. Turning now to Policy CS5, this comprises a general blanket countryside protection policy. Mrs Jarvis rightly accepted that the weight to be given to this policy must be interpreted with regard to its consistency with the Framework. This policy imposes a blanket ban upon development in the countryside, which is not included in the Framework. Mrs Jarvis sought to place reliance upon Framework paragraph 17 which sets out the overarching principles. Eventually she conceded that the word "strictly" in CS5 went beyond what is included in the Framework. This policy should be given much reduced weight as it is inconsistent with the Framework and, recalling Lord Gill in *Suffolk Coastal*, such overly restrictive policies that result in less than 5YHLS must be given reduced weight or they would be frustrating the objectives of the Framework (CD31.2 set C).
118. The Council seek to argue that policy CS5 should attract moderate weight because that is what other Inspectors have concluded and it complies with Framework paragraph 17 by recognising the intrinsic character and beauty of the countryside. That submission on Framework paragraph 17 is flawed for the reasons above. Previous Inspectors' conclusions are persuasive but they are not binding, given the strength of argument that this policy carries limited weight the Inspector and ultimately the Secretary of State can, and should, come to a different conclusion.
119. Turning to the emerging BNLP (CD 16.2 set C). This directs substantial growth to the garden villages, however Mrs Jarvis accepted that the emerging plan was still subject to a lot of objections. Despite this (and remembering the terms of Framework paragraph 216) Mrs Jarvis inexplicably concluded that the BNLP

should carry "fairly significant" weight as it was compliant with the Framework. It is not entirely clear what is meant by "fairly significant weight".

120. This is particularly inexplicable as she accepted that the substantial controversy still attached to the BNLP would reduce the weight that could be attached and she finally concluded that the Inspector should "be cautious" about the weight to be attached to the plan. It seems that this conclusion is well founded and accords with the careful analysis of Mr Dixon. Mrs Jarvis agreed with Mr Dixon that the BNLP was not in a position to solve the immediate problems with the 5YHLS and that it will not solve it in the next 18 months. It was further accepted that the plan would not be adopted soon - "It has some way to go". All of these points of agreement support the position of the applicant, as put forward by Mr Dixon, that the BNLP should be given significantly reduced weight.
121. Finally, on the NDP. Despite the misguided optimism of Mr Renow, this is a very long way from being made:
122. Since the NDP proposes to allocate land and does so in a way which is inconsistent with both the adopted and emerging LP (Mr Renow cross examination), then it will need a Strategic Environmental Assessment (SEA) to be carried out. Such an exercise has not been undertaken and as Mr Renow accepted (cross examination), no steps have been taken to complete one. Indeed at times he appeared not to understand what an SEA was. The simple and undeniable fact is that if the NDP wants to allocate sites it must complete an SEA unless it is merely parasitic upon an adopted local plan (which it plainly is not). It does not remotely depend on the outcome of a Habitats Regulation Assessment (HRA) screening assessment as Mr Graham submits (para 84 ID48) which is an important but parallel legal process. The point made by SPMRG (paragraph 122 ID49) should also be rejected. Whilst the lack of the SEA might not directly affect landscape or protected views, it manifestly affects the ability of the plan to move (lawfully) to the next stage. If it cannot move forward in the process, then the weight to all policies in the plan cannot increase. Notwithstanding this, there are the other concerns with landscape and protected view policy in the NDP already explained. Mr Graham is simply wrong on this point.
123. Mr Renow's explanation as to why an SEA was not needed was because the Council has completed a HRA in respect of the planning application upon the Arla site, ie the site that the NDP proposes to allocate. This exercise was undertaken, as is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2010, because a development is proposed on the site for 145 units. To suggest that this HRA would displace the need for an SEA to allocate the site in the NDP is a fundamental misunderstanding of what is required for the NDP to allocate a site in a lawful manner. An HRA for a specific proposal is not an SEA for an allocation in a plan. If the NDP proceeds on the basis advocated by Mr Renow, it will be unlawful.
124. SAV49 is a letter from the independent examiner of the NDP. As of the letter date, 20 September 2017, it was anticipated by the neighbourhood group, as expressed to the examiner, that the SEA and HRA Screening Report would be available within 3 - 4 weeks - i.e. around mid-October 2017. No such reports have been prepared, nor is there any clear indication as to whether they ever will

be. (*note: this submission was written before HPPC notified the parties that the document had in fact been submitted to Natural England [10]*)

125. The basic conditions against which a neighbourhood plan is to be judged include compliance with European requirement and conformity with the adopted development plan. There is very clear authority that whilst there is nothing wrong with a neighbourhood plan being prepared to be consistent with both the emerging and the adopted development plan, it is against the adopted plan that the neighbourhood plan should be tested (paragraph 82 CD31.1 set C). Thus, the NDP cannot avoid meeting the obligation for a development plan which contains allocations as a plan or project to be subject to an SEA simply because it follows the lead of the emerging BNLP. Nor can it simply piggy-back on the back of the SEA for the emerging BNLP since that relates to a different plan with different considerations which will not be adopted until mid-2018 at the earliest.
126. Mr Renow accepted in cross examination that there may be a substantive problem with the SEA, but despite this, he considers that the NDP will be made well before the BNLP is adopted, at the latest June 2018. If that was the case then it would be the source of an allocation which has been untested by an SEA, and inconsistent with the adopted local plan. One reason for this is that CS policy CS4 requires the retention of existing employment sites. Paragraph 6.2 of the CS makes it clear that this also relates to KSVs. A housing allocation is plainly inconsistent with CS4. To allocate a housing site on the Arla site in advance of the emerging BNLP being adopted with such an allocation within it, and without an SEA would plainly not meet the basic conditions for a neighbourhood plan required by law.
127. In any event, it seems highly unlikely that the NDP could be lawfully made by June 2018 as a matter of simple practicalities. If the NDP seeks to allocate sites and proceeds to do so without an appropriate SEA, then it will be unlawful. Of course it could avoid any such problems by not allocating any sites or by waiting to progress further until after the BNLP is adopted, which would thereby abrogate the need for an SEA. If the NDP were modified so that it does not allocate any sites then it would still be fundamentally flawed because of the evidential issues with HPE1 and HPE 6. However if those flaws were also addressed (by deleting HPE1 and removing viewpoint 5 then such an adopted plan would not benefit from the protection of the Written Ministerial Statement on Neighbourhood Planning.
128. Moreover, just promoting the proposed allocation of the Arla Dairy site in the NDP is out of step with the BNLP (policy LLP 31) that identifies the Arla Dairy site for "mixed use of up to 200 dwellings". The NDP has far from a smooth flight path to landing. Indeed, to borrow Mrs Jarvis's words, it is a "hiccupped" plan that has various stages still to complete. She went further and said that she could not be sure whether the NDP was compliant with the Framework.
129. The argument put forward to support the argument for HPPC that the NDP should carry significant weight was because it had the support of the local community, as shown through the poll carried out by the Neighbourhood Plan group. This is wholly unsupportable in planning terms. The informal poll is not a referendum and weight does not depend simply upon popularity. It is also not an official stage in the development of the NDP. The weight to be given to the NDP must be in accordance with the requirements of Framework paragraph 216. It is

plain that Mr Renow's view of how weight is to be ascribed to a neighbourhood plan has absolutely no support in national policy or guidance.

130. The conclusion on the NDP is that the policies that are relevant should only be given very limited weight for the reasons above. Therefore, whilst HPPC seeks to argue that the development is in breach of policies HPE1 and HPE 6, the weight to be afforded to such conflict with policy is substantially reduced.

### **Education**

131. The applicant relies upon the Education SOCG (ID1.8) to evidence the absence of any education harm requiring mitigation from this development. Whilst some local residents have expressed concern at finding school places, the applicant submits that greater weight must be placed upon the education SOCG. There is no objection from Essex County Council as local education authority and planning permission should not be withheld on this basis.

132. HPPC seek to make submissions that "for many years, primary-age occupants of the Inquiry scheme would be required to travel further afield for schooling". There is simply no evidence of this before the Inquiry, which comprises evidentially unsubstantiated scaremongering and should be rejected. Had Essex County Council considered that the proposed education provision was unacceptable then it would have objected.

### **Highways**

133. DWH rely upon the Transport Assessment (SAV25) and the highways evidence produced as part of the application to demonstrate that all highways impact can be properly mitigated. The Highways Authority has no objections to the scheme, and there is no basis to come to a different conclusion.

### **Conclusion**

134. The Council cannot demonstrate a 5 year supply of housing land. Therefore, substantial weight should be afforded to a proposal for general market housing which helps to redress that deficit and, critically, the tilted balance in Framework paragraph14 applies. What is plain from the evidence put before this Inquiry, is that no objections have come close to significantly and demonstrably outweighing the considerable benefits of this scheme - the delivery of much needed market and affordable housing, the provision of public open space and the economic benefits of developing such a scheme. The application proposals comprise sustainable development which should be consented without delay.
135. For the Gleneagles site there can be no issues with regard to deliverability since it is controlled by a national housebuilder who, on instructions, is keen to bring the site forward for development as soon as possible.
136. As such, it is respectfully submitted that the Inspector recommends permission be granted so that development on this site can get underway - contributing meeting the housing requirement in this part of Essex.

Points from the Case for Gladman Developments Ltd adopted by David Wilson Homes and/or relevant to the determination of this application

***The sustainability of Hatfield Peverel as a location for development***

137. There is no evidence that Hatfield Peverel is anything other than a sustainable location for new housing growth. There are a range of services, facilities, clubs and activities that could accommodate new residents and to which new population within the village would contribute.
138. Mr Renow seeks to suggest that the village lacks the services and facilities to accommodate new development (paragraph 10 HPPC1). However, he includes at Appendix MR5 a list of clubs, organisations and businesses that exist within the village - they demonstrate the wealth of services and facilities that are available - with Mr Renow confirming that some clubs are so popular, they have had to find other venues outside of the village. Hatfield Peverel is a thriving settlement.
139. What Appendix MR5 confirms is that there are a range of social opportunities for new residents as well as a number of services and facilities that will cater for day to day living. Those include convenience stores that would provide for top up shopping, as well as hairdressers, beauticians, garages, a library, dry cleaner, florists and a number of restaurants, to name just a few. There is also the school and the surgery. Mr Renow accepted that all of those businesses give rise to employment opportunities for people working in the village.
140. Mr Renow's point was that, over time, employment opportunities in the village have reduced. However, despite that, there are no allocations within the emerging NDP for an employment site and the one allocation for housing (the Arla site) does not require a mix of uses to come forward. Mr Renow accepted there were good links for commuters from the village to travel to work either by train or bus and thus residents of Hatfield Peverel can access employment centres in a sustainable way without having to rely on the private car.
141. He also accepted the train service begins around 5am in the morning, with trains to London and runs until after midnight. He accepted that the train station is within walking distance of the site and that other nearby towns and job opportunities can be accessed by sustainable transport modes. Mr Renow accepted that people would not have to commute by car if they were leaving the village to find work.

***Planning policies***

***Policy CS5***

142. It is not GDL's case that policy CS5, or indeed the need to recognise the intrinsic beauty of the countryside can be forgotten about because CS5 is based on out of date boundaries and there is not a 5YHLS. The impact of the scheme on the landscape is an important consideration in this appeal, but CS5 requires all schemes in all open countryside to satisfy a threshold that the Framework requires only in relation to valued landscapes - to "protect and enhance". It is that threshold - a fundamental component of the policy - and what it is seeking to achieve that is inconsistent with the Framework and was exactly the point that was addressed in *Telford and Wrekin* (CD31.3 set C).

143. Mrs Jarvis alleged that the policy was consistent with the aims of the Framework paragraph 17(7) but also agreed in cross examination both that the relevant bullet point of Framework paragraph 17 does not set an absolute threshold for all development and that there is no general duty to enhance the countryside. It will be clear that the part of Framework paragraph 17 relied on provides a broad overarching principle which is to be implemented by more detailed policies within the Framework. It is relevant in that respect that Framework paragraph 6 does not include paragraph 17 within the definition of "sustainable development".
144. Moreover, that particular bullet point directly correlates to Framework Chapter 11 and paragraph 109 where what is required to be enhanced and protected are valued landscapes - not ordinary countryside.
145. Further, the observance of development boundaries is absolutely integral to the policy. If that part of the policy is removed as it must be given the out datedness of the boundary (the Council does not apply rigid boundaries – paragraph 59, CD32.2 set C), it no longer makes any sense. There is no criterion against which to measure the acceptability of development such as those before the Inquiry other than whether it is the right or wrong side of the boundary.
146. The weight to be given to CS5 is of course a matter of planning judgement for the decision-taker but regard should be had to the reasoning in *Telford and Wrekin*. HPPC on *Cawrey Ltd v SSCLG* [2016] EWHC 1198 in response (paragraph 51 ID48). However, the submission also omits a key part of the very paragraph it relies on that makes clear the important distinction in that case - that the Inspector had found the Council could demonstrate a 5YHLS. That finding had a direct bearing on the Judge's findings at paragraph 50 which are reproduced in full below:

*Whether that loss of countryside is important in any particular case is a matter of planning judgment for the decision maker. In any event, extant policies in a Development Plan which are protective of countryside must be had regard to, and in a case such as this a conflict with them could properly determine the s 38(6) PCPA 2004 issue. If the conclusion has been reached that the proposal does conflict with the development plan as a whole, then a conclusion that a development should then be permitted will require a judgment that material considerations justify the grant of permission. If reliance is then placed on NPPF, one must remember always what Lindblom LJ has said in Suffolk Coastal about its status. It is not suggested in this case that this is one where the NPPF paragraph [14] test applies, which given the Inspector's findings on the effect on the landscape, and the fact that HBBC is the Borough, and Ratby the settlement, where the policies considered in Bloor applied, is unsurprising. Nor is it suggested that he should have applied NPPF [49] given his findings on housing land. There is in my judgment nothing at all in NPPF which requires an Inspector to give no or little weight to extant policies in the Development Plan. Were it to do so, it would be incompatible with the statutory basis of development control in s 38(6) PCPA 2004 and s 70 TCPA 1990. (emphasis added)*



**Policy RLP2**

147. GDL agrees with the Council that policy RLP2 can attract only limited weight for the reasons set out in its submissions (paragraph 35 ID47). Both HPPC and SPMRG rely on the policy but do not engage with the weight to be given to it. It is clearly out of date and incapable of delivering housing to meet the needs of the population now.

## The Case for Hatfield Peverel Parish Council

148. The three schemes each conflict with the statutory development plan and so the starting-point is that they should be refused permission. In essence, the decisions on the three schemes will come down to whether the potential supply of housing should be given priority over the policy objectives of directing growth to other locations within development boundaries and at higher-order settlements in order to protect the environment (including the character of the settlement and historic assets), avoid excessive pressure on local facilities and infrastructure, and reduce the need to travel. This is a question of weight, which may depend on the extent to which any shortfall in 5 year housing land supply is identified, and on the Secretary of State's confidence that the proposed housing would be delivered on site within the 5 years.

**5 year housing land supply: the four step approach****Step 1: quantify the deliverable sites**

149. The Secretary of State will need to ask for the purpose of applying the Framework whether there is any shortfall in terms of 'supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements' (that is, the OAHN) and the extent of any shortfall (Framework paragraph 47, second bullet, emphasis added). This is a matter of planning judgment in terms of assessing whether a particular site is 'deliverable', and the capacity of a particular site to take a given quantity of housing, but it is otherwise a straightforward quantification exercise.

150. The policy test whether housing land is to be included in the 5YHLS is merely whether there is a 'realistic' - that is, non-fanciful - prospect of housing delivery (*St Modwen v SSCLG* [2017] EWCA Civ 1643 paragraphs 35-39, CD32.18 set C). A site does not have to be allocated in any plan, let alone be granted permission, in order to be included in the 5YHLS. Its delivery does not have to be a certainty, nor even more likely than not; the policy requires that it be 'realistic'.

151. Just because a site is outside development boundaries of the current plan does not mean it should be treated as having an unrealistic prospect of development where the planning authority has allocated it in an emerging plan and is currently of the view that it is a suitable and available site, viable and achievable within 5 years for the purpose of footnote 11 of the Framework, so has included it in its 5YHLS trajectory. In the Council's closing submissions, they give the example of the Gimsons site, and assert that "[u]ntil such time as the draft allocation supersedes the present development plan status, it cannot be considered 'deliverable'."

152. This statement demonstrates that the Council has taken and continues to take a legally erroneous approach to counting sites within its 5YHLS for the purpose of Framework paragraph 47. What the Council has done is to treat sites not

- allocated in the current plan as *ipso facto* incapable of being considered suitable, and has not included a single one in its land supply monitoring figures for the next 5 years. It is elementary that the adopted development plan is the starting-point but it does not predetermine the outcome of any planning application where there are good reasons for determining it otherwise than in accordance with that plan. If it were, this Inquiry would have been unnecessary. The Council cannot rationally treat sites as suitable for housing for the purpose of its forward planning but at the same time automatically treat them as unsuitable when determining actual applications just because the emerging plan has not been adopted.
153. Of course there might be other circumstances where a site allocated in an emerging plan would only become realistic for delivery in the 5 years if the plan was adopted (such as a site requiring planned infrastructure and/or a new settlement to be in existence first, if that new infrastructure or settlement would not otherwise come forward in time). No such circumstances apply here; the new settlements proposed in the emerging local plan are not proposed to come forward in the first 5 years of the plan, and are not relied upon in the early part of the housing trajectory. This is the advice in the PPG which states "If there are no significant constraints (eg. infrastructure) to overcome such as infrastructure [sic] sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe." (Paragraph: 031 Reference ID: 3-031-20140306).
154. On this analysis, it was wrong to exclude the sites that the Council is satisfied are soundly evidenced for inclusion in the trajectory showing the 'expected rate of housing delivery' for the purpose of promoting its local plan.
155. On that basis, the Secretary of State is entitled to rely on the sites counted in the housing trajectory appended to the Council's letter to the Rt Hon Priti Patel dated 29 November 2017 (ID42). On that basis, there is no, or no material, shortfall for the purpose of Framework paragraph 47. The trajectory table shows delivery in the first 5 years of the plan period as (501 + 577 + 1128 + 1443 + 1329), which is 4978 dwellings. Taking OAHN of 716, multiplying by 1.05 to allow for the 5% buffer gives 751.8 (say 752) dwellings per year, this gives 6.62 years' supply. If the Liverpool approach to adding backlog is adopted ((716 + 107) x 1.05), the annual requirement would need to be 864 which gives 5.76 years' supply (taking the OAHN figures from Alison Hutchinson's proof, (BDC1, table 1 on p.11). If the Sedgefield approach is adopted ((716 + 332) x 1.05 using Ms Hutchinson's figures) an annual requirement of 1,100 and 4.52yrs' supply is the outcome. The text of the letter to Ms Patel quotes figures of 6.24yrs and 4.9 yrs respectively, but the workings for arriving at those are not indicated.
156. Furthermore, the housing land supply position is improving and may have improved further by the time the Secretary of State issues a decision. For example, Mrs Hutchinson's Proof, (BDC1 table 2, page 12) shows improvement from 3.91 to 3.97yrs on the Liverpool approach and 3.1 to 3.9 years on the Sedgefield approach between 31 March 2017 and 30 September 2017, adopting the Council's approach of excluding the emerging allocations.
157. It is appreciated that the prospect of delivery of housing on one or more of the sites before this Inquiry may also be relevant to the determination of these

schemes, if - contrary to HPPC's submissions that these sites are not suitable - the Framework footnote 11 requirements were thought to be met and it were considered that housing on one or both was realistically likely to be delivered within 5 years (whether or not by virtue of these applications). Some addition to the supply might need to be made for that by the Secretary of State depending upon how each appeal or application is to be determined, when determining the others.

***Step 2: take the OAHN***

158. There was uncontested evidence at this Inquiry that the extent of OAHN is 716 dwellings annually.

***Step 3: decision as to whether to add to the requirement to allow for past shortfall and over what period to expect this to be made up***

159. At the Inquiry there was a debate about whether an addition should be made to the housing requirement to make up for previous shortfalls using either the Liverpool or the Sedgfield methods.

160. This exercise is essentially a policy judgment for the decision-maker which, importantly, is not prescribed by Framework paragraph 47. As Lindblom J noted in *Bloor Homes East Midlands Ltd v SSCLG* [2014] EWHC 754 (paragraph 108, ID61) upholding a decision to apply a Liverpool approach:

***Neither method is prescribed, or said to be preferable to the other, in government policy in the NPPF. In my view the inspector was free to come to his own judgment on this question.***

161. Framework paragraph 47 does not say to add previous years' shortfalls to the current OAHN to arrive at an annual requirement figure. This may be of significance when applying Framework paragraph 49 and determining whether the second bullet of the decision-taking limb of Framework paragraph 14 should apply.

162. The closest is the advice in the PPG section dealing with plan-making rather than decision-taking, which says, "Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the duty to cooperate." This guidance is consistent with the plan-led system, and does not dictate whether to add to a current years' annual requirement when taking a particular decision to make up for previous shortfalls, nor dictate a method for doing so.

163. If an allowance to make up for past shortfalls is to be added, the Liverpool method is appropriate here because the emerging local plan contains a strategy shared with partner Essex authorities to accommodate growth in new garden communities and large allocated sites, which can better respond to the requirements for new infrastructure, and will come forward later in the plan period. The evidence of the Council's professional planner Ms Hutchinson was that in her judgment the Liverpool approach was amply justified, but that the Council felt constrained not to advocate such an approach until the examination of its emerging local plan as it had lost other appeals.

164. However, HPPC considers this to be over-timid and inappropriate. The spatial strategy of the emerging BNLP would be undermined if development in less sustainable locations was permitted with the intention to meet a short-term need, to the detriment of what the Council properly consider to be the best long-term plan for the District. At this Inquiry there was no evidence led to contest the soundness of the Council's overall approach in its emerging BNLP. Indeed, Mr Lee sought to argue consistency with it, albeit on the selective basis that some growth was proposed for Hatfield Peverel whilst downplaying the fact that the Stone Path Drive site was located in the countryside for the purpose of the emerging plan (paragraph 13.3.6,1/POE). Although no party would contend that the emerging plan should be treated as if it were already the adopted development plan, the Secretary of State is fully entitled to give weight to it and to apply the Liverpool approach to these applications and appeal.

*Step 4: add buffer*

165. The Framework paragraph 47 provides guidance that an adjustment should be made to the OAHN by the addition of either a 5% or a 20% buffer. This requires a different form of judgment to be made about whether the record of the local planning authority is one of 'persistent under-delivery'.
166. A buffer of 5% is the default for ensuring choice and competition in the market for land. A buffer of 20% should be added 'to provide a realistic prospect of achieving the planned supply' where there is a record of 'persistent under-delivery' (Framework paragraph 47). The point is to make an allowance for proven persistent failures of delivery, to correct for over-optimism about meeting planned-for targets or requirements and to build in a margin for failure to deliver the targets currently planned for.
167. There is no further or different purpose (other than also ensuring choice and competition in the market) for the 20% buffer suggested by the Framework. It is not specified to apply by reference to a particular level of accumulated current shortfall, and is not designed to hasten the delivery of units in response to a particular urgency of need. The purpose of the buffer is not to correct for a particular shortfall, but to address the problem of over-optimism. Any accumulated shortfall in delivery against what is now understood to be the OAHN is reflected automatically in the figure for current housing need.
168. It would be quite wrong to test 'under-delivery' anachronistically against requirements that were not known at the time. HPPC respectfully adopt the archery analogy given by Mr Cannon (paragraphs 22-23, ID47). There is no record of persistent under-delivery here.
169. Even if there were a record of persistent under-delivery, the Framework is only guidance and the purpose of applying the higher 20% buffer is to ensure 'a realistic prospect of achieving the planned supply'. The Secretary of State is entitled to assume that sites in the Council's housing trajectory are 'realistic' (HPPC has not given evidence of its own on suitability and deliverability other than on specific comprehensive development area sites at Hatfield Peverel) and can be counted on as indicating the expected rate of housing delivery.

## Summary

170. Adopting the correct *St Modwen* approach to the meaning of 'deliverable sites', the Liverpool method for apportioning past under-delivery and a 5% buffer, there is no shortfall and the Council has a healthy 5.76 years' housing land supply on the latest figures. Even if one were able to demonstrate that some of the allocated sites were not realistic prospects, one would still have a 5 year supply on the Liverpool approach if there were land sufficient for 4,320, so there is a built-in healthy margin for error.
171. Whilst HPPC do not consider adopting the Sedgefield method to be appropriate, if we include the emerging allocations and a 5% buffer, there would be 4.52 years' supply, even on that basis, which is a very modest shortfall in the context of a rapidly improving supply position.

### **Policy issues in respect of all schemes**

#### *Framework paragraph 14 and its application-updatedness*

172. The question of 'updatedness' does not depend on chronological age in itself (Framework paragraph 211) but on changes in circumstances and/or planning policy.
173. By virtue of Framework paragraph 49, shortfall in 5YHLS would usually be treated as a factor indicating policies for the supply of housing were 'out of date', hence the materiality of the 5YHLS question.
174. The term 'policies for the supply of housing' has a narrow meaning, but as the Framework is only guidance it is not appropriate to embark on a legalistic exercise of classifying policies (paragraph 59, CD31.2 set C). Whether policies for the supply of housing (or indeed other policies) are out of date does not determine the weight to be given to them, which remains a matter for the decision-maker (paragraphs 29, 55 to 56 CD32.2 set C).

#### *Framework paragraph 14 and its application-silence*

175. Mr Lee –but not Mr Dixon- sought to argue that the development plan was 'silent' in relation to these appeals, because "the Development Plan is now silent in respect of where development should be located outside of the strategic areas identified on the Core Strategy Proposals Map" (paragraphs 6.4.3 to 6.4.4 1/POE).
176. Mr Lee's argument cannot be sustained here. In *Trustees of the Barker Mill Estates v Test Valley BC* [2016] EWHC 3028 (Admin) [2017] PTSR 408 at [100]-[101], Holgate J rejected as a 'fallacy' the analogous argument that 'first, the inspector had to consider whether the plan was "silent on a particular issue" and second, that issue was where land to provide for a shortfall of 6,823 square metres of B8 floorspace should be located'. The learned judge ruled:

*Neither paragraph 14 of the NPPF nor SD1 of the RTVLP [the local plan at issue] enable a party simply to select one of the "issues" relevant to the outcome of a planning application or appeal, so that it may be claimed that the plan is "silent" on that particular issue. Instead, the proper question for the decision-maker is whether there is a sufficient policy content in the plan taken*

*as a whole to enable the planning application to be determined as a matter of principle...*

*... In the Bloor Homes case Lindblom J explicitly stated, at para 59, that the fact that allocations have yet to be put in place in a development plan (in that case for housing), does not mean that the development plan is "silent".'*

177. The policies in the adopted Braintree Core Strategy, taken as a whole, indicate that permission should be refused because the strategy places both the Gleneagles and Stone Path Drive sites outside the village boundary in the countryside and directs growth to brownfield sites and infills within the village. Furthermore, there are emerging plan policies at an advanced stage which maintain both the Stone Path Drive and the Gleneagles sites outside the village boundary, and specifically protect the sites (particularly emerging NDP policies HPE6 on landscape setting and HE1 on coalescence).

178. Mr Lee referred to *South Oxfordshire District Council v Cemex Properties UK Limited* [2016] EWHC 1173, but that case needs to be considered on its peculiar facts. There, a core strategy stated that at least 1154 dwellings would be allocated in certain larger villages including Chinnor, but no allocations had been made. The inspector had regard to the fact that the emerging local plan was at a very early options stage, and there was not even a draft emerging neighbourhood plan to give direction. It was in those circumstances that the Inspector concluded there was a 'policy vacuum on the issue of site allocations in the larger villages' (judgment at paragraphs 43 and 48, citing decision letters). The judge ruled that:

*'91 ...the question for the decision maker is...(1) does this development plan contain a body of policy relevant to the proposal being considered; and (2) is that body of policy sufficient to enable the development to be judged acceptable or unacceptable in principle? The first question involves an identification of the policies in question, and their correct interpretation; the second involves the exercise of planning judgment on the practical effect of that body of policy on the making of the decision in issue.*

*92...It follows also from the fact that the decision maker must make a planning judgment that... what matters is not simply whether the plan contains a policy which can be looked at to determine the question posed in Bloor at [50] and repeated in the last sentence of my [91] above: for its sufficiency at the time the decision is being made is an essential issue, and that involves the making of a qualitative planning judgment. I emphasise that the judgment to be made is at the time of the decision. A Development Plan may not have been "silent" when adopted, but has become so.*

*93... In the case of this Development Plan, the mechanism by which its housing requirement figures were intended to be translated into actual allocations was the DPD, which SODC had since abandoned. The question "how much housing does the Development Plan intend should be allocated in the period x to y" is not the same question as "where does the Plan say that that housing could or should be built?" In some cases, it can be the second question that matters. Whether it does so depends on the circumstances and is a matter for the planning judgment of the decision maker.'*

The judge concluded:

*97 'This was a case where it was her planning judgment that it was the answer to the second question above which mattered... Thus, she found that there was effective silence on the critical issue. That was a planning judgment which she was entitled to form.*

*98 Her conclusion...is a planning judgment that was open to her'*

179. Although in the case before this Inquiry, the initially envisaged site allocations document to follow the CS did not proceed to adoption, there are important distinctions from the situation in the Oxfordshire case. CS policy CS1 states that the dwellings 'will be located...On previously developed land and infill sites in the Key Service Villages and other villages'. Furthermore, unlike the South Oxfordshire case where the development boundaries and countryside protection policies were merely contained in a previous saved plan pre-dating the core strategy, CS5 states as set out above (paragraph 30).

180. This gives a further clear steer that large housing developments in the countryside are not in accordance with the CS. Thus, Braintree's adopted plan is not, in its policies, silent about where it expects the growth to take place. The policies do not require the Site Allocations DPD before being able to say whether in principle development in green open countryside adjacent to Hatfield Peverel is encouraged: the answer is a clear 'no'. By way of further distinction, there are submitted examination drafts of the emerging BNLP, and emerging NDP. Furthermore, the question of how much development is intended in Hatfield Peverel matters as well as where that development is located.

181. In this regard, the situation here is more akin to that in *Bloor Homes East Midlands Ltd v SSCLG* [2014] EWHC 754, where the site lay within a 'green wedge' designated by a policy in the core strategy and the High Court upheld the decision that the plan was not 'silent' even though the core strategy had contemplated that a future site allocations DPD would review that boundary (see judgment at paragraphs 29, 30, 36 and 51-58).

182. The unsustainability of any argument that the development plan is silent is perhaps demonstrated by the subsequent length of Mr Lee's proof where he sets out and considers the relevant policies, and by his eventual acknowledgement (paragraph 13.2.2, 1/POE) that "Having tested the proposals against the material policies contained within the Braintree development plan I accept that the appeal proposals conflict with the Plan". Notwithstanding his subsequent oral equivocation over this point during his cross-examination, that acknowledgement in the Proof was rightly made.

#### ***Framework paragraph 14 and its application-Specific policies in this framework***

183. 'Specific policies in this framework' means policies that, applied here, indicate in the judgment of the decision-taker that permission should be refused. Such policies may include relevant development plan policies within the framework of the Framework.

184. The second bullet-point in the decision-taking limb of Framework paragraph 14 is no more than guidance and only applies where a development plan is absent, silent or out-of-date. It does not displace the statutory presumption in favour of determining applications in accordance with the development plan so that

proposals conflicting with the plan should be refused unless material considerations indicate otherwise (Framework paragraph 12). It has to be read consistently with that presumption. Where, although the plan may be generally or in some particular respects (e.g. in its policies in relation to the supply of housing) out-of-date so as to engage Framework paragraph 14, that does not determine the weight to be given to particular development plan policies. Over-legalistic interpretation of the Framework, drawing fine, unintended distinctions, is to be deprecated. These principles are clear from *Suffolk Coastal* (paragraphs 14, 21, 23, 54-56, 74 and 85 CD32.2 set C).

185. At Framework paragraph 154 it is emphasised that 'Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where'. A decision-maker is fully entitled to conclude that specific policies within the Framework -such as for protection of countryside and favouring greenfield over brownfield development- indicate that permission is to be refused without having always to conclude that benefits are 'significantly and demonstrably' outweighed by harms.

### ***The adopted development plan***

#### *The spatial strategy*

186. The CS is based on a 'hierarchy of place' (paragraphs 2.4-2.14, HPPC2) focusing growth at settlements higher up the hierarchy. In that context, at policy CS1 it identifies a minimum requirement of 600 homes for the period 2009 to 2026 at the six KSVs. The number of dwellings to be provided in these Inquiry schemes (up to 260 across the two Inquiry sites), in combination with the development permitted since 2009 in Hatfield Peverel, would greatly exceed a proportionate distribution across the villages. The proportions are relevant as well as the numbers: six KSVs are to take 12% of the homes between them (paragraphs 2.15-2.18, HPPC2).

187. Policy CS 1 further states:

*These dwellings will be located (as set out in table CS1):  
On previously developed land and infill sites in the Key Service Villages and other villages.*

188. This means that the growth is being directed within the village, and to previously developed land, rather than to greenfield sites outside the village such as those at issue at this Inquiry.

189. The supporting text to the CS (para 9.11) noted that sites would be allocated in a subsequent DPD, and stated, 'There will also be sites, which are not yet identified in the Housing Supply Trajectory or Table 6, which could come forward through minor extensions to town or village development boundaries in the Site Allocations DPD', but this text was not part of the policy and does not cut down or qualify the policy to direct growth outside the settlement boundaries (paragraph 16, *R(Cherkley Campaign Ltd) v Mole Valley DC* [2014] EWCA Civ 567).

190. In that context, policy CS5 is an intrinsic part of the spatial strategy (paragraphs 2.19 to 2.25, HPPC2). It should be given full or substantial weight for the reasons explained by Ms Jarvis in her Proof and later in these



submissions. Saved Policies RLP2 and RLP3 are not merely hangovers but are reflected in the CS.

191. Accordingly, there is a conflict between the spatial strategy of the adopted local plan and the principle of the Inquiry schemes. The strategy has been based on sound planning principles and is consistent with the objectives in the Framework paragraphs 17, 34, 37, 38, 70, 110-111, 112 of being genuinely plan-led, minimising the need to travel, focusing development in locations that are or can be made sustainable, preferring land of lesser environmental value and previously developed land over green field land, taking account of the different roles and character of different areas, protecting the intrinsic character and beauty of the countryside, minimising adverse effects on the local and natural environment, undertaking significant development on agricultural land only when necessary, and planning for the location of housing, economic uses and community facilities and services in an integrated way.
192. Hatfield Peverel is a fairly small village with 1815 households in 2011. It has a limited range of services and little employment potential, having lost employment with loss of the Arla Dairy. For weekly or big-ticket item shopping, employment and indoor leisure facilities, it is already necessary to travel outside the village. The village can only sustainably accommodate housing growth in proportion to its role in the settlement hierarchy.

### *Boundaries and review*

193. Mr Tucker suggested in cross-examination that the Hatfield Peverel settlement boundaries in the current and emerging local plans were merely holdovers from previous plans and that their maintenance had not been reviewed. This is not a submission supported by the evidence.
194. Both the adopted CS and the emerging BNLP have been subject to sustainability appraisal and the latter exercise specifically considered the question of retention of boundaries, assessing this as environmentally positive to landscapes and townscapes, service centre vitality, sustainable travel, climate change and accessibility compared to relying on the Framework alone; and the question of new allocations was considered (PoE/Jarvis pages 17-20 and paragraph 2.40 and Appendix PJ2, HPPC2). Spatial Strategy Formulation (ID33) refers to review criteria, options, KSVs, countryside and draft allocations. The adopted CS was found sound by the Secretary of State.
195. It is right that the policy was not to alter the boundaries to take the Inquiry sites within the village envelope of Hatfield Peverel. Strategic policy choices were taken to retain the settlement boundaries, subject to specific allocations and to creating new urban areas or extensions, and to focus growth elsewhere. These were legitimate policy choices.
196. Whilst HPPC accepts that the Secretary of State is entitled to consider provision of housing to be a material consideration weighing against applying the development plan at the Inquiry sites, there are no grounds to give less weight to the adopted or emerging development plan just because successive plans have retained the Hatfield Peverel boundary south of the A12.

### *Policies for the protection of the countryside*

197. The suggestion by GDL that the adopted countryside policies and policy CS5 in particular are inconsistent with the Framework is wrong. Two further assertions are also misconceived. First, that the Framework draws a distinction between valued landscapes and the countryside such that 'ordinary' countryside is not subject to general protection. Second, that because the countryside and emerging NDP green wedge policies do not have built-in exceptions for beneficial housing development made them inconsistent with the Framework.

198. The Framework comprises general policy guidance. It is not a statute and must not be read like a statute. In contrast to statutes, which must be obeyed unless there is an express exception, it is an intrinsic feature of policies and guidance that they may be departed from for good reasons, where material considerations indicate otherwise. In *Cawrey Ltd v SSCLG* [2016] EWHC 1198 (Admin) at paragraphs 43 and 45, Gilbert J cited Lindblom LJ's judgment in *Suffolk Coastal*:

*The NPPF is a policy document. It ought not to be treated as if it had the force of statute... It is for the decision-maker to decide what weight should be given to NPPF policies in so far as they are relevant to the proposal. Because this is government policy, it is likely always to merit significant weight. But the court will not intervene unless the weight given to it by the decision-maker can be said to be unreasonable in the Wednesbury sense."*

*... Before Suffolk Coastal it had been striking that NPPF, a policy document, could sometimes have been approached as if it were a statute, and as importantly, as if it did away with the importance of a decision maker taking a properly nuanced decision in the round, having regard to the development plan (and its statutory significance) and to all material considerations. In particular, I would emphasise this passage in Lindblom LJ's judgment at [42]-[43], which restates the role of a policy document, and just as importantly how it is to be interpreted and applied. NPPF is not to be used to obstruct sensible decision making. It is there as policy guidance to be had regard to in that process, not to supplant it.'*

199. In *Bloor Homes East Midlands Ltd v SSCLG* [2014] EWHC 754 at paragraphs 175 and 186, Lindblom J (as he then was) considered the argument that a 'green wedge' policy was inconsistent with the Framework if it restricted all house-building without an exception for a positive cost-benefit analysis, rejecting 'the proposition that every development plan policy restricting development of one kind or another in a particular location will be incompatible with policy for sustainable development in the Framework, and thus out-of-date, if it does not in its own terms qualify that restriction by saying it can be overcome by the benefits of a particular proposal'.

200. Mr Lee cited the case of *Telford and Wrekin BC v SSCLG* [2016] EWHC 3073 (Admin) (CD31.3 set C), where Lang J declined to quash a decision by a planning inspector that a policy which sought to 'strictly control' development in the countryside 'is not up-to-date and in conformity with the more recent planning policy context established by the Framework, where there is no blanket protection of the open countryside and where there is a requirement to boost

significantly the supply of housing,' such that he would give it 'less than full weight'. The *Cawrey* judgment was not cited. Lang J stated at paragraph 47,

*In my judgment, the Inspector did not err in law in concluding that Policy CS7 was not in conformity with the NPPF and so was out-of-date. It is a core planning principle, set out in NPPF 17, that decision-taking should recognise "the intrinsic character and beauty of the countryside and supporting thriving rural communities within it". This principle is reflected throughout the NPPF e.g. policy on the location of rural housing (NPPF 55); designation of Local Green Space (NPPF 76); protection of the Green Belt (NPPF 79 - 92) and Section 11, headed "Conserving and enhancing the natural environment" (NPPF 109- 125). However, NPPF does not include a blanket protection of the countryside for its own sake, such as existed in earlier national guidance (e.g. Planning Policy Guidance 7), and regard must also be had to the other core planning principles favouring sustainable development, as set out in NPPF 17. The Inspector had to exercise his planning judgment to determine whether or not this particular policy was in conformity with the NPPF, and the Council has failed to establish that there was any public law error in his approach, or that his conclusion was irrational. (emphasis added).*

201. At its highest, the *Telford* case was therefore decided on the basis that the weight to give to various principles within the Framework pulling in different directions (supply of housing and other principles versus protecting intrinsic character and beauty) was a matter of planning judgment that Lang J would not interfere with. It is not automatically inconsistent with the Framework, as a matter of law, to have a general policy to protect the countryside by restricting the development that is presumed to be appropriate there. This judgment does not require the Secretary of State to follow the Telford inspector's approach to weight as a matter of planning judgment, which remains a matter for the decision-maker even if a policy is judged to be out of date (per *Suffolk Coastal* cited above).
202. Whether a policy is judged to be inconsistent with the Framework is a matter of planning judgment depending upon the weight to attach to different passages of the document, so long as the wording of the Framework is understood correctly. Clearly, the actual character and attractiveness of particular countryside will be relevant to the weight to place on a policy protecting the countryside, and the merits of making an exception in the particular case. Policies cannot just be applied mechanistically for the sake of it in a 'blanket' way, without regard to features of particular sites. But that is a straw man argument, because HPPC are not contending for such an approach here.
203. HPPC commend the approach taken by the Secretary of State in his decision regarding Land East of Ditchling Road, Wivelsfield, East Sussex (ID25). The relevant part of the decision concerned the question whether a materially indistinguishable general policy to protect the countryside ('CT1') outside development boundaries was inconsistent with the NPPF. In the decision letter, (para 15), the Secretary of State concluded, 'for the reasons set out at IR327-328, the Secretary of State agrees that LP policy CT1 is not out of date (either by operation of paragraph 215 or paragraph 49 of the Framework) and that the conflict with it should be given significant weight in the decision'. The Inspector had concluded as follows:

*[IR 327] With respect to the adopted plan, there is conflict only with one policy, CT1, of the Local Plan, but this leads to an overall conclusion that the proposal is not in accordance with the development plan as a whole.*

*[IR 328] The defined Planning Boundaries as the means through which policy CT1 operates are related to development requirements that no longer apply, with an end date for these of 2011. While policy CT1 gives blanket protection to countryside, the NPPF directs specific protection to valued landscapes. Nevertheless, a core planning principle of the NPPF includes recognising the intrinsic character and beauty of the countryside. Policy CT1 is expressed as the 'key countryside policy' in the Local Plan. The proposal would involve the incursion of development on a greenfield area of countryside. Taking into account also the finding above that a five-year housing land supply is demonstrated, I consider that policy CT1 is not out-of-date for the purposes of paragraph 14 of the NPPF, and that the conflict with it should be given significant weight in the decision'.*

204. It should be noted that unlike Wivelsfield, where the countryside boundaries were merely in a saved out of date policy in a time-expired plan, in this case they are a tool utilised by policy CS5 in the adopted CS which has an end date of 2026.

205. HPPC readily acknowledges that Wivelsfield was a case where there was a 5YHLS and that the weight to give to such a policy may depend on whether there is a 5YHLS, but that is a different point to the question whether it is inherently inconsistent with the Framework, and therefore always to be given low weight by virtue of Framework paragraph 215 regardless of the housing land supply. The clear decision in Wivelsfield (DL para 15) was that there is no such inconsistency. That is a planning judgment which is right and should be followed here.

206. HPPC also draws the Secretary of State's attention to the Finchingfield decision where the Inspector considered CS policy CS5 and likewise determined that it was consistent with the Framework for the purpose of Framework paragraph 215:

*I accept that the policy does not reflect the exact wording of the Framework; its adoption pre-dated the publication of the Framework. For that reason the policy needs to be considered against paragraph 215 of the Framework. It is a policy firmly aimed at protecting the environment, landscape character and biodiversity of the countryside. This accords with recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it given in paragraph 55 of the Framework. I therefore consider that it should be given the greater weight identified in paragraph 215.'*(paragraph 39, CD32.10 set C).

#### *Paragraph 109 and value to attach to a given area of countryside*

207. Mr Lee in particular was anxious to argue that Framework paragraph 109 did not apply and that this would mean less weight should be given to the policies protecting the countryside (paragraphs 7.1.14 and 8.2.43-48, 1/POE).

208. Paragraph 109 is merely providing sensible general guidance that 'The planning system should contribute to and enhance the natural and local environment by among other things, protecting and enhancing valued landscapes, geological conservation interests and soils'.

209. The countryside is itself a type of landscape. The value to place on protection of any particular part of the countryside is ultimately entirely a matter for the Secretary of State's planning judgment, depending upon the advice in this report concerning the appreciation of the site and its features or attributes. If the Secretary of State considers the current landscape valuable at a particular spot, it is likely to be desirable, other things being equal, to preserve and enhance it. That is all paragraph 109 is getting at.
210. It would be quite inappropriate to treat paragraph 109 like a statute establishing a special category apart of 'valued' landscapes that has to be closely defined and given special status, and implying that the remainder of the countryside is not worth protecting or enhancing generally. That would be quite against the spirit of the Framework and would be just the kind of legalistic exercise that was deprecated in the *Suffolk Coastal* case by the Court of Appeal and Supreme Court.
211. The only cases to consider Framework paragraph 109 in light of argument about its meaning have stressed that a decision-maker must have regard to demonstrable physical attributes and not merely popularity. For instance, in *Stroud DC v SSCLG* [2015] EWHC 488 (CD31.20 set C), where Ouseley J stated:

*[13] It is important to understand what the issue at the Inquiry actually was. It was not primarily about the definition of valued landscape but about the evidential basis upon which this land could be concluded to have demonstrable physical attributes. Nonetheless, it is contended that the Inspector erred in paragraph 18 because he appears to have equated valued landscape with designated landscape. There is no question but that this land has no landscape designation.... The Inspector, if he had concluded, however, that designation was the same as valued landscape, would have fallen into error. The NPPF is clear: that designation is used when designation is meant and valued is used when valued is meant and the two words are not the same.*

*[14] The next question is whether the Inspector did in fact make the error attributed to him. There is some scope for debate, particularly in the light of the last two sentences of paragraph 18. But in the end I am satisfied that the Inspector did not make that error. In particular, the key passage is in the third sentence of paragraph 18, in which he said that the site to be valued had to show some demonstrable physical attribute rather than just popularity. If he had regarded designation as the start and finish of the debate that sentence simply would not have appeared....*

*[16] ...The closing submissions of Miss Wigley referred to a number of features and it is helpful just to pick those up here. The views of the site from the AONB were carefully considered by the Inspector. There can be no doubt but that those aspects were dealt with and he did not regard those as making the land a valued piece of landscape. That is a conclusion to which he was entitled to come.'*

212. What *Stroud* did not do was hold that Framework paragraph 109 creates a rigid category or implies that protection of countryside not within that category was not desirable for the purposes of the Framework.
213. In *Cawrey Ltd v SSCLG* [2016] EWHC 1198, Gilbert J ruled:

*[49] NPPF undoubtedly recognises the intrinsic character of the countryside as a core principle. The fact that paragraph [109] may recognise that some has a value worthy of designation for the quality of its landscape does not thereby imply that the loss of undesignated countryside is not of itself capable of being harmful in the planning balance, and there is nothing in Stroud DC v SSCLG [2015] EWHC 488 per Ouseley J or in Cheshire East BC v SSCLG [2016] EWHC 694 per Patterson J which suggests otherwise. Insofar as Kenneth Parker J in Colman v SSCLG may be interpreted as suggesting that such protection was no longer given by NPPF, I respectfully disagree with him. For it would be very odd indeed if the core principle at paragraph [17] of NPPF of "recognising the intrinsic beauty and character of the countryside" was to be taken as only applying to those areas with a designation. Undesignated areas - "ordinary countryside" as per Ouseley J in Stroud DC - may not justify the same level of protection, but NPPF, properly read, cannot be interpreted as removing it altogether. Of course if paragraph [49] applies (which it did not here) then the situation may be very different in NPPF terms.*

*[50] Whether that loss of countryside is important in any particular case is a matter of planning judgment for the decision maker. In any event, extant policies in a Development Plan which are protective of countryside must be had regard to, and in a case such as this a conflict with them could properly determine the s 38(6) PCPA 2004 issue. If the conclusion has been reached that the proposal does conflict with the development plan as a whole, then a conclusion that a development should then be permitted will require a judgment that material considerations justify the grant of permission...There is in my judgment nothing at all in NPPF which requires an Inspector to give no or little weight to extant policies in the Development Plan. Were it to do so, it would be incompatible with the statutory basis of development control in s 38(6) PCPA 2004 and s 70 TCPA 1990.' (emphasis added).*

214. Accordingly, the fact that no witness or party at this inquiry argued for any special 'valued' status by reference to paragraph 109 does not mean that the Secretary of State cannot or should not give weight to the protection of the countryside at these sites and to the adopted and development plan policies that seek to achieve this, nor that as a matter of law he cannot treat the physical attributes of the sites as favouring their protection. It is simply a subjective question of judgment for the Secretary of State in the particular case what value to place on the sites.

215. This also accords with the GLVIA3 (para 5.26) which advise that the fact that a landscape is not designated 'does not mean that it does not have any value. This is particularly true in the UK where in recent years relevant national planning policy and advice has generally discouraged local designations unless it can be shown that other approaches would be inadequate. The European Landscape Convention promotes the need to take account of all landscapes with less emphasis on the special and more recognition that ordinary landscapes also have their value'.

### **The emerging BNLP**

216. The emerging BNLP can be given significant weight as it has progressed to examination stage. It properly seeks to meet the identified OAHN with an

additional 10% margin in a strategic way in collaboration with other Essex authorities.

### *Spatial strategy*

217. This is again based upon a hierarchy of place. Part 1 policies SP2 and SP3 which set out the spatial strategy and the number of homes to be planned for across north Essex and in the Council area are summarised above (paragraph 34).
218. The way in which the quantum of new homes to be provided in Braintree District is to be apportioned is explained by Ms Jarvis (paragraphs 2.29-2.53, HPPC2). The order of focus of new development is the town of Braintree, new planned garden communities, then Witham, then the KSVs in the A12 corridor, then other settlements. The principle of garden communities is fully consistent with national policy (e.g. Framework paragraph 52).
219. An allocation of land for 285 homes (2% of the total) is made at the Comprehensive Redevelopment Area (CRA) in Hatfield Peverel by draft Policy LPP31.
220. The District's population is about 150,000 (paragraph 3.3, CD16.3 set C). The populations of Witham and Hatfield Peverel were 25,353 and 4,500 in 2011 (paragraph 2.44, HPPC2). Hatfield Peverel therefore has around 3% of the District's population. Given that about 3,650 (25%) of the new homes in the District are to be located in the 2 new garden communities, it is evident that the emerging BNL P envisages Hatfield Peverel accommodating the planned housing growth in scale with its share of the population. Development significantly in excess of the 285 homes allocated in the draft plan would not be in keeping with the spatial strategy for distribution of housing.
221. Furthermore, Policy LPP17 makes clear that 'Sites suitable for more than 10 homes are allocated on the Proposals Map and are set out in Appendix 3', and no other site outside the CRA is allocated in or adjacent to Hatfield Peverel. Paragraph 6.63 of the supporting text makes explicit what is already implicit, that 'All sites suitable for delivering ten or more homes are allocated for development on the Proposals Map' (emphasis added). This indicates that the spatial strategy does not envisage either the Stone Path Drive site or the Gleneagles site being suitable for large-scale housing development. The unsubstantiated assertions made in cross-examination by Mr Tucker that the boundaries have not been reviewed and considered is flatly contradicted by paragraph 5.17 of the supporting text in Section 2 to the emerging plan, which states:
- Development boundaries within this document have been set in accordance with the Development Boundary Review Methodology which can be found in the evidence base.*
222. This is evidently linked to the assessment of constraints. Paragraph 5.7 of Section 2 of the emerging BNL P supporting text explains that 'Development may be considered sustainable within a KSV, subject to the specific constraints and opportunities of that village' (emphasis added).
223. One such constraint is the surrounding countryside and local character. It is not envisaged that there should be built development outside of the settlement boundaries, nor ribbon development along the A12. That is seen at Policy LPP1,

the full text of which is given at paragraph 35 above. For reasons explained above, it is perfectly consistent with the Framework to have such a general policy that built development is considered not to be appropriate in the countryside, so long as it is always applied in individual cases with the particular characteristics of a particular site in mind.

224. Another constraint is local infrastructure, services and facilities including roads, healthcare and schools. Draft Policy SP 5 states that development 'must be supported by provision of infrastructure, services and facilities that are identified to meet the needs arising from new development', including sufficient school places in the form of expanded or new schools.

225. For reasons already alluded to above in relation to the 'Liverpool method' and the adopted plan, the spatial strategy in the emerging local plan seeks to advance planning objectives underlying the Framework. It should be given significant weight and provides comfort that the District's OAHN will be met sustainably without the Inquiry schemes coming forward and encroaching on the countryside setting of Hatfield Peverel.

### ***The emerging NDP***

226. Mr Renow's evidence has set out in detail why the NDP is supported by written national policy and the political commitments made by the present Secretary of State.

### ***Emerging stage and status of the NDP***

227. The NDP can be given significant weight insofar as it indicates the concerns and aspirations of the local community and their vision for the village of Hatfield Peverel.

228. The NDP can be given at least as much weight, if not more weight, as it was given by Inspector Parker in connection with the 80 dwelling appeal, as it has now progressed to examination.

229. Whilst it is accepted that there are likely to be modifications to the drafting of the NDP before it is put to referendum, in particular to ensure that it allocates no less development than the emerging BNLP, the Secretary of State can be confident that a plan containing the relevant restrictive policies directly in issue at this Inquiry (Policies HPE6 and HPE1) in materially the same form will be passed.

230. The Regulation 14 consultation indicated extremely high (89%) support for the vision and objectives of the draft NDP, support between 77% and 92% for each of the individual draft policies (HPPC1, Appendix MR 18). The survey in September 2017, with 570 respondents, indicated 96% approval of the draft plan at that stage (HPPC1, Appendix MR26). Subject to the question of legal compliance with the 'basic conditions', the Secretary of State can be confident that the NDP would pass a referendum and proceed to adoption.

### ***Basic conditions***

231. Paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990, as modified by section 38C(5) of the Planning and Compulsory Purchase Act 2004, requires the examiner to consider the following:



- i) whether the draft plan 'meets the basic conditions' (defined at subparagraph (2));
- ii) whether it complies with the provision made by or under sections 38A and 38B of the 2004 Act; and
- iii) whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates; and
- iv) whether the draft plan is compatible with 'the Convention rights', as defined by the Human Rights Act 1998.

232. There can be no suggestion that the NDP is incompatible with anyone's human rights, and there has been no suggestion that the referendum area should be wider than the parish.

233. The Examiner is not considering whether the neighbourhood plan is 'sound' (the test in section 20(5) of the 2004 Act for local plans), and the tests of paragraph 182 of the NPPF do not apply. In other words, unless the strategic environmental assessment procedure applies, the Examiner does not have to consider whether a draft policy is the 'most appropriate strategy' compared against alternatives, nor is it for her to judge whether it is supported by a 'proportionate evidence base' (paragraph 13, *R(Maynard) v Chiltern District Council* [2015] EWHC 3817 (Admin)). The 'basic conditions' only require consideration whether it is 'appropriate' to make the plan having regard to national policy and guidance, whether it is in general conformity with the adopted plan; whether the making of the plan contributes to sustainable development, whether the making of the plan is compatible with EU obligations, and prescribed conditions are met. Regulation 32 of and paragraph 1 of Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 prescribe the condition that: '[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012 ) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).'

#### **HRA**

234. As it is one of the prescribed 'basic conditions' that the plan should not be likely to have a significant effect on a protected European site and as the likelihood of such an effect is also an important, if not determinative, consideration to decide whether SEA is required, it made sense for HPPC to commission a re-screening examining possible effects on European protected sites before it reconsidered the broader question whether SEA was required.

235. As Mr Renow explained in his evidence (pages 12-13, HPPC1), Section 2 of the emerging BNLP which includes an allocation of 285 dwellings at the CRA as well as much larger quantities of other development, has been assessed for compliance with the Habitats Directive and found compliant. No issue is predicted to arise except in combination with other forthcoming district plans envisaged by Section 1.

236. The draft NDP would progress in advance of those other plans and would be for a much smaller quantum of development than the BNLP which proposed at least 14,320 dwellings as well as employment development and other development.

237. In *R (Forest of Dean Friends of the Earth) v Forest of Dean DC* [2015] EWCA Civ 683 at [13] Sales LJ ruled:

*where a series of development projects is in contemplation, the strict precautionary approach required by the Habitats Directive will be complied with in relation to consideration of the first particular proposed development project if that project will not of itself have a detrimental impact on a protected site and there will be an appropriate opportunity to consider measures in relation to a later project which will mean that any possible in-combination effect from the two projects together will not arise (failing which, permission may have to be refused for the later project, when it is applied for: see the Smyth case, paras 87–102. In other words, so long as the relevant assessment of options has been carried out at the level of the relevant development plan (land use plan), as explained in Commission v United Kingdom [2005] ECR I-9017, it will be lawful when planning permission is sought for the first specific development project in the series for the relevant planning authority to assess that that project taken by itself will not have any relevant detrimental impact on the protected site (and then grant planning permission for it), even though it is possible that there might be future in-combination effects on the protected site if planning permission were later granted for the next project in the series.'*

This was based upon opinions of the Advocate General Kokott in the *Commission v United Kingdom* and *Waddenzee cases*, and the need to 'avoid sclerosis of the system' (Sales LJ at paragraphs 15-18).

238. This principle applies by analogy to plans as well as to projects. Where a draft plan (here the NDP) is the first in a possible series of plans that would be promoted separately by other authorities (here, the Local Plans of Braintree District and the other North Essex districts), it is sufficient to assess the draft plan in combination with other existing plans and permitted projects, without attempting to speculatively assess combined future effects of other plans. The impacts of those plans can be assessed when they come forward.

239. Furthermore, a habitats regulations screening assessment in July 2017 found no requirement even for 'appropriate assessment' before grant of planning permission for up to 145 homes at the Arla site (ID14).

240. In the light of the above, the Secretary of State can be confident that the requirements of the Habitats Directive will not prevent adoption of the NDP.

### SEA

241. The Examiner's concern was that the SEA screening was done when the plan was at an earlier stage of development and premised on no allocation being made in the Draft NDP, when the Arla site was subsequently allocated by draft Policy HO6. If the allocation policy were dropped and allocations left entirely to the emerging local plan, it is unlikely that SEA would be required.

242. As regards SEA, article 3(2) of Directive 2001/42/EC only requires strategic assessment of plans that 'determine the use of small areas at local level and

- minor modifications' to broader town and country planning plans if the Member States 'determine that they are likely to have significant environmental effects'.
243. Whether potential environmental effects are 'significant' is a matter of judgment for the planning authority, subject to review on grounds of reasonableness.
244. It is not anticipated that the NDP is likely to give rise to significant environmental effects, and no evidence has been presented at this Inquiry by any party proving that it would.
245. It is therefore anticipated that the Examiner and the Parish and District Councils would conclude that the NDP determines the use of small areas at local level (the parish) and that it is not likely to have significant environmental effects in combination with existing plans, programmes and projects. This is particularly the case given that the Arla site has already been granted permission for a greater number of homes than contemplated in the current Draft NDP, the project is on brownfield land and that project has been found not to be likely to have significant effects on a protected European site which is one of the important factors relevant to the assessment (ID14). If that is the eventual conclusion, no SEA would be required.
246. SEA has already been conducted for the emerging BNLP. Article 4 of the Directive expressly provides that 'Where plans and programmes form part of a hierarchy, Member States shall, with a view to avoiding duplication of the assessment, take into account the fact that the assessment will be carried out, in accordance with this Directive, at different levels of the hierarchy. For the purpose of, *inter alia*, avoiding duplication of assessment, Member States shall apply Article 5(2) and (3).' Article 5(2) and (3) in turn state that where an environmental assessment report is required, the level of detail should take account of 'the contents and level of detail in the plan or programme, its stage in the decision-making process and the extent to which certain matters are more appropriately assessed at different levels in that process in order to avoid duplication of the assessment', and the report may use 'information obtained at other levels of decision-making or through other Community legislation'. This is reflected in regulation 12(3) and (4) of the Environmental Assessment of Plans and Programmes Regulations 2004.
247. Even if it were considered that NDP does require SEA, then the sustainability appraisal could draw upon the work already carried out in that regard rather than duplicate it. Whilst some additional months would be required to assess the draft plan and the reasonable alternatives, Mr Renow's evidence was that this could be expected to have been completed by summer 2018. The requirements of the SEA Directive are not 'showstoppers'.

#### *Evidence base for not allocating the Inquiry sites*

248. It was suggested that the Parish Council should have sought to take a more proactive approach to maximise housing delivery and that the exercise was only aiming to allocate sites sufficient to provide 78 homes. However, that criticism does not impinge on the appropriateness of adopting the draft NDP. A neighbourhood plan does not have to make any site allocations. The written and oral evidence of Mr Renow was that HPPC would accept a pre-emptive 'future-proofing' modification of the text to bring the draft into line with the CRA in the

emerging Local Plan. Its policies would be superseded by specific conflicting policies in later development plan documents such as the emerging BNLDP in any event.

249. An attack was made on the ranking assessment when determining which sites to allocate for development in the NDP (CD18.3 set C). It was put to Mr Renow that the exercise unfairly failed to expressly mention in the 'opportunities' column of the table the opportunities afforded by the Gleneagles site to provide housing. This was itself an unfair critique; it was a given, as the whole point of the exercise was to determine which of the sites to allocate for housing and one of the scoring criteria was the number of homes that could be accommodated.
250. In any case, sites HATF313, HATF630 and HATF608 which correspond to the CRA all scored more highly in their ranking than the Inquiry sites. The scoring system was one that was perfectly reasonable and lawful. The choice of policy objectives and the weight to attach to each was a matter for the judgment of the democratically elected Parish Council.
251. Lastly, the criticism was levelled that the site assessment was not considering these particular projects with mitigation measures. Such is almost always the case when engaging in forward planning of this nature and does not invalidate the assessment.

#### *The evidence base for protected views*

252. The NDP specifically designates views for protection and enhancement in order to protect the landscape setting of the village (Policy HPE6). It is evidence that the specified 'views and open spaces...are valued by the community and form part of the landscape character' (NDP 'objectives' p.32).
253. Extensive evidence was given by Mr Renow of the local engagement that the Parish Council undertook with the local community, including the survey, the 'walkabout' and photographic competition referred to in the supporting text to the policy, as well as public consultation. The reality is that the abovementioned engagement and evidence-gathering programme provided a sufficient evidence base.
254. DWH sought to suggest that the Parish Council had been disingenuously misrepresenting that View 5 in the table accompanying HPE6 had been identified in the Landscape Character Assessment of October 2015 (CD18.4 set C), and consequently that the policy lacked an evidence base. However, this line of attack was misconceived. The text of HPE6 makes very clear that it protected both views 'identified by the community (see pages 33-37) and the Hatfield Peverel Landscape Character Assessment' (emphasis added), and was not purporting to say that all the views were identified in the Landscape Character Assessment.
255. Although the Landscape Character Assessment (CD 18.4 set C) did identify 'key views' and photographs, these were selected to 'reflect the key characteristics of each area' (para 3.12) by an individual professional consultant as part of an exercise to characterise the area and make suggestions for its management. That exercise had not involved public consultation to ascertain the views of the community. Meanwhile, the residents' survey in October 2015 indicated that 'views towards Witham looking from Gleneagles Way' was selected

as one of the 3 views to 'be safeguarded if new development takes place in the parish' by 237 respondents (HPPC1, Appendix MR28). In those circumstances, it was perfectly proper to reflect the wishes of the community.

256. The Table at pages 34-35 of the NDP identifies the key features/physical attributes of the views, and any access by residents. It is not merely about popularity but rather the NDP explains the features of the views that are valued. Views 1 and 5 are attractive open vistas and it is readily understandable why the views are valued by the local community.
257. Criticisms were directed at the Parish Council's reviewer of the feedback from the workshop held in December 2016 (CD 18.6 set C). A comment was made by that individual that in respect of the view from Gleneagles Way (view 16 in that document) they were not personally sure if the view had value but people liked it, and so it had been retained.
258. Insofar as it was suggested for DWH that it was illegitimate for the draft NDP to reflect the views of the community, the whole point of neighbourhood plans is to 'reflect the... priorities of their communities' (Framework paragraph 1), giving 'communities direct power to develop a shared vision for their neighbourhood' (Framework paragraph 183) and to 'shape and direct sustainable development in their area' (Framework paragraph 185). Landscape value and the degree of attractiveness of any view is highly subjective and it is a matter that the Secretary of State will form his own view on, informed by this report, itself informed by the inspection of the site and surrounding area. Any argument that the personal opinions of a particular hired consultant or parish working-group volunteer are privileged over the views of the community reflected in a neighbourhood plan is to be deprecated.
259. It was also suggested that the response to the workshop is evidence that views were chosen merely to stymie development at those locations and not because of the value of the views. However, it is plain as can be that the reviewer in question in December 2016 was engaged in a whittling-down process determining which of the views identified by the community to retain as most valued and meriting protection, not introducing new views of their own. It was perfectly proper to choose to designate and protect only those valued views that might realistically be subject to development. Neighbourhood plans are supposed to be practical documents to shape and direct development. Mr Renow explained in his oral evidence and cross-examination how views identified by the public were then whittled down to retain the most locally valued views that required protection.

### *Coalescence and the propriety of policy HPE1*

260. Mr Renow's evidence was that maintenance of the distinctive separate character of the village of Hatfield Peverel and prevention of coalescence were identified as objectives that were important to the local community (pages 24-26 HPPC1 and Appendix MR29).
261. Consistently with the purposes of neighbourhood plans, as alluded to in the Framework and the localism agenda, it was therefore entirely proper for this to be reflected in the Vision and in Objective 4 of the NDP and translated into draft policy HPE1.

262. DWH sought to contend that the green wedge policy was 'strategic' and trespassing on the remit of the emerging Local Plan. They argued that it amounted to a green belt which the PPG and the Framework stated should only be designated by a local plan at district level. They also argued that it was somehow inconsistent with the emerging BNLP because draft Policy LPP 72 ('Green Buffers') had not included a green buffer between Witham and Hatfield Peverel.
263. Those arguments are unsustainable. The Prevention of Coalescence Areas that would be designated by draft policy HPE1 in the NDP are small areas on the outskirts of a fairly small village within one parish, aimed purely at preventing intrusion into those wedges to retain separation between Hatfield Peverel and the nearby hamlet of Nounsley and expanding town of Witham. In no sense are they 'strategic' and nor can they credibly be contended to create a 'green belt'.
264. Just because the emerging Local Plan did not include a policy contained in the NDP, that does not mean there is an inconsistency; otherwise no NDP could ever contain a distinct policy. In fact, the additional green wedge is complementary rather than inconsistent.
265. Alan Massow, the Senior Policy Planner at the Council, had liaised with and advised HPPC in the NDP drafting process and had confirmed that the District did not designate a Green Buffer in the Local Plan on the understanding that one would be promoted by the NDP, a decision that it considered to be up to the Parish Council and to be consistent with the emerging BNLP (ID26). This was in full accordance with Framework paragraph 185 which states in terms: 'Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.'

### ***Housing delivery***

266. Any argument that an exception should be made to allow development conflicting with the statutory development plan on the basis that there is not currently a 5 year supply of housing land has to be premised on the scheme in question being delivered within 5 years, so as to meet that housing need.
267. It is therefore relevant not only what the level of OAHN is (and the extent of any shortfall) but also how likely it is that the housing in any particular scheme will actually be completed and occupied as a home within 5 years. The evidence in relation to delivery is addressed separately in respect of each scheme later.

### ***Health, education and infrastructure/sustainability issues common to all 3 schemes***

268. There would be conflict with Policy SP5 of the emerging BNLP ('Development must be supported by provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.'). Development whose needs are not served should not be considered acceptable in planning terms, and where planning obligations are inadequate to make the development acceptable, permission should be refused (Framework paragraph 176).
269. In both his written and oral evidence Mr Renow explained the existing situation in terms of the lack of employment opportunities for new residents within Hatfield Peverel (pages 26-27, HPPC1); the pressure on health facilities and their lack of space to physically expand (pages 27-28, HPPC1); the requirements for

- additional school places (pages 29-33, HPPC1); the lack of a safe walking route to Witham along the A12 (pages 33-35, HPPC1); and pressures with regard to transport infrastructure and traffic (pages 36-38, HPPC1).
270. No suggestion was made by the applicants that it was safe for children to walk to Witham along the A12, with reliance being placed instead on potential travel by bus (paragraph 7.2.35, 1/POE).
271. As regards healthcare and the physical inability to extend the Sidney House surgery, the factual evidence of Mr Renow was not challenged or rebutted. The developments would generate additional occupiers who would require health services. There was no evidence that mere internal reconfiguration of the surgery would provide the required extra accommodation for an extra doctor; furthermore there is no indication that any such improvement to the Sidney House Surgery is planned or even practicable.
272. As regards current and projected school places, and the number of students generated by the developments, the numerical situation appears to be common ground (ID1.8).
273. The occupiers of the dwellings would require school places. There are currently 484 primary pupils on the roll of schools within Hatfield Peverel, which have a capacity of 525. The number without additional housing is predicted to fall slightly to 470 by 2021/22. The extant Former Arla Dairy and Bury Lane permissions would generate an additional 58 primary school pupils between them (ID1.8, Appendix). This means that any of the Inquiry schemes would result in excess demand that could not be met by existing capacity.
274. Village schools' admissions policies give preference to village children if they become over-subscribed, but this is subject to sibling preference. It would also only apply to children newly entering the school and existing pupils would not be moved. This means that for many years, primary-age occupants of the Inquiry schemes would be required to travel further afield for schooling. This is contrary to the objectives in the Framework of minimising the need to travel and providing schools within walking distance of larger scale housing development (Framework paragraphs 34 and 38).
275. The corollary of that outbound travel phenomenon diminishing in scale would be a diminishing in-school choice for parents living outside the village and the requirement for children residing outside the village who otherwise would have attended the Hatfield Peverel schools having to be found school places elsewhere. As a result, the developments would generate a demand for additional school places whether for the children of occupiers or those children who otherwise would have been accommodated at the village schools. This requirement for additional educational provision is a negative externality of the developments to be weighed in the planning balance.
276. The cost of that externality would not be internalised by means of a Section 106 planning obligation. None was requested by Essex County Council in respect of the costs occasioned by these schemes because it was concerned that the CIL Regulations prohibit pooling of 5 or more contributions in respect of a particular project or type of infrastructure (CD21 set C). In fact, CIL regulation 123(3) prevents pooled planning obligations being relied upon as 'a reason for granting planning permission'. This is not exactly the same as a prohibition upon pooling

such contributions, or against treating absence of such contributions as a reason for refusing permission. There is no CIL charging schedule in place either. As a result, the cost of putting in place the educational provision would be borne by the taxpayer.

277. Moreover, the additional travel costs in terms of bus transport would either fall to be borne by the local authority (to the extent that it is statutorily obliged or agrees as a matter of discretion to pay them) or by parents. This would be a particular burden for parents on low incomes.

278. Framework paragraph 72 states that 'The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities...local planning authorities should... give great weight to the need to create, expand or alter schools' (emphasis added). This principle is also reflected in Draft Policy SP5 of the emerging BNL. The Secretary of State should attach great weight to the failure of these schemes to provide for the necessary school places and the impact on parental choice.

### ***Summary of HPPC's case respecting the DWH scheme***

#### ***Conflict with the spatial strategy***

279. The development conflicts with the spatial strategy in the adopted and emerging development plans for the reasons set out above. That means there is a statutory presumption against granting permission by virtue of s.38(6) of the Planning and Compulsory Purchase Act 2004. Specifically, there is conflict with policies CS1, CS5, and RLP2 of the adopted plan; and draft policies LPP1 and LPP17 of the emerging BNL. This conflict should be given great weight because the Framework expects the system to be genuinely plan-led.

#### ***Harm by reason of Coalescence***

280. Draft anti-coalescence policy HPE1 of the NDP reflects the vision of the community for Hatfield Peverel. The conflict with this policy should be given significant weight given the current status of the NDP as a submitted examination draft for the reasons set out above.

281. Coalescence is a material consideration in this application. The development would result in expansion of the settlement of Hatfield Peverel to the east, narrowing the gap between it and the settlement of Witham (as substantially extended by the Wood End Farm, Lodge Farm and the development to the west of Maltings Lane (ID13) to approximately 1km, down from 1.4km. This would be a relatively small gap, which would be traversed in around 30 seconds travelling at 70mph on the A12.

282. DWH's witness, Mr Smith, stated that in his view the key consideration was whether there would remain a perception of leaving one place and entering another. However, that test could be met even within an urban area. Although there would remain some fields between Witham and Hatfield Peverel, the settlements would begin to feel uncomfortably close and the rural village character of Hatfield Peverel would be eroded as the net effect of the Gleneagles Way development and the new development on the edge of Witham would be that it came to feel more like a southern extension of Witham.



283. In his oral evidence, Mr Smith accepted that there would be clear inter-visibility between the permitted and as-yet-unbuilt development at Witham north of the A12 and the development at the Gleneagles site, particularly from upper floors. The only way to prevent this and screen views would be to significantly strengthen the planting along the eastern edge of the application site to a height of 9m or more, as was indeed proposed. That would fundamentally and detrimentally change the character of the locality by blocking broad open views out across what remained of the countryside. The line of vegetation would only serve as a marker for the built development behind, adding a prominent and abrupt edge to what had been filtered views in to the houses from the footpath

*Landscape, character and visual harm*

284. The development would fundamentally obstruct and mar the pleasant views out across open countryside enjoyed from The Street outside D's Café Diner, (ID13 photographs, Mr Renow's viewpoint 1 for this site), the 3 culs-de-sac of Wentworth Close, Birkdale Rise and Ferndown Way (ID13 viewpoints 2-7), and Gleneagles Way (ID13 viewpoint 8), which make a positive contribution to the character of the area.

285. Although the view protected by the NDP policy HPE6 is not from the same place as the view identified as characteristic by the Local Landscape Character Assessment of October 2015 (CD18.4, set C) which was not based on consultation of residents, that document did highlight the physical attributes of this landscape character area as including large and geometric fields under arable cultivation, with 'broad open views possible across open farmland' which it recommended should 'be safeguarded'. For the reasons explained above, the conflict with draft policy HPE6 by reason of loss of the 'key feature' of 'open arable farmland' should be given significant weight.

286. The Essex Landscape Character Assessment (ELCAA) (pages 94-95, CD14.5, set B) noted that potential residential expansion of settlements... 'would be conspicuous on the surrounding rural landscape' and recommended that any development be 'small-scale'. As explained above, the emerging BNLP allocated all the sites considered suitable for development of more than 10 dwellings, which indicates that development on this scale was rightly judged inappropriate at this location.

287. Currently, the estate off Gleneagles Way has a spacious, open and rural character by reason of the view out across open countryside. Its village character would become more suburban.

288. The character of the application site itself would fundamentally and detrimentally change as the open countryside was lost and replaced by a housing estate.

289. These views out from the village are experienced by pedestrians, very low-speed traffic, and residents of the houses who are moderate and highly sensitive receptors for the purpose of the GLVIA3.

290. These views are more highly valued by the community than the views in from the surrounding footpath as they are more frequently experienced.

291. There would additionally be harm to views from Footpath 40. The views towards the village are already filtered to a degree from this footpath and the

most attractive views from it are to the south and east. Nevertheless, there will undoubtedly be harm to views from Footpath 40 looking towards the village to the west- the worst of which have not been accurately shown in a montage and the users of the footpath will be high-susceptibility receptors as advised by the GVLIA3 passages previously cited.

292. The tall boundary screening would create a strong sense of enclosure, which would be much stronger than that which currently exists and would undermine the character of the area. Rather than integrating the development, the planting would simply block it off from the countryside that currently forms an intrinsic part of the setting of the settlement edge. The future residents of the estate, and the residents of the Gleneagles estate, would be prevented from enjoying the views of the surrounding countryside setting.

293. These changes would harm the character of the area.

294. There are conflicts with Policy RLP80 in that the development would harm the distinctive landscape features of the area and would not integrate successfully into the local landscape. There is also related conflict with Policy CS8 in that it fails to enhance the character of the landscape and results in loss of best and most versatile agricultural land; this point is elaborated upon below.

#### *Evidence regarding delivery*

295. The question of delivery was raised before the opening of the Inquiry in the second pre-inquiry note (INSP2). The only evidence regarding delivery was given orally by Mr Dixon in evidence. It amounted to a statement that DWH are a housebuilder with the intention to develop the site, an assertion that had the application not been called in, they would have submitted a reserved matters application already and an assertion that 'the likelihood is' that the development would be completed within the 5 years. No details as to DWH's track record were given. This is a slender basis indeed for the Secretary of State to give extra weight to provision of housing as a benefit on the strength of any claimed shortage of 5YHLS.

#### *Unsustainability/ demand for services*

296. The development would generate demand for and increased pressure on local public services in conflict with policy as explained above.

297. In relation to schools, the development would generate an estimated 36 additional primary pupils (ID1.8).

298. The healthcare contribution of £378.54 per dwelling (SAV56, schedule 8) would not actually address the problem of insufficient staff for the reasons referred to above.

#### *Loss of BMV agricultural land*

299. DWH's own evidence discloses that this site is best and most versatile agricultural land, although no details as to its quality are given. The site area is 5.2Ha (SAV2, application form). The loss of this land to agriculture is material, particularly in combination with the other consented and planned green-field development in the area (including the emerging BNLP allocations) and conflicts with CS Policy CS8 with Framework paragraph 112.

### *5YHLS/weight attaching to provision of housing*

300. HPPC's case is that on the correct approach, there is no shortfall in 5YHLS for the reasons set out above. Even if that be wrong, the shortfall does not justify departure from the development plan. The specific development plan policies and the physical and policy harms referred to (including conflict with the Framework) significantly and demonstrably outweigh the benefits of providing 120 dwellings at this location.

### **Conclusion of HPPC case to the Inquiry**

301. For the reasons set out above, the 3 schemes should be refused planning permission; the GDL 140 dwelling and the DWH 120 dwelling applications should be refused and the GDL appeal dismissed.

The Case for Stone Path Meadow Residents Group on policy and housing land supply

### **Introduction**

302. There are three parts to the case for SPMRG. First, identifying conflict with the Development Plan; second, the application of Limbs 1 and 2 under the fourth bullet point of Framework paragraph 14; and third, a consideration of the planning balance. Only extracts from the first two parts are of relevance to the determination of this application.

303. In very brief summary, SPMRG submit that with respect to part one, there is a conflict with development plan in respect of seven separate policies only some of which are relevant.

304. With respect to part 2, SPMRG submit that there is a five year housing land supply and that as such the fourth bullet point does not, in fact, apply.

### **Part one**

305. SPMRG submits that the evidence presented at the Inquiry demonstrates that there is significant conflict with the following adopted development plan policies:

- i) Policy RLP2: Town Development Boundaries and Village Envelopes;
- ii) Policy CS5: in relation to the countryside and development outside village envelopes;

### **Development Boundaries: RLP2 and CS5**

306. Both GDL application schemes (and by extension this application scheme) clearly fall outside the adopted development boundaries, and it was accepted by Mr Lee for GDL that both proposals would therefore breach policies RLP2 and CS5 (this is also the position of DWH). Significant weight should be given to these breaches. The relevant policy in the emerging BNLP is LPP1 the wording of which is set out above (paragraph 35).

307. Ms Jarvis was asked in cross-examination about the date when development boundaries were last reviewed. It is submitted that, in the context of this District and this site, this is irrelevant. It is apparent from the emerging Local Plan that the Council's spatial strategy, as discussed by Ms Jarvis in her written and oral evidence, is focused on significant development in other areas of the District and, in particular, on a number of Garden Villages. It is plain from BNLP Inset Map 36

that the development boundaries of Hatfield Peverel are intended to remain exactly the same in relation to this site as they are in the adopted development plan documents. The current intention of the Council as seen through the emerging Local Plan therefore clearly demonstrates that the development boundaries are appropriate in their current location.

308. It is acknowledged that the RLP2 and CS5 date from before the introduction of the Framework and therefore must be judged against Framework paragraph 215. In the very recent appeal decision (CD.32.10 set C, paragraph 39), on the same policies under consideration here, the Inspector discussed Policy CS5:

*I accept that the policy does not reflect the exact wording of the Framework; its adoption pre-dated the publication of the Framework. For that reason the policy needs to be considered against paragraph 215 of the Framework. It is a policy firmly aimed at protecting the environment, landscape character and biodiversity of the countryside. This accords with recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it given in paragraph 55 of the Framework. I therefore consider that it should be given the greater weight identified in paragraph 215. (emphasis added).*

309. Contrary to suggestions made at Inquiry that this Inspector had erred in her analysis, she has clearly identified that it was open to her to attach "due weight... according to [its] degree of consistency with this framework" to CS5 as set out in Framework paragraph 215. It is submitted that the Inspector found that the policy was highly consistent with the Framework, focusing in particular on Framework paragraph 55 and therefore determined that, given its closeness to the Framework, she could accordingly give it greater weight than if it had been inconsistent with the Framework. In accordance with the well-rehearsed principles set out in *Bloor Homes East Midlands Ltd v SSCLG* [2014] EWHC 754 (Admin) in relation to how to read an Inspector's decision letter, it is therefore submitted that the Inspector's analysis is sound, based on an accurate understanding of the Framework and should be adopted here.

310. It is therefore submitted that significant weight should be attributed to the breaches of RLP2 and CS5 that would occur should either proposal be granted planning permission. As set out below when considering the tilted balance, emerging policy LPP1 would also be breached.

**Part two:**

311. This second part addresses the two limbs of the fourth bullet point of Framework paragraph 14: the "tilted balance" in Limb 1 and the "unweighted balance" to be applied to the identified heritage harm in Limb 2.
312. First it is necessary to consider whether the proposals fall within the fourth bullet point at all - is the development plan "absent, silent or [are] relevant policies out of date" - before considering the restrictive heritage policies under Limb 2, followed by the tilted balance under Limb 1, in the event that the Secretary of State disagrees with the first two conclusions.
313. Only the general points relating to 5YHLS set out below are relevant to the determination of this application.

### *Five Year Land Supply*

314. As per the table of the parties' agreed positions (ID1.13), it is SPMRG's case that the Council can demonstrate a 5YLS, such that Framework paragraph 49 does not apply and "relevant policies for the supply of housing" are "up to date", such that there is no access to the tilted balance on this ground.
315. SPMRG's position on the disputed elements of the 5YLS calculation is as set out in Mr Leaf's adopted proof of evidence (RG5) and as per the discussion at Inquiry.

### *The Liverpool approach*

316. The appropriate approach to take in addressing the backlog is the Liverpool approach, spreading the backlog of 1,660 dwellings out over the remaining plan period.
317. As explained by Mrs Hutchinson on behalf of the Council, the Liverpool approach forms the basis of the emerging Local Plan which is currently at examination. SPMRG submits that to adopt the Sedgefield method would be to undermine this approach taken by the Council after considerable consultation and work and, consequently, would be inappropriate in a plan-led system.
318. Paragraph 35 of the PPG provides that undersupply should be addressed "where possible" during the first five years of a plan. SPMRG submit that, here, it is not "possible". Adopting the Sedgefield method plus 5% produces an annual requirement of 1,100 dwellings or 1,258 dwellings with 20%: these targets are far in excess of anything achieved by the Council going back as far as 2001 and it is therefore extremely unlikely that the Council would be able to achieve these targets. There is therefore no practical purpose to adopting this approach: it is simply not possible for the Council to meet these requirements given their historic performance. Similarly, Mrs Hutchinson notes in her first proof that it is unrealistic to expect that the scale of increase in delivery required could be achieved straight away (paragraph 4.16, BDC1).
319. The significant increase in housing requirement from the Core Strategy figure of 272 dwellings per annum to an OAHN figure of 716 also indicates that the Liverpool approach is appropriate. This sudden upsurge in the annual requirement is another reason why it is not possible for the Council to address the existing backlog in the next five years.
320. It is also highly relevant that the Council is bringing forward new Garden Communities in its area as set out in policies SP2 and SP7 of the BNLP, Section 2. The Council has thus deliberately planned its anticipated housing delivery over the Plan Period as a stepped housing trajectory based on the delivery of a strategic site, as opposed to a "standard annualised requirement". The latest 5YLS Statement predicts that 40,000 new homes in North Essex will be delivered by these Garden Communities. This also suggests that the Liverpool approach is appropriate, given the way in which the Council is planning its approach to housing delivery over the whole plan period.
321. SPMRG notes that Planning Inspectors have adopted the Sedgefield approach in the recent decisions at Coggeshall (paragraph 14 to 15, CD32.2 set C), Steeple Bumpstead (paragraph 9, CD32.10 set C). In the first place, the BNLP has now been submitted for examination since these decisions, which is a significant step

forward in terms of the certainty of the Council's approach to Garden Villages (although plainly the Plan has yet to make it through examination). Secondly, neither Inspector's analysis addresses the points raised above in respect of whether it is possible for the Council to make up the backlog in the first five years.

### *5% or 20% Buffer*

322. As submitted at Inquiry, SPMRG's case is that the appropriate target against which the Council's record of delivery should be measured for the purposes of applying either a 5% or 20% buffer is the requirement that was in place at the time. SPMRG therefore agrees with the Council's closing submissions on this point.
323. Further support is provided for this use of contemporary targets for measuring delivery by the two planning decisions submitted by SPMRG on the first day of the Inquiry.
324. The first is the Navigator L decision, dated 20th January 2015 (ID44). Here the Council had "oversupplied" against local plan figures from 2006-2014, but had undersupplied against a SHMA figure dating from April 2011. The Council argued that it should have its policy "oversupply" deducted from the requirement figure going forward over the next five years, on the grounds that it could not have known about the SHMA figure until 2014, so the requirement should not be calculated using that figure. The Inspector rejected that argument, noting that "I fully accept that during 2011-2014 the Council could not have been expected to meet a need which it was not aware of at the time, but that is not the point here." In footnote 8 to this paragraph, the Inspector goes on to say that the Council's being unable to meet a need of which it was not aware "might be relevant in other circumstances, such as where the point at issue relates to where there has been "persistent under-delivery" for the purposes of the NPPF-buffer". The issue he was deciding was different but he clearly took the view that the Council should be measured in "persistent under-delivery" terms against the targets which it knew it was aiming for.
325. The second decision is Land North of Cranleigh Road, dated 14th August 2017 (ID43). Here, the Council had a low pre-Framework Core Strategy housing target, on which it sought to rely for establishing a forward requirement (unlike the Council here). The Inspector disagreed and found that the forward requirement should be calculated using much more recent and much higher OAHN figures, even though these were not yet tested or adopted in a development plan document.
326. The developer also argued that "persistent under-delivery" should also be measured against these new figures from 2011, the date from which the requirement was calculated. This argument was rejected by the Inspector, referencing the Navigator decision, on the grounds that "in the period up until 2014 when the then PUSH SHMA identified a OAHN the LPA could not have been expected to meet a need that it was not aware of. On this basis, allowing for peaks and troughs, significant under-delivery in only 3 out of the last 10 years. On this basis, the application of a 20% buffer is not, in my view, justified."

327. Both of these decisions provide support for adopting the targets in place at the time when determining whether the Council has persistently under-delivered. It is plain that there is no under delivery in the present case.

### *Supply*

328. As set out in Mr Leaf's letter (ID21), SPMRG submits that the Council has underestimated its supply by 461 dwellings (including the Sorrell's Field at 50 dwellings), such that there ought to be a 5YLS of 5.35 years using the Liverpool method plus 5%. Individual treatment of these sites is set out in Mr Leaf's letter and is not repeated here.

329. SPMRG has identified these sites on an application of the principles in Framework paragraph 47 and footnote 11 of the Framework and paragraphs 35-9 of *St Modwen Developments Ltd v SSCLG and others* [2016] EWHC 968 (Admin) (CD31.18, set C). It is submitted that it is plain that these sites fall within the definition of "deliverable", which does not require a site either to be allocated or to have planning permission.

330. SPMRG makes the following submissions in response to the Statement of Common Ground between GDL, DWH and the Council (ID39).

331. SPMRG maintains that the identified sites can be considered to be "available now": the fact that steps need to be taken before the site can be developed does not prevent the site from being available any more than GDL's need to sell the site to a housing developer prevents Stone Path Meadow from being available.

332. The figure for Sorrell's Field was adjusted down from 52 dwellings to 50 on the understanding that the application was being revised down to 50 units.

333. Contrary to the penultimate paragraph of the SOCG, the Gimsons site (WITC 421) is included in the housing trajectory appended to the letter to Priti Patel MP, headed "Copy of full housing trajectory including draft allocations re query". The entry is on the last page, showing 70 dwellings over the next five years and noting that "Planning application expected to be submitted Autumn 2017 by Bellway Homes".

334. Should the Secretary of State find that there is a 5YLS deficit, contrary to the above submissions, this deficit should be given limited weight for the reasons set out in Mr Leaf's adopted proof and applying the principles in the case of *Phides Estates (Overseas) Limited v SSCLG [2015]* EWHC 827 (Admin) (CD31.10 set C) as set out in the Statement of Case (at paragraphs 103-108 and not repeated here).

## The Case for Braintree District Council

### **Introduction**

335. The background to this inquiry is set out in the Procedural Matters at the beginning of this report. The case set out addresses all three schemes before the Secretary of State unless otherwise stated.

336. As was made clear in Opening, the Council's position to this inquiry is that there is no sufficient basis to refuse planning permission for these schemes, notwithstanding that they are in conflict with the adopted development plan. It stands by the assessments that its officers made of the schemes. It recognises

that had the two larger schemes not been called in, it is likely that they would have planning permission by now. It has not sought to challenge the developers' core case that, respectively, their schemes merit planning permission.

337. Equally it is of course primarily for those developers to persuade the Secretary of State that their schemes are worthy of planning permission, and the Council has not, in that same context, sought to attack the case mounted against the schemes by SPMRG and HPPC, even where those parties have been critical of the Council's approach. That does not mean, of course, that the Council accepts those criticisms are well-founded - they are not - but stems from a recognition that the purpose of this Inquiry is to consider the case for granting planning permission for each of the schemes.
338. In that same context, the Council will not descend into the detail of many of the disputes which will govern the ultimate outcome of this process; not because the Council does not have a view on them, but because it recognises that additional submissions from the Council on those points, beyond those made by the party advancing a particular position, are unlikely to assist. Accordingly, the Council's case is relatively brief. It does, however, touch on some of the controversial issues where the Council has taken a particular position on them which may not be mirrored by the relevant other party. The first is in respect of housing land supply.

### ***Housing Land Supply***

339. A key element of the Council's conclusions on the ultimate acceptability of these schemes - all of which are contrary to the adopted development plan - is that it could not then and cannot now demonstrate a 5-year supply of housing land. Efforts were made 'behind the scenes' to reach an agreed position with the two appellants as to housing land supply (including the suggestion of agreeing a 'range') but that did not bear fruit.
340. The Council was pleased to agree a position in respect of OAHN but in the light of Mr Spry's eventual position, remain surprised that further agreement could not be reached. Broadly we accept the Inspector's characterisation of the position when summarising the round table discussion, that it is unlikely that there would be a materially different effect on weight whether there was a c.3.3-year (GDL/DWH high water-mark) or c.3.9-year (Council's best case) deficit. In either scenario, the deficit is considerable and weighs in favour of granting permission for more housing.
341. Nonetheless GDL/DWH maintained that the true position was the lower end of that range, for reasons the Council do not accept are valid. As such a number of points arise for further comment.
342. Before moving to the specific controversies, it is important to be absolutely clear about the Council's approach to its BNLP. It would not have submitted its draft Plan for examination if it was not confident about its soundness. It is not inconsistent with that confidence to recognise that until the examination process has been carried out and expert consideration given to the contents, some uncertainty remains. Confidence in the plan's soundness does not exclude a pragmatic view of the reliance that can be placed on its draft provisions in the development management context until such time as they are confirmed.



343. Indeed such an approach accords with national policy in the Framework, which at paragraph 216 advises that weight should be afforded to emerging policy according to various factors, all of which are referable to the inherent uncertainty about the contents of draft plans until they are adopted.

344. A good example is the inclusion of draft allocations for housing on sites which under the existing adopted plan - which retains its statutory primacy - would be contrary to the development plan. The Gimsons site - identified by SPMRG in this case as one draft allocation that should be included in the five-year supply - makes the point neatly. While the emerging plan allocates it for housing development, the adopted plan has it as a Visually Important Space under Policy RLP4, meaning it is inappropriate for housing. Until such time as the draft allocation supercedes the present development plan status, it cannot be considered 'deliverable'. Of course, there is the additional irony that Priti Patel MP, in whose office Mr Leaf works, has objected to the draft allocation of the Gimsons site in the emerging plan and yet here (by extension) argues that it should be treated as a deliverable site for housing.

345. This general approach is relevant to the Council's position in two respects. First, in terms of the Liverpool/Sedgefield dichotomy in dealing with the shortfall since 2013 and, second, in terms of the additional sites that SPMRG sought to promote as being deliverable in their letter of 12 December 2017 (ID21). The Council turns next to the specific components of the supply debate.

### **OAHN**

346. There is no challenge in this inquiry to the Council's position that its OAHN is 716 dwellings per annum. That figure has been derived from the latest household projections (in accordance with the PPG), and uplifted by 15% to account for 'market signals' (essentially past unmet need). That means that the ultimate figure of 716 dpa specifically accounts for unmet need in past years, in the way the PPG requires.

347. The figure is one of the key elements of the first Section of the emerging plan, which will be considered at the EiP in January 2018. All parties will be likely to wish to make submissions on the outcome of that EiP on the OAHN, and its ramifications (if any) for the matters before this Inquiry if they remain undetermined at that point.

### **Shortfall**

348. The quantum of the shortfall against the OAHN of 716 (effectively unmet need) since 2013 is uncontroversial, but the period over which it is sought to be 'recovered' is not. GDL/DWH argue that it should be recovered in the next five years, relying on the PPG, which suggests that this 'Sedgefield' approach is appropriate unless it is unachievable. The Rule 6 parties contend for the shortfall to be recovered over the entire plan period, the so-called 'Liverpool' approach.

349. The Council will contend at the forthcoming EiP into its emerging plan that the examining Inspector should accept, for the purposes of the soundness of the emerging plan, the 'Liverpool' approach. This is in large part because that same plan contains an overall strategy (shared with its partner authorities) of seeking to meet future growth in Braintree (and beyond) by creating new Garden Communities and allocating larger housing sites, which can better respond to the

requirements for new infrastructure to support housing development, a strategy which the Council considers accords with government policy and is a sound approach to meeting future growth needs.

350. That same strategy means, however, that some of the new land for housing will not come forward until the middle of the plan period (and indeed beyond). If it is confirmed by the EiP as a sound strategy, it will provide ample justification for the Liverpool approach. The Council hopes it will be so confirmed. However, it has argued in three recent s.78 appeals that it provides that justification now, even as a draft strategy, and in each case has failed to persuade the Inspector of that. The failure in each case has been broadly on the basis that until there is greater certainty about the emerging plan, the Sedgefield approach should be preferred. That appears to be rooted in Framework paragraph 216.
351. On that basis, and for essentially pragmatic reasons, the Council's position to this Inquiry has been that it accepts that until its strategy is confirmed, it is likely to remain the case that the Sedgefield approach to making up the shortfall is appropriate for development management decisions. It recognises the clear steer in the Framework and PPG towards meeting needs, and doing so for the next five 5 years in particular. It has had regard - entirely properly - to the conclusions on this very issue reached by three recent s.78 appeal Inspectors. Its key justification for the Liverpool approach depends on a strategy within a plan that is still emerging and has yet to be tested. Its approach here is pragmatic but also sound and sensible, and there is no inconsistency with its approach to the emerging local plan.
352. It is also consistent with its position of relying on the other conclusions of those three Inspectors, in respect of (for example) the weight to be attached to policies of the development plan. It is generally unattractive to seek to rely only on those parts of a recent decision that suit one's case, while ignoring other elements which do not. The Council does not fall into this trap.

### **Buffer**

353. This debate was essentially reduced, via the round table session, to a binary disagreement about whether one treats the OAHN of 716 dpa as being the 'appropriate target' from 2013, or only from the time when it became a target at all (i.e. in 2016). Mr Spry says you should 'backdate' it to 2013, Mrs Hutchinson says not.
354. The Council adopts the Inspector's characterisation of Mr Spry's approach as illogical. Unlike the consideration of the shortfall since 2013, this exercise is not one of quantifying unmet need. It is specifically considering how likely it is that the planned supply will be met, using past performance against applicable targets as an indicator of likely future performance. This is clear because the purpose of including a 20% buffer (where there has been 'persistent under-delivery') is 'in order to provide a realistic prospect of achieving the planned supply' (see Framework paragraph 47). A local authority which has persistently, as it were, fired its arrows wide of the target must be moved closer to the target in order to improve its chances of hitting that target in future.
355. It thus follows that the nature of this exercise is considering past performance, not in terms of meeting actual needs but in terms of meeting planned targets. It is not about being 'unfair' to anyone - that was Mr Spry's straw man - but about

the nature of the exercise. The advocates for GDL/DWH were quite correct to say this has nothing to do with 'punishing' anyone and should be carried out in an entirely dispassionate way. It also explains why it is not helpful here to consider whether past targets were themselves likely to be lower than actual needs. The question is how often Braintree's arrows hit the target, not whether those targets ought to have been different. Nothing in the *Cotswold* judgment (ID1.15) indicates otherwise.

356. The simple fact is that 716 was not in any sense a 'target' for this Council prior to 2016 and it makes no sense in this context to consider its performance in hitting a 'target' that it was not aiming for; that would say precisely nothing about the likelihood of 'achieving the planned supply' in the future. The usefulness of the exercise relies upon identifying what the target in fact was at the time. It was not 716 until 2016.

357. For those reasons a 5% buffer is appropriate. Mrs Hutchinson's evidence makes clear that Braintree has not persistently under-delivered.

### **Supply**

358. There is (now) an immaterial difference, some 68 units, between GDL/DWH and the Council on the quantum of supply.

359. Of more materiality is the SPMRG position that ten further sites should have been included in the supply as set out in Mr Leaf's letter of 12 December (ID21). The question of whether those sites should be included in the supply is the subject of a SOCG between GDL/DWH and the Council (ID37), both as a matter of principle and on a site-by-site basis. The Council does not repeat, but does rely upon, those points here.

360. There is ample justification for the position taken by the Council in respect of those sites, as accepted by GDL/DWH. In short and in general terms the draft allocations may only attract limited weight until the emerging plan within which they appear has progressed further along its journey to adoption. Looking at the sites individually results in the conclusion in each case that they are not yet to be considered 'deliverable' for development management purposes.

361. It is also clear that these sites only make a material difference to the position if the position of the Rule 6 parties (contrary to the case presented by the Council and GDL/DWH) that the Liverpool approach should be adopted now is correct.

### **Conclusion - housing land supply**

362. The above points lead to the conclusion that the Council is correct to say that it cannot yet demonstrate a five-year supply of housing land. Insofar as it matters, the position is that it can demonstrate something in the region of 3.9 years, at least until its emerging plan attracts greater weight. That means that the proposals fall to be determined having regard to the 'tilted balance' in Framework paragraph 14. There is, therefore, justification for not applying the restrictive policies of the development plan 'with full rigour'; and the delivery of housing attracts greater weight in favour of the proposals than it might if there was a five year supply.

### ***The approach to the development plan***

363. These proposals are all contrary to the adopted development plan. The controversy revolves around how that conflict should be treated within the context of the Framework and the statutory test.
364. GDL/DWH and the Council agree that the ultimate outcome of that exercise is that planning permission should be granted for all three schemes. However, there is some divergence in the way in which the parties arrive at that conclusion. On that basis it may assist to have the Council's position set out clearly.
365. The proper approach to the development plan, where there is no five year supply of housing land, has been considered a number of times recently by Inspectors on s.78 appeals in Braintree District Council. The Council respectfully adopts the reasoning of Inspectors Hill and Gregory in the Coggeshall (CD32.2 set C) and Steeple Bumpstead (CD32.10 set C) Inquiries (respectively), and the consistent decision of Inspector Fagan at Finchingfield (CD32.4 set C). It is of note that both GDL, and its counsel here, appeared at Steeple Bumpstead and advanced the same argument there as here in respect of restrictive policy CS5, and it was roundly rejected. There does not appear to have been any real recognition of that in their position to this inquiry.
366. In short:
- i) There is a sound basis in principle for reducing the weight to be applied to restrictive policies of the development plan on account of the lack of a five year supply of housing land;
  - ii) The quantum of that reduction depends on a number of factors, including the extent of the shortfall, the purpose of the policy, and the consistency of the policy with the Framework;
  - iii) There is no sound basis for reducing the weight to be attached to restrictive policies on account of their age alone (paragraph 40 iii F6f); and
  - iv) In terms of consistency with the Framework, a nuanced approach is required by Framework paragraph 215 which calls for due weight to be attached depending on the degree of consistency with the Framework (paragraph 52, *Daventry DC v SSCLG and Ors* [2015] EWHC Civ 3459).
367. Saved policy RLP2 can be afforded limited weight because it is restrictive of housing and the District has a shortfall in housing land supply. The boundaries on which it relies were set with reference to housing needs for a period that has expired. This is the same conclusion reached by Inspector Fagan in the Finchingfield decision (CD32.4 set C, paragraph 10).
368. Although Saved policy RLP80 is not criteria based and applies a generalised approach in protecting landscape features and habitats, it is generally in conformity with the Framework and the Council maintains that it should be given considerable weight.
369. CS policy CS1 is a 'policy for the supply of housing' and is out of date by virtue of Framework paragraph 49. Insofar as there is a breach of its terms it attracts

limited weight as found by, for example, the Finchingfield Inspector (CD32.4 set C, paragraph 10).

370. By contrast, CS policy CS5 attracts more than the 'very limited weight' argued for by Mr Lee (for GDL) and the 'limited weight' argued for by Mr Dixon (for DWH). For the reasons set out by Inspectors Hill (CD32.2 set C, paragraph 59), Gregory (CD32.10 set C, paragraphs 39 & 65) and Fagan (CD32.4 set C, paragraph 59), policy CS5 should be afforded more than moderate, but not full, weight. It is consistent with the Framework core principle concerned with protecting the countryside from harm. There is some justification for a reduction in weight on account of the lack of a five year supply but no justification for that reduction to be as great as argued for by GDL/DWH here. This has been confirmed three times in s.78 appeal Inquiries since July 2017. It may be that Mr Dixon's evidence is in line with this, following clarification in his evidence in chief that it is the precise position of the boundaries, rather than the protective element, that attracts reduced weight.
371. GDL is correct to say that the Framework provides for a hierarchy of protection; at the top are designated landscapes, then below those come 'valued landscapes' and then the residual category of landscapes within which the Stone Path Drive site sits. It does not follow, however, that those at the bottom of this hierarchy get no protection. The hierarchy simply requires that they attract a lesser degree of protection than might categories above them in the hierarchy. In the Finchingfield and Steeple Bumpstead decisions, both of which concerned 'valued landscapes', it was held that Framework paragraph 109 was a 'footnote 9 policy' indicating that development should be restricted, providing an additional level of protection by disengaging the 'tilted balance'. That alone is sufficient to satisfy the hierarchy argument. Policy CS5 permits this hierarchy of protection to be respected.
372. Lastly, the emerging NDP. This is not yet part of the development plan and attracts only limited weight on that basis. It does not provide any sufficient basis for refusing any of the schemes. In particular, the debate about the wording of policy HPE1 (whether it is or is not restrictive of all - or all large - housing development in the countryside, and thus its consistency with the Framework) is precisely the kind of debate that will be resolved when the NDP is examined. It is an excellent example of why only limited weight attaches to plans at this stage of their development.
373. It would be remiss not to mention the Alan Massow e-mail (ID26). The position vis-à-vis the draft Green Gap between Hatfield Peverel and Witham is a draft policy in an emerging neighbourhood plan, which has some way to go before it is made and becomes part of the development plan. As Mr Massow's e-mail suggests, and as Mrs Hutchinson clarified in her evidence, the District Council considers that the question of whether there should be a green gap in this location to be a non-strategic one and for that reason it is not included as a draft policy in its emerging plan.
374. The question of whether a green gap in this location should be part of the development plan is left to the neighbourhood level, which is entirely proper. This Inquiry is not the place to examine either the emerging local plan or the emerging neighbourhood plan. The debate is sidestepped by acknowledging that the weight to be attributed to the terms of the emerging draft neighbourhood

plan - including the draft Green Gap policy - is limited, pursuant to Framework paragraph 216.

### ***The planning balance***

375. In each case, on the above basis, a balance must be carried out using the 'tilted balance' contained within Framework paragraph 14. A finding that such an exercise points to the proposal being sustainable development (i.e. the harms not outweighing the benefits) will be a weighty material consideration pointing towards a grant of permission notwithstanding the conflict with the development plan. That is, essentially, the conclusion that the Council reached in respect of all three schemes. It is the conclusion the Council suggests should be recommended to the Secretary of State.

376. The crucial benefit here, in each case, is the delivery of much-needed housing in a situation of deficit. Given that the deficit is, on any view, more than a year's worth of housing at this stage, and is unlikely to be eliminated until such time as the new local plan is adopted, the weight to be afforded to that benefit is substantial and is not outweighed by the harms, which are relatively limited.

### ***Conclusion***

377. The conclusions reached by the Officer's Reports in respect of each scheme are sound and should in effect be confirmed.

### **The Case for Interested Persons**

378. A total of six people made presentations to the Inquiry and answered questions from Mr Tucker. All responded positively to my request for a written statement and these are listed in Annex A. Mr Webb and Mr Hutton gave their statements by way of a PowerPoint presentation, copies of which are included in the documents. Thanks are due to the Council officers for making the necessary equipment available. What follows is a summary of the main points made by each speaker. The full submissions are available to read.

379. John Webb is a resident of the Gleneagles Way estate. His evidence focused on the traffic implications arising from the proposed development. He noted that Gleneagles Way is already a cul-de-sac development with a single point of access to the wider highway network. That single point of access would remain; it would however serve triple the number of dwellings if the proposal went ahead.

380. The junction of Gleneagles Way and The Street is inherently dangerous as it requires turning into (to exit the estate) or across (to return home) the off-slip from the A12. Traffic leaves the A12 at speed and has only a short distance to slow to 30mph. He put the distance from the 30mph sign to the junction at some 60m.

381. Local people did not accept the reported results from the speed survey carried out and submitted by DWH. HPPC commissioned another. He included the outcome figures and argued that using the average speeds as DWH had completely distorts the true picture. In fact, the new survey shows that 45% of the vehicles going past the junction do so at speeds in excess of 30mph. Proposed improvements to the visibility splay miss the point entirely. It is the design of the off slip that makes speed difficult to judge combined with the failure to enforce speed restrictions that cause the danger. (*Inspector note: DWH were*

*not aware of this additional survey data until Mr Webb presented it. Document ID20 is its response).*

382. Michael Hutton has been resident in the Gleneagles Estate for some 23 years. His presentation contained a number of annotated images. These showed the effect that new developments on the edge of Witham such as Lodge Farm and Woodend Farm were already having on the distance between Witham and Hatfield Peverel. The application scheme would reduce this separation distance further to just under 1km from just over 2km before these developments took place.
383. The application site is beyond the village boundary and previous planning applications have been refused. Photographs of views (which appear several times in the evidence) illustrate views across the application site.
384. The NDP already includes a comprehensive development area which is well-placed in relation to the main line station.
385. Lesley Moxhay has been a local resident for 34 years. She spoke about the ecology of the area. She suggested that the field margins provided a rich habitat while the land itself was Grade 2 and therefore best and most versatile agricultural land. Building on it was therefore contrary to Framework paragraphs 111 and 112.
386. In summary, her evidence is that the human activity that will be introduced into the area will have an adverse impact on the many protected species on or near to the site such as bats, badgers, grass snakes and slow worms. Furthermore, the measures put forward and agreed by the Council in mitigation of potential impacts on the Blackwater Estuary Natura 2000 site will be wholly inadequate and potentially counter-productive for local wildlife. The cumulative effect on the ecosystem from all of the developments planned in Hatfield Peverel should be given great weight in the planning process.
387. A resident of Woodham Drive whose property abuts the south western tip of the site, Ron Elliston made a number of points all of which are raised by HPPC or others. In summary, these include:
- a. That the site is not allocated in any development plan and lies beyond the settlement boundary;
  - b. The site is best and most versatile agricultural land;
  - c. Previous applications have been refused and this one is opposed by the local MP, County Councillor and District Councillor;
  - d. The green wedge between Hatfield Peverel and Witham will be further eroded;
  - e. The A12 is a source of noise and exhaust emissions which the acoustic barrier proposed will not mitigate even though it will have a landscape impact;
  - f. Similar traffic safety concerns to those expressed by Mr Webb;
  - g. Local schools and the surgery are already at capacity with more pressure to come from planned development;
  - h. Few employment opportunities with the closure of Arla dairy resulting in increased commuting.

388. In a supplementary statement (ID11a), Mr Elliston challenged the proposed provision of a new crossing point on Maldon Road near to the junction with The Street on the basis that it did not and could not comply with current guidance.

389. Andy Simmonds has lived in the village for 36 years. His statement was essentially a criticism of the way that the Council had dealt with the application.

390. Kenneth Earney spoke with respect to the effect on habitats, the lack of allocation in the development plan, the pressure on local schools and health facilities and traffic; he made similar points to other speakers.

#### Written Representations

391. At application stage the Council received 94 objections with some residents and households submitting multiple representations. The main material and non-material reasons for objection are summarised in the report to Committee (SAV38). The main headings under which they are grouped are principle of development; layout, design and appearance; landscape and ecology; highways; living conditions; and other matters. Most, if not all, of these issues have been raised by either or both HPPC and the interested persons in their evidence to the Inquiry.

392. A further seven representations were received by the Planning Inspectorate. These generally refer to matters raised in the initial objections to the scheme. Two are from Mr Webb and Mr Elliston and make the same or similar points as recorded above.

#### Conditions and Obligations

393. These were discussed at a round table session on the final sitting day of the Inquiry.

#### **Conditions**

394. Various drafts of the conditions that might be imposed if the Secretary of State decides to grant planning permission were submitted. The wording and need for each was discussed and a consolidated set helpfully provided by the Council following the discussion (ID53). In considering the conditions to recommend to the Secretary of State I have had regard to the advice in the relevant section of the PPG. The conditions that are recommended are set out in Annex C and the following references are to the conditions there.

395. Conditions 1 to 4 inclusive are standard outline planning permission conditions which define the reserved matters that will be subject of further approval. DWH explained that the Statement of Landscape Principles, (ID46) should be read alongside the parameters plan (SAV4) and the design and access statement (SAV7) in order to appreciate the approach the developer will take to mitigating the limited landscape harms caused by the development [107]. However, neither the Council nor DWH suggested that these should be subject to a condition and I consider to do so would go beyond what is normally specified at outline planning permission stage. No doubt the Council will nevertheless have regard to both when considering the reserved matters applications.



396. Condition 2 sets 2 years as the period within which the reserved matters applications must be submitted for approval to ensure that the eventual developer of the land brings forward housing in good time.
397. Condition 5 secures the access arrangements which are for approval now. It also secures a number of improvements to the crossing points and footways in the general vicinity of Gleneagles Way, The Street and A12 overbridge. Included among these is the new zebra crossing on Maldon Road proposed as part of ID1.5 and shown on Drawing 45604-P-SK207. Having walked the area in the afternoon I consider that an additional controlled crossing point is necessary to achieve a safe route to the bus stop for those wishing to travel by bus to Witham and further afield. This is especially important given the expectation that both primary and secondary pupils may have to travel in that direction to secure a school place.
398. Conditions 6 and 7 work together to control the ridge heights of the dwellings on those boundaries of the developable area that affect views of the settlement edge from the countryside. The height specified is that upon which the LVIA is based. The restriction is necessary to integrate the current settlement edge into the setting of the village.
399. Conditions 8 and 9 are necessary to ensure that any air quality issues arising from the proximity of the site to the A12 are addressed in the interests of the health and well-being of the future residents. Condition 10 is necessary to protect wildlife during construction and condition 11 is required to ensure that in bringing forward the reserved matters applications the scheme is landscaped in accordance with the parameters set out and maintained thereafter as specified.
400. In order to ensure that disturbance to the existing residents in the area is minimised as far as is practicable while the development takes place conditions 12 and 13 should be imposed to control the management and operation of the site and the hours during which work can take place and materials can be moved on and off site. The requirement for details of any piling to be approved (condition 15) arises for the same reason.
401. A number of schemes are required before development begins to ensure that any issues not already identified are explored and addressed as appropriate. These include conditions 16 (archaeology), 17 to 19 (surface water drainage) and 20 (foul water drainage). Condition 21 is similar in that it requires the measures to be put in place to protect all the identified existing trees and hedges that are to be retained to be approved prior to construction. I have removed the phrase 'to the complete satisfaction of the local planning authority' from the suggested condition 21 as this is an uncertain specification and therefore unenforceable. It would not therefore meet the tests on the PPG.
402. There are a number of conditions that are required to protect the nature conservation interest of the site and surrounding area. These include no clearance of trees and hedges during the defined nesting season (condition 23), the provision of nest and roost sites as the development becomes occupied (condition 24) and reviews of already submitted surveys prior to the submission of reserved matters (condition 25) or if the development is delayed or suspended such that circumstances might have changed (condition 26). Condition 14 (external lighting) is required primarily to mitigate any disturbance that may be caused by light pollution to roosting and foraging bats. It is my understanding of

- the discussion that this is its purpose. It is not intended to provide detailed control over the lighting that individual occupiers might wish to provide for, say, security. It is more to address the lighting of public spaces that will be provided as part of reserved matters applications.
403. Condition 28 is necessary in the interests of promoting sustainable modes of travel. The achievement of a high quality development where people will wish to live will be enhanced by the undergrounding of existing overhead power lines and that will be secured by condition 29.
404. A number of conditions were subject of debate and disagreement in some cases.
405. Condition 22 secures the important provision of space for the necessary materials recycling bins in order to facilitate the more sustainable management of waste materials by the local collection authority.
406. During the discussion of that condition it was suggested that its scope be widened to include the provision of other infrastructure such as high speed broadband. While there was a consensus that this would be desirable, its provision was not in the control of the developer. A condition of that nature would therefore be unenforceable and so would not meet the tests set out in the PPG.
407. While there is no dispute that the condition is required to protect the health of future residents living close to the A12 there is a disagreement about the timing of the submission of details. I agree with the Council that the details need to be approved before reserved matters are submitted rather than together with them. The approved details may well influence the layout if not the appearance and to risk a refusal which meant a review of an already submitted reserved matters application seems to run counter to the objective of expedited housing delivery. It seems though unwise to restrict by condition the mitigation to the boundary even if that is what is ultimately approved. Suggested condition 27 therefore represents compromise wording of the two suggestions put forward.
408. Two other conditions were suggested by the Council and these are included within Annex C as conditions 30 and 31. They are set out there in italics as, in my view, neither is required. The suggested wording is nevertheless included should the Secretary of State take a different view.
409. Condition 30 is a standard materials condition of the type commonly imposed where this is either unclear at application stage or the local planning authority wishes to exercise further control over the matter. However, in this case 'appearance' is a reserved matter. It seems to me that the materials to be used are fundamental to the appearance of the buildings and I fail to understand why this important matter cannot be addressed then.
410. The Council explained that condition 31 is required to ensure that, initially, each plot is provided with some means of enclosure. The condition is not intended to remove the rights available under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. That may not be the intention but I consider that it would be the effect. No evidence was put forward to justify such a restriction which the PPG advises

should only be imposed where circumstances require. Those circumstances do not exist here in my judgement.

411. A third condition suggested by the Council related to car parking standards. It was very specific in its requirements and referred to the Essex Parking Standards Design and Good Practice 2009 as the source. During the discussion it was argued that this condition was unnecessary as the reserved matters applications would be determined in accordance with the development plan policy and any supplementary planning document applicable at the time. I agree and do not suggest this condition be imposed.
412. A fourth suggested condition would have required a number of highway works and improvements to bus stops. It seems to me that the former are already secured by condition 5 while the latter relate not to this development but to those proposed at Stone Path Meadow which are the subject of separate reports. The condition is therefore not required in this case.
413. Finally, the Council suggested a condition requiring the submission for approval of a landscape and ecological management plan. From the body of the condition and the non-exhaustive list of matters it should cover it seems to me that it would duplicate a number of other landscape and ecological conditions that are already suggested to the Secretary of State. It is therefore unnecessary in my view.

### ***Obligations***

414. A planning obligation in the form of an agreement between the Council, ECC, the landowners and the developer has been submitted (ID59). It is signed by all parties and dated and is explicitly made pursuant to s106 of the principal Act with the obligations entered into being enforceable by the Council and ECC. The commencement date is defined as being when a material operation for the purposes of s56 of the Act is carried out.
415. The obligations are set out in 11 schedules. These make provision either in the form of financial contributions or other mechanisms for outdoor sport (Schedule 1), allotments (Schedule 2), community building (Schedule 3), highway works (Schedule 4) open space (Schedule 5), affordable housing (Schedule 6), education (Schedule 7), healthcare (Schedule 8), Blackwater Estuary mitigation contribution (Schedule 9), public rights of way contribution (Schedule 10) and housing phasing and landscape strategy (Schedule 11)
416. The Council has submitted a statement of compliance with the CIL Regulations (ID29) setting out the policy justification for each of the obligations provided.
417. In my judgement each of the obligations is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development proposed. In my judgement each obligation meets the requirements of CIL Regulation 122 and Framework paragraph 204.

### **Conclusions**

418. Throughout my conclusions, numbers in [] are references to other paragraphs in my report. Those in () are to the parts of the documentary or oral evidence upon which my conclusion or inference is based.

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**Policies in the Framework on delivering a wide choice of high quality homes**

419. This is the first reason for the application being called in by the Secretary of State [4]. Little evidence was given about this.
420. Schedule 6 of the s106 obligation (ID59) will secure the provision of a substantial number of affordable homes within the development proposed. A mix of market and affordable housing would be delivered on-site and the policy set out in Framework paragraph 50, bullet 3 would therefore be delivered.
421. All of the other elements that go towards delivering the requirements for good design set out in Framework section 7 will be subject of the reserved matters applications that would need to be submitted. The Statement of Landscape Principles (ID46) sets an important context for the development and the Design and Access Statement (SAV4) also establishes some important principles that will no doubt guide the Council's development management process at reserved matters stage although no condition was suggested in this regard [395].
422. There is no evidence to suggest that the application site which is being promoted by a national housebuilder will not provide a range of high quality homes.

**The extent to which the proposed development is consistent with the development plan for the area**

423. This is the second reason given by the Secretary of State for the call-in [4]. In addressing this I shall also deal with the third reason, namely 'Any other matters the Inspector considers relevant'. These were set out in my first pre-Inquiry note (INSP1) and have been developed in the light of the written and oral evidence given. They encompass what, in my view, are the main considerations upon which the decision should be based.
424. However, before considering the application scheme against the policies of the adopted development plan I shall address the weight that I consider should be given to the emerging BNLN and NDP.
425. Turning first to the BNLN, the SOCG between DWH and the Council records that the weight to be given to the emerging plan policies should be determined in accordance with Framework paragraph 216 (paragraph 6.12, SOCG 4). That is different to the Council's agreement with GDL that limited weight should be given to the BNLN as a whole (paragraph 3.3.10 SOCG1). In closing submissions the Council considers the weight that should be attached to individual policies rather than the plan as a whole [363 to 374].
426. DWH reached the same initial agreement with HPPC (paragraph 6.12 SOCG 5). In closing submissions HPPC has revised its position and argues that the emerging BNLN can be given significant weight as it has progressed to examination stage [216]. That however is only one of the three considerations in Framework paragraph 216 that have to be taken into account.
427. The BNLN is subject to a considerable number of representations that it is unsound. For example, in an extensive representation (CD33.1 set C) GDL argues that policies SP1, SP3, SP5, SP7, SP8, SP9, SP10, LPP 1, LPP 18, LPP 19, LPP 22, LPP 37, LPP 49 and LPP 72 are unsound. Of these, only policy LPP 1 is a

relevant policy. No criticism is made by GDL of the others (such as SP 2 and LPP 71) referred to above [36 and 37].

428. The stage reached remains as set out above [33]. That is an advanced stage in the process to adoption but it is, nevertheless, the first stage at which independent scrutiny of the plan takes place. The Council is best placed to know the full extent of the challenge to the plan and its individual policies and thus the number and nature of the unresolved objections to them. The degree of consistency with the policies in the Framework must therefore be viewed in that context. Taking these three components of Framework paragraph 216 into account, I see no reason to take a different view to that which the Council took in the SOCG with GDL that only limited weight should be given to the BNLP.
429. The weight that should be given to the NDP is a matter of legal dispute between DWH [121 to 130] and HPPC [227 to 247]. I am not legally qualified to resolve that dispute and the Secretary of State may need to take his own legal advice to do so if he considers it necessary.
430. In my view, the position is actually quite straightforward. The NDP has been submitted for examination [39]. The exchange between the examiner and HPPC set out there seems to me conclusive. The examiner's first letter (Appendix MR24, HPPC1) is quite explicit that 'as it stands...the NDP fails to meet the Basic Conditions...'. Her second letter (Appendix MR25) declines to continue the examination because '...the issues raised are sufficiently substantive...' that to do so would risk abortive and unnecessary costs to the Council.
431. Both GDL (CD33.2 set C) and DWH (SAV50 and SAV52) have objected to the submission version of the NDP. Among the policies objected to are HPE1, HPE2, HPE6 and HPE8. Given the nature of the additional work to be done, the uncertainty over the timescale in which it will be completed and the effect that the outcome of that work and indeed the examination itself may have on the form of the NDP put to a referendum I consider that, in line with the guidance in Framework paragraph 216, very limited weight can be given to the NDP at this stage. I do not consider that the late information provided by HPPC [10] alters that conclusion. Although HPPC says the required work has now been done, Natural England's comments have not been made available; the outcome of the meeting with the Council to discuss the way forward is similarly unknown; and the views of the examiner about all of this are unknown in any event.

***Would the proposal be in accordance with the spatial strategy?***

432. The CS spatial strategy is set out in policy CS1 [29]. It promotes development in the KSVs and Hatfield Peverel is so categorised. The emerging BNLP does not alter the spatial strategy in that regard and identifies the A12/Great Eastern Mainline corridor as a location for future development [36]; Hatfield Peverel lies within that corridor.
433. As I explain a little later in this report I agree with GDL, DWH and the Council that the Council cannot show a 5YHLS. Framework paragraph 49 says that in those circumstances relevant policies for the supply of housing should not be considered up to date. Policy CS1 is clearly such a policy.
434. Whether it is the whole of the policy including the spatial strategy or just that part of the policy that sets the housing requirement that should be considered

out of date was the subject of post Inquiry sessions correspondence (INSP4 and ID54 to ID56).

435. Taking those views into account it is my judgement that, although as a policy for the supply of housing policy CS1 should be considered out of date, the spatial strategy within it should still be afforded some weight. The Council is having to address a substantially increased OAHN in the emerging BNLP. How it is doing so is set out in the evidence base (ID33). This confirms that the Settlement Fringes Evaluation (SFE) is part of the evidence base used to develop the strategy. That confirms that to meet the OAHN '...development will need to be accommodated on the periphery of the main towns and larger settlements...' (paragraph 1.4, CD14.4 set B) with Hatfield Peverel being identified as one of the nine settlements studied. Furthermore, ID33 explains why both the 'new settlement only' and 'constrained growth' options were rejected.
436. It seems to me therefore very likely that any strategy coming forward through the BNLP will include development at the KSVs, especially where these are within the A12/Great Eastern Mainline corridor that is identified as a location for future development.
437. I therefore conclude that the development proposed would be in accordance with the spatial strategy. There is no evidence to support the contention by HPPC that development in any settlement needs to be 'proportionate' [186]. Nevertheless, HPPC is correct in my judgement to argue that the spatial strategy does not, of itself, dictate that the boundary in this part of Hatfield Peverel needs to be altered [214 and 215] but that is a different point that relates to policy CS5 which I turn to now.

***Would the proposal conflict with policies RLP2 and CS5?***

438. These two development plan policies are summarised at [26] and [30] respectively with the precise wording of policy CS5 set out. They are worded differently but their effect is the same. Both establish that outside the defined development boundaries of settlements, countryside policies will apply. Policy CS5 goes further explaining that development will be strictly controlled to uses appropriate to the countryside.
439. It is a matter of fact that the application site adjoins, but is nevertheless beyond, the development boundary of Hatfield Peverel. The proposal is therefore in conflict with the development plan in this regard, a fact acknowledged by DWH (paragraphs 6.12 and 6.34 DWH1). The point in issue is the weight that should be given to this conflict in the overall planning balance.
440. There are two aspects to this. First, whether the policy is inconsistent with the Framework; that argument applies only in respect of policy CS5 [142 to 146]. Second, whether the development boundaries that are critical to the application of the policies are out of date because they are based on out of date housing requirements. They have not been subject to review for many years [112 and 113].
441. Dealing first with consistency with the Framework, policy CS5 has three components. The subject of the policy is (of relevance to this appeal) development outside village envelopes. The 'action' of the policy is to strictly control that development to uses appropriate to the countryside. The purpose is

‘to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside’.

442. The policy does not, in my view, apply blanket protection to the countryside. It makes clear that uses appropriate to the countryside would be permitted. The policy itself and its supporting text do not explain what those uses might be but it is difficult to imagine that a substantial village expansion housing development would fall into that category. Some guidance is however given elsewhere in the CS (at paragraph 4.24) in the discussion of ‘The Countryside’. Some of the uses there (for example, development necessary to support traditional land-based activities such as agriculture and forestry) are not dissimilar to one of those listed in Framework paragraph 55 (the first bullet).
443. One of the core planning principles set out in Framework paragraph 17 requires local planning authorities in both plan-making and decision-taking to recognise the intrinsic character and beauty of the countryside. To my mind a policy that seeks to ‘protect and enhance’, as policy CS5 does, is not seriously out of kilter with that core principle.
444. Although drafted in advance of the publication of the Framework I therefore do not consider policy CS5 to be inconsistent with it. As the Council notes when arguing that more than moderate but not full weight should be afforded to this policy [370] three previous Inspectors have considered the same policy in relation to appeal proposals submitted by GDL in the District (CDs 32.2, 32.4 and 32.10 all in set C). My conclusion with respect to this aspect of the policy is consistent with each of theirs.
445. Turning to the development boundaries point, there is no evidence before this Inquiry of any review of the development boundaries as part of the preparation of the BNLP [113]. While the methodology for doing so has been approved by Council members (Appendix PJ3, HPPC2), there is no evidence that the review has actually taken place. However, DWH contends [90] and the Council accepts [362] that a 5YHLS cannot be shown. For reasons that I will discuss later, that is also my conclusion. If then the development boundaries are rigidly applied through the operation of both policies they would restrict the supply of housing and frustrate the aim of Framework paragraph 47. The court has held that in those circumstances the weight that can be afforded to them is much reduced [117]. That is also the view of the Council and the reason for it with respect to policy RLP2 [367] and, by inference, policy CS5 [370].
446. That was also the view taken by the three Inspectors in the decisions referred to above [370]. I see no reason to take a different view given that circumstances are more or less unchanged. Therefore, while there is a conflict with the adopted development plan policies, overall those policies can attract only moderate weight when it comes to the overall planning balance.
447. For completeness, the wording of BNLP policy LPP 1 is set out above [35]. It is not materially different from policy CS5. For the reasons set out above [425 to 428] the weight that can be given to that policy is limited.

***The effect of the development on the landscape character of the area and the visual impact that the development would have***

*Landscape character*

448. In my view, it is necessary to take into account the way in which Hatfield Peverel has developed. The historic maps in Mr Hancock's evidence (Appendix A2, 3/APP) shows how Hatfield Peverel has evolved from a linear settlement focused on The Street, shown as the Roman Road on the 1874 map and part of the route linking London with Colchester. By 1955 the land between Church Road and Maldon Road to the south of The Street had begun to be developed as had land to the north of The Street between it and the railway. This pattern continued to 1980 as more and more edge-of-settlement fields and allotments became housing developments. The 1978-80 map shows the Gleneagles Way and Woodham Drive cul-de-sac developments extending the village into the countryside to the east beyond Maldon Road. By 2002, (the next map in the sequence provided) what is now the Stone Path Drive development had breached the Church Road boundary and taken the village onto yet more former allotments on its western flank.
449. Under cross examination by Ms Scott of the case for GDL Mr Holliday confirmed his view that as a result of this pattern of development the character of Hatfield Peverel had changed over the last 50 years or so from a linear settlement to a nucleated form and that the development proposed by GDL would simply continue that pattern and, by inference, be in keeping with what is now the character of the settlement. He rejected Ms Scott's suggestion that the Stone Path Drive development would be a complete departure from the settlement pattern. His view was that each time housing development has taken place on the edge of the village a field has been lost but there has been no further change to the character of the village; the GDL development proposed would be no different.
450. Mr Smith was not present when Mr Holliday gave this evidence. I summarised that evidence as being that the character of Hatfield Peverel was that of a fair-sized settlement in a rural setting and that, while the GDL development would extend the village into the countryside, that fundamental relationship between the village and its setting would not be altered. I asked Mr Smith if he agreed with Mr Holliday's assessment and whether it applied equally to the DWH development. Mr Smith agreed with Mr Holliday's assessment and confirmed that it was relevant to the consideration of the DWH application. In a further answer Mr Smith confirmed his view that the village had evolved over time through edge-of-settlement accretions of similar scale to each of the proposals before the Inquiry. Each would therefore simply continue that evolution.
451. This assessment is supported by Braintree Historic Environment Characterisation Project 2010 (CD28.1 set C). This report has been produced to assist ECC and the Council in the production of their development plans. It studies the historic landscape character, archaeological character and historic urban character and weaves the three strands together to establish the historic environment character. Discussing the Hatfield Peverel area (HLCA 13) it notes the historically dispersed settlement pattern with Hatfield Peverel being the only nucleated settlement of any size (emphasis added). The post-1950s boundary



- loss ‘...can be described as moderate, however the overall grain of the historic landscape is still clearly visible.’
452. Furthermore, there are a number of studies that have had an assessment of the landscape capacity of various areas of land around the settlement edge to absorb further development as their broad purpose.
453. CD14.1 set B focuses on eight key settlements in the District. Its purpose is to assess the sensitivity and capacity around those settlements to accommodate new development. The application site lies within a study area (HP4) to the east of the settlement and to both sides of the A12.
454. From the analysis set out in summary form in Table 4.1 of the document it is clear that of the four study areas encircling the village this was the one that had the highest capacity to accommodate change without significant effects on landscape character. Contributory points in reaching this conclusion include the lack of distinctiveness along the settlement edge; the moderate contribution to the setting of eastern Hatfield Peverel and the wider landscape because of the enclosure provided by landform and peripheral vegetation; and the influence of the A12 which ‘cuts through’ the area and introduces movement and noise within the landscape thus reducing its overall sensitivity to change.
455. The Landscape Partnership prepared CD14.4 set B for the Council. This followed and built upon the earlier Chris Blandford Associates document (CD14.1 set B) and has the same broad objective for Hatfield Peverel but at a finer grain of analysis. As Mr Smith notes (paragraphs 83 and 84 DWH3), it did not investigate area HP4 further since this had already been found to have a higher overall potential to accommodate development than the other three study areas (paragraph 2.2, CD14.4 set B).
456. The Landscape Partnership also prepared the Hatfield Peverel Landscape Character Assessment for HPPC (CD28.3 set C). Its purpose is to assist ‘the village’ in commenting on development proposals coming forward and to support the emerging NDP. One of the aims is to provide an assessment of the landscape character and sensitivity of it around the village building on work undertaken at district level (paragraph 1.4). The application site is within local landscape character area 4 (Wickham Bishops Road – Upper valley slopes with pits/reservoirs). This area is less extensive than study area HP4 being confined to the south of the A12 although it does extend to include a small area of land further to the south east.
457. This study does not assess the capacity of the area to accommodate development. Rather, it sets out a general commentary about the characteristics of the landscape and some landscape guidelines which, on a fair reading, appear to assume development taking place to facilitate them.
458. Of relevance from the general commentary are the sharp transition between the existing residential fringes reflected in the linear garden boundary line of Gleneagles Way and Woodham Drive and the farmland beyond and the broad open views that are possible across the open arable farmland that characterises the area. Guidelines include tree belt planting along the northern boundary to provide a visual break to the A12, enhancement of the ecological value of the area through hedgerow retention and enhancement and safeguarding of open views across arable farmland towards the steep ridge at Wickham Bishops.

459. In my view the above document review demonstrates that the Council has been considering the potential for further edge-of-settlement development at Hatfield Peverel in accordance with the emerging or adopted spatial strategy since at least 2007. Indeed, as set out above [435] this was an explicit purpose of the SFE which states that such development was ‘...inevitable...’ if the OAHN was to be met (paragraph 1.4 CD14.4 set B). The application site would extend the Gleneagles Way cul-de-sac development into what is the next field to the east and, moreover, into a modest part of a larger area that several studies have confirmed has the landscape character capacity to accommodate it subject to development guidelines being met. The Statement of Landscape Principles (ID46) demonstrates that those guidelines can be met. While not subject to a condition [421] it will be for the Council to take these into account at reserved matters stage; this is the expectation of the applicant [107].
460. That is not to say that the development would not have an adverse effect on landscape character. The submitted LVIA acknowledges this (Table D4 SAV16). These effects would however be limited to the loss of the gently sloping landform which would be replaced by a housing estate. That has both a physical effect in that a landscape feature would be lost and aesthetic/ perceptual effects all of which would be negative. They would nevertheless be very localised and largely contained to the site itself, particularly given the mitigation measures that would be put in place. At a wider regional and county level the loss of a small (in context) arable field would have a negligible effect on landscape character.

### *Visual impact*

461. It seems to me that although the landscape character effects and visual impacts that the development would have are not clearly distinguished from one another, this is the nub of the HPPC case on this consideration [284 to 294].
462. During my visit to the area I walked all of the routes that I was invited to [1]. These are shown on HP 003A in the LVIA (SAV16) and on HP/EJS/01 (Appendix 2 DWH4) and allowed a complete circuit of the application site on public land.
463. The application site itself is an open arable field that is devoid of any feature of significance. Its value, in my judgement, is that it enables views across it. Those views will be interrupted by the development but the effect of that varies greatly depending on the viewpoint.
464. Views to the east in the direction of Witham across the site to the farmland beyond are available from a very limited number of places. Walking through the Gleneagles estate it is only possible to see between the houses to the application site when passing the entrances to the three culs-de-sac. Photograph 8 (ID13) shows the type of view that would be available; it is a glimpse only.
465. Photographs 2 and 4 (ID13) and viewpoint 9 (HP 012 SAV16) show views that are representative of those available towards or at the end of each cul-de-sac. They are not representative of the view obtained by people passing through the estate on foot, cycle or in a vehicle or by the vast majority of residents in their homes. Viewpoint 9A (HP 012 SAV16) appears to represent that view but it would only be available to those living at the very end of a cul-de-sac; that would be about six properties. Photographs 3, 5, 6 and 7 (ID13) may represent the view from the gardens of the properties at the ends of each cul-de-sac but, as they do not seem to have been taken from public land, I cannot be sure.

466. What is beyond dispute is that each of these views would be replaced by a view of housing. DWH correctly assess this effect to be 'major' and 'negative' at all assessment dates (Table E3 SAV16).
467. From all other viewpoints on public paths generally to the north, east and south of the application site the proposed development would not be the dominant feature in the view in my judgement.
468. It is only along a short length of the footpath adjacent to the A12 and the off-slip to the village that the application site adjoins a public path. At this point the development would be largely screened by existing planting as shown by representative viewpoint 10 (HP 013 SAV16).
469. From the other representative viewpoints 1, 2, 4, 5, 6, 7 and 8 (respectively HP004A & B, HP 005, HP 007, HP 08A & B, HP 009, HP010 and HP010 SAV16) one view is to the settlement edge of Gleneagles Way and Woodham Drive across the intervening farmland which would remain undisturbed. At points that view is in any event screened by existing planting as the SAV16 photographs show.
470. That is however only one view. As HP003A & B (SAV16) show, viewpoints 1, 4 and 5 are along a footpath that runs parallel to the application site but is separated from it by a further field. While the settlement edge is visible if the walker turns to look that way, turning the other way or looking in the direction of travel would give a view across open countryside. That is also the case from viewpoints 5, 6 and 7. Indeed, travelling north east is moving away from the application site which would be increasingly to the rear and thus not really in the normal view.
471. No evidence was given about the extent to which these paths are actually used. At the time of my site visit a woman was exercising a dog from the path running parallel to the application site and two lads were riding what looked like a trials bike across the fields around the point where the path turns south west towards the village. It is not clear to me how well used the path would be since the end-point is the path alongside the A12; an unpleasant walking experience in my view.
472. Photomontages have been produced to show how the development might look from certain viewpoints after the mitigation planting has become established (HP004A & B, HP008A & B). Taking those and my own observations into account, I consider the applicant's assessment that the visual effects from all these representative viewpoints would ultimately be minor/moderate at worst is fair.

### *Conclusion*

473. There would be a localised adverse effect on the character of the landscape which DWH acknowledge [460]. That harm must, however, be seen in context.
474. Several studies have considered the capacity of the settlement-edge landscape to accommodate the additional development that would be 'inevitable' if the OAHN is to be delivered. The application site is part of an area that independent landscape professionals consider capable of accommodating that development subject to guidelines to mitigate the effects being put in place. At least one of those studies has been prepared for HPPC [456 and 457]; no alternative LVIA has been put in evidence by HPPC.

475. The application site is an arable field with no distinctive features. There is no reason in my view why the landscape principles set out in ID46 could not be achieved at reserved matters stage. While a new settlement edge would be created as a result of extending the existing residential edge the width of a field further into the countryside, all existing boundary trees and hedgerows would be retained and enhanced as appropriate. To the extent that these are distinctive landscape features there would be no detrimental impact upon them. As the new planting matures over time the development would, in my judgement, be successfully integrated into what is a settlement-edge landscape.
476. There would therefore be no conflict with the landscape elements of policy RLP 80.
477. It is only the third paragraph of policy CS8 that is relevant to this consideration. It is clear from the submitted LVIA and the evidence presented to the Inquiry that the applicant has had regard to the character of the landscape and its sensitivity to change. That is what the policy requires and that part is therefore satisfied. Whether the development would enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment is a matter of judgement. Appendix 5 of the CS confirms that it is the 2007 study (CD14.1 set B) that is being referred to. In detail, that has been developed or superseded by later studies. In my view, the development would enhance the settlement edge as it appears as a feature in the landscape and thus this part of the policy would be complied with too.
478. Neither of these policies deals explicitly with the visual impact of proposed developments although these are the only two development plan policies that are referred to by HPPC as being breached in respect of this overall consideration [294]. I have found that there would be harm caused by the development with respect to visual impact although that would be limited to the occupiers of the properties along the three culs-de-sac off Gleneagles Way and, even then, mainly to those living at the end of each.
479. To the extent that weight can be attached to the policies of the emerging NDP [431] there would be conflict with policy HPE6 in this regard. However, in addition to the general point concerning progress on the NDP there are specific concerns about the evidence base that underpins the views to be protected and enhanced under policy HPE6 [101 to 103]. Mr Graham addresses this [252 to 259] but in my judgement there is some strength to Mr Tucker's case that this policy has been developed to frustrate development coming forward on the settlement edge [103]. This is nevertheless a matter properly for resolution through the NDP examination and, in any event, the impact and thus the conflict would be limited to a small number of adjoining residents and to users of certain footpaths pending the mitigation planting maturing. While this harm needs to be weighed in the overall balance, it attracts very limited weight in my view.

### ***The effect of the development on community infrastructure***

#### ***Education facilities***

480. The concern relates only to primary school places and has been something of a moving feast as ECC, as education authority, has come to appreciate the full impact of planned and speculative development in Hatfield Peverel and the changing position over time with respect to school rolls (series of letters in CD21

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set C). In my view, the SOCG (ID1.8) does not take things much further although the letter dated 1 September 2017 to Priti Patel MP from the ECC chief executive attached to it does. So does the helpful report from EFM that was prepared for GDL/DWH in response to my pre-Inquiry note (INSP1) and is appended to the proof of Mr Dixon (Appendix 8, DWH2).

481. The EFM report explains that estimating the numbers likely to be demanding a place at any particular school in future years is an inexact science. It is compounded, in the author's view, by the inherent contradiction between the duty placed upon education authorities to promote choice and variety of schools on the one hand and the Framework paragraph 38 requirement to locate, where practical, primary schools within walking distance of most properties on the other hand (report paragraph 27). The position in Hatfield Peverel is further complicated as the Council does not have a CIL charging schedule in place.
482. The letter is slightly opaque but, as I understand it, any one of the four residential developments listed in the letter could, in isolation, be accommodated without the need for additional primary school capacity. As two of the potential developments are allocated in the BNLP and the other two are this application scheme and whichever of the schemes put forward by GDL that is implemented (both cannot be), it is unlikely that only one scheme in isolation will come forward. Depending on the decisions made by the Secretary of State, all four could come forward.
483. Both the letter and the EFM report say that in that circumstance it is necessary to look more closely at where the children attending the Braintree Group 10 schools (Hatfield Peverel Infant, St Andrew's Junior and Terling CE Primary) actually live. It appears that some 35% live in the priority admissions areas of other schools but choose to be educated at one of those three named schools.
484. Given that the education authority has a duty to secure sufficient school places (and there is no evidence that it will not do so) the assumption is that this issue will resolve itself over time through the operation of the admissions policy. In short, in-catchment applications will always trump out-of-catchment applications (report paragraph 42) and, while no pupils will be displaced, over time more and more pupils in the Braintree Group 10 schools will come from Hatfield Peverel if that is their choice.
485. In evidence in chief Mr Dixon confirmed that his position on this matter did not differ from that of Mr Lee for GDL whose evidence he had heard. Mr Tucker further sets out the position in his closing submissions [131 and 132]. Mr Lee's position can perhaps be summarised best by his answer to my question when he confirmed that had ECC asked for a contribution to primary school provision it would have been paid. There is therefore no resistance from either GDL or DWH to addressing the issue. Although Mr Graham believes that ECC may have misdirected itself in respect of CIL Regulation 123(3) [276] the fact remains that its understanding of the pooling restriction prevented it from seeking any contributions from the applicant.
486. Nevertheless, while the situation settles down, and there is no indication as to how long that may take, Mr Lee accepted during cross examination by Ms Scott for SPMRG that there would be a short term impact which neither developer would be able to mitigate. That impact is most likely to manifest itself through additional journeys to school, either by bus or private car. In my judgement it is

very unlikely that any pupils would walk to schools in Witham. The walk is by the A12 and unpleasant in my view and likely to be perceived as dangerous even if, in fact, it is not.

### *Health facilities*

487. On this topic too DWH effectively adopts the position of GDL since, once again, in evidence in chief Mr Dixon confirmed that his position did not differ from that of Mr Lee. The consultation response from NHS England is not available but its contents are summarised in the report to Committee (SAV38). The consultation responses by NHS England to the GDL schemes have been submitted in evidence and have the 'feel' of a template letter (CD3.16 set A and CD4.11 set B). At paragraph 5.1 of the response to the 80 dwelling scheme it says that the development would give rise to a need for improvements to capacity by way of 'extension, refurbishment or reconfiguration at the Laurels surgery'. The terms used in the definition of the 'healthcare contribution' in the s106 Obligation [415] are 'extension or reconfiguration of the Sydney House surgery'.

488. It is clear in my view that the impact of the development and the contribution sought to mitigate it is established purely in terms of the need for additional floor space generated. Unchallenged evidence was given by Mr Renow to the effect that Sydney House could not be physically expanded [272]. GDL's response, which has been adopted by DWH, was that capacity can be increased without necessarily having to physically expand the building and could be achieved by, for example, internal alterations.

489. However, a letter from the Practice Manager is somewhat confusing as to what is meant by 'capacity' (CD20.1 set C). One reading is that it is the number of medical staff available that is the issue, not the physical space available. Not only is the concern expressed that the contribution would not be spent by NHS England at that surgery (clearly wrong given the terms of the Obligation) but that it was not recurrent funding. That is suggestive of the concern locally not being one of space constraints.

### *Conclusion*

490. CS policy CS11 says, in essence, that the Council will work with partners, service delivery organisations and developers to provide required infrastructure services and facilities in a variety of functional and service areas that include education and health. Provision is to be funded through among other things, planning obligations and CIL. In the absence of the latter, the Council is reliant in this case on planning obligations.

491. The evidence suggests that there may be some short term harm in terms of additional journeys to schools while a new equilibrium is established in the primary education sector. It may well be that what appear to be current capacity issues at the surgery may be exacerbated if, as HPPC contend (and SPMRG made the same point), the surgery cannot be physically expanded and that is, as NHS England would appear to believe, actually the issue.

492. However, having identified those concerns it must be acknowledged that DWH has obligated to make all the contributions that have been requested to mitigate any effect from the application scheme. In my view, a finding of conflict with policy CS11 in those circumstances would not be appropriate.

***Whether the development would erode the gap between Hatfield Peverel and Witham***

493. Coalescence of settlements is not a matter that is addressed by any adopted development plan policy. It is addressed by emerging BNLP policy LPP 72 [38] and emerging NDP policy HPE1 [41]. Strictly therefore, this matter has 'material planning consideration' status.
494. The straightforward answer to the question is 'yes' because, as a matter of fact, the development proposed would extend the built development of the village into the open countryside between the two settlements by the width of a field. As a matter of fact there would therefore be a conflict with emerging NDP policy HPE1 as the application site is within the area designated as a green wedge.
495. The key issue that this policy is drafted to address is to prevent the encroachment of the nearest town, Witham and the merging of Hatfield Peverel and Nounsley to protect the uniqueness and separation of these settlements (page 24 CD16.3 set C) (emphasis added). The objectives are to prevent coalescence between Hatfield Peverel and each of the others.
496. However, it is again a matter of fact that Witham is being extended on its southern/south eastern boundary as a result of planned development. Development of the town is therefore eroding the gap. BNLP policy LPP 71 does propose a green buffer for Witham but not between Witham and Hatfield Peverel (CD16.2 set C). As a matter of policy therefore it would appear that the Council does not agree with HPPC that this is a matter of concern that should be addressed through the development plan. I give very little weight to the views of an officer of the Council in this respect [99, 373 and 374].
497. The key issue that policy HPE1 is drafted to address emerged from the October 2015 Residents Survey (paragraph 9.2 HPPC1) with the outcome being shown graphically in Appendix MR29 (HPPC1). In my view there is a significant issue with the way the question that prompted this outcome is framed and the response rate is therefore hardly a surprise.
498. There is a further issue in my view with the extent of the green wedge identified. It falls far short of the NDP Designated Area Boundary (page 5 CD16.3 set C) and, in fact, leaves most of the area between Hatfield Peverel and Witham unprotected by the policy. That can be contrasted with the green wedge between Hatfield Peverel and Nounsley which seems to include almost the whole of the gap. If confirmed in the NDP as now drafted and illustrated on the map, it is not clear to me how the policy will achieve the retention of the kind of gap that HPPC considered to be required to maintain adequate separation [281].
499. However, both of these points will be for the appointed examiner if she considers them to be material.
500. In that context, I have already noted that this policy is subject to objection [431]. The weight that can be given to the policy is again a matter of dispute between DWH [94 to 100] and HPPC [260 to 265]. My view on the weight that can be given to the NDP and therefore the 'in principle' conflict with policy HPE1 is set out above [431]; it is very limited weight (also broadly the view of the Council [374]) but it remains a material consideration.

501. Mr Smith addressed this issue by reference to what have become known as the Eastleigh principles (section 5 DWH3). His analysis was not subject to substantive challenge [104]. My note simply records an agreement by Mr Smith that physically the gap would be eroded slightly and a further answer on the sense of leaving a place in which he disagreed with Mr Graham's example of moving within the urban area of London but nevertheless leaving one distinctive area and arriving in another.
502. In my judgement the A12 is a very significant factor in the sense of leaving Hatfield Peverel and arriving in Witham. I do not believe that it is possible to walk between the two on the shorter route without travelling alongside the A12 for some distance. The quickest route by road both ways requires travel actually along the A12 albeit for a short distance. Therefore in my judgement the A12 would remain a very significant physical and psychological barrier between the two settlements and would continue to give a sense of separation even if the actual separation was less than it is now.
503. Furthermore, there is no inter-visibility between the two settlements because of the intervening ridge (sections 5.3 and 5.8 DWH3). This can be seen on HP/EJS/03 (Appendix 2 DWH4) and is, as I saw for myself, even clearer on the ground.
504. In my judgement, the loss of the field to residential development would have no perceptible effect on the effective gap between Hatfield Peverel and Witham. That was also the view of the Council when considering the application (page 87 SAV38).

### ***Loss of best and most versatile agricultural land***

505. Although Mr Dixon confirmed in evidence that no invasive survey had been undertaken to establish the agricultural land classification of the application site he was content to proceed on the basis that it was grade 2 and thus best and most versatile agricultural land. This was because '...in North Essex you don't bother to look because it all is.'
506. That, in essence, was the advice given by the Council's officers in the report to members on the application (page 85 SAV38).
507. The relevant part of policy CS8 simply states that development should protect the best and most versatile agricultural land; the application proposal would not do so. Mr Dixon considers that this part of the policy is inconsistent with Framework paragraph 112 (paragraph 6.45 DWH1) and that would also appear to be the view of the Council officers as they quote the Framework paragraph in full before reminding Members that since most of this part of Essex is land of that quality the loss of the application site to development would not be a sufficient basis for resisting the application.
508. Whether or not the application proposal amounts to significant development of agricultural land is a matter for debate since the term 'significant' in this context is not defined in the Framework. However, what does seem clear is that if development is to take place in accordance with the spatial strategy to direct future development to the A12/Great Eastern Mainline corridor (among other places), there would be little opportunity to use areas of poorer quality



agricultural land since it is not widely present. In my judgement, the application would not conflict with Framework paragraph 112.

509. In my judgement policy CS8 is inconsistent with the Framework in this respect since it does not permit the more considered analysis inherent in the Framework to be undertaken. Applying Framework paragraph 215, I consider limited weight should be given to the conflict with policy CS8.

***Conclusion - The extent to which the proposed development is consistent with the development plan for the area***

510. I have concluded that the development would accord with the spatial strategy [437]; would not conflict with policy RLP 80 [476] or policy CS8 [477]; and would not conflict with policy CS11 [492]. There would be some visual impact from the development [478]. However, the harm would be limited and very localised in effect. Moreover, this matter does not appear to be subject of a relevant adopted development plan policy. With respect to best and most versatile agricultural land take I do not consider there to be any conflict with Framework paragraph 112 which has greater weight than CS policy CS8 which is inconsistent with its provisions [508 and 509]

511. The sole conflict that I have identified with the development plan is that with policies RLP 2 and CS5. The conflict arises because the application site lies adjacent to but beyond the development boundary of the village. For the reasons set out the weight that should be attributed to this conflict is moderate [438 to 446].

**Five year housing land supply**

***Background***

512. For the purposes of the Inquiry there is no challenge to the Council's assessed OAHN of 716 dwellings per annum [64]. The requirement side of the equation is therefore accepted and the focus of the debate is on the extent to which that requirement can be met over the five year period by the supply of specific deliverable sites.

513. Again, for the purposes of this Inquiry only, the Council accepts the 'Sedgefield' method to deal with the shortfall [351 and 352]. It does not agree with GDL/DWH that there has been persistent past under delivery of housing and does not therefore agree that a 20% buffer should be applied [353 to 357]. On supply there is an immaterial difference between the Council and GDL/DWH of 68 dwellings [358].

514. The final and agreed position is that there would be a 3.4 years' supply (GDL/DWH – Sedgefield+20%) or 3.9 years' (Council – Sedgefield+5%) (Appendix 3 ID37). It was agreed during the Inquiry when I summarised my understanding of the position that this was not close enough to 5 years for the Secretary of State to give anything other than substantial weight to the shortfall. However, as it was not possible on even the most favourable assumptions to get below 3 years, GDL/DWH accepted the implications of the Written Ministerial Statement on Neighbourhood Planning if the NDP passed a referendum before the Secretary of State determined the application.

515. In those circumstances it is not necessary to resolve the small difference between the Council and GDL/DWH.

516. HPPC [170] and SPMRG do not agree with this and suggest that there is a 5YHLS. They contend that the 'Liverpool' approach should be used to deal with the shortfall and that the buffer should be 5%. However, as is clear from the SOCG (Appendix 3, ID 37) that alone is not enough to show a 5YHLS. It also requires most, if not all, of the additional supply sites first mentioned by SPMRG during the round table discussion and then confirmed in writing (ID21) to be 'deliverable' within the meaning of Framework footnote 11.

### **Supply of deliverable sites**

517. Except for Mr Tucker's criticism of Mr Graham's specific interpretation of *St Modwen* regarding the term 'realistic' [61], it appears to be agreed between the parties that whether a site is deliverable or not is determined by the ordinary and everyday meaning of the words in Framework footnote 11 and not on the planning status of the site in question. It is in that context that GDL/DWH/the Council have reviewed and commented upon (ID 37) the sites put forward by SPMRG (ID21). ID37 is dated 21 December 2017, the final day of the Inquiry sessions. Ms Scott's first and only opportunity to respond was through her closing submissions although what she says [332 and 333] is, in fact, taken into account in ID37.

518. Appendix 1 to ID37 sets out in detail the positions of both GDL/DWH and the Council in respect of each site. None has planning permission and only three are subject of planning applications. A number are subject of objections and until these are resolved through the BNLP examination they must be considered uncertain notwithstanding their allocation in the draft BNLP. Furthermore, some are owned or part owned by the Council. The mechanism by which they will be developed has yet to be confirmed by the Council and they cannot be considered as available now.

519. Ms Scott puts the additional sites suggested by SPMRG as adding a further 461 dwellings to the supply [328]. In only challenging ID37 in respect of two sites (Sorrell's Field and Gimsoms), it must be assumed that SPMRG accept the case made on the others. Even if the SPMRG response to ID37 is agreed, GDL/DWH/the Council say that it adds only about 25 units net to the supply. They further contend that this additional supply makes no material difference to the 5YHLS position.

520. In my view that must be correct. However, the extent of the shortfall below 5 years may still be material and it is therefore necessary to consider the next most significant factor which is whether 'Sedgefield' or 'Liverpool' is the appropriate approach to take to dealing with the shortfall.

### **Sedgefield or Liverpool?**

521. The shortfall arises because the OAHN has been applied, as it should be, from the start of the plan period in 2013 but the plan itself, the strategy and the allocations to deliver it are not yet approved and planned delivery is thus delayed. I appreciate that some of the developments that may come forward as a result of the adoption of the submitted BNLP may do so towards the latter part of the period. That may well be an argument for the Liverpool approach and is

likely to be put by the Council to the examining Inspector. However, that is all for the future and the shortfall exists now. Although Ms Scott argues that the BNLP is now far more advanced than when Inspectors Hill and Gregory considered their respective appeals [321], in practice that is not so as she implicitly acknowledges ('although plainly the Plan has yet to make it through examination').

522. The PPG is quite clear that Sedgefield should be preferred unless there are sound reasons for not doing so. The case made by SPMRG that the Council is simply not able to deliver housing in the numbers required following the Sedgefield approach [318] is attractive at first sight. However, there is no analysis as to why that has not been the case in the past (is it lack of market demand, lack of available sites, lack of planning permissions being granted against a former development plan requirement?) so the past is not necessarily a guide to the future performance. In any event, even an under-shoot would still make up some of the shortfall.
523. The approach advocated by HPPC [159 to 164] makes the plan strategy point referred to above and, referring to *Bloor Homes* (ID61), argues that it is a matter of judgement for the decision taker.
524. In my judgement there has been no material change in circumstances since my colleagues determined the Coggleshall and Steeple Bumpstead appeals. They both concluded that Sedgefield was the appropriate approach to adopt and this has influenced the Council's acceptance of that for the purposes of this Inquiry [350]. There is no cogent evidence before this Inquiry to take a different view.

### **Conclusion**

525. As Mr Tucker put it [84], in order for HPPC and SPMRG to get the 5YHLS 'over the line' all the stars must align. The evidence shows that when the assessed supply of deliverable sites is taken into account and the Sedgefield approach is applied it makes no material difference whether it is 5% or 20% that is applied as the buffer. On either, the best that can be achieved is still less than 4 years' supply.

### **Framework Paragraphs 49, 14 and the 'tilted balance'**

526. In the circumstances that I have just found Framework paragraph 49 is clear that relevant policies for the supply of housing should not be considered up to date. In turn, that means Framework paragraph 14 is engaged. Planning permission should be granted unless either of the limbs of Framework paragraph bullet 4 indicates that the tilted balance should be dis-applied.
527. It is not part of HPPC's case as I understand it that there is any conflict with a policy in either the development plan or the Framework that can be construed as falling within the scope of Framework footnote 9. The tilted balance is not therefore dis-applied by virtue of the second limb of Framework paragraph 14 bullet 4.
528. Turning now to the first limb, the harms that I have identified are set out above [510 and 511] with the conflict with development plan policies identified where appropriate. The totality of the harm or adverse impacts is limited and localised and restricted to visual impact and an 'in principle' conflict with the two development boundary policies. The benefits are set out by Mr Dixon under the

'economic', 'social' and 'environmental' headings found in Framework paragraph 7 (section 8 DWH1). In fairness, Mrs Jarvis for HPPC acknowledges many of these benefits and confirms that appropriate weight should be given to many, including significant weight to the provision of market and affordable housing and economic benefits (paragraphs 6.33 to 6.38 HPPC2). In my judgement that is correct. The limited adverse impacts of the proposal are some distance from significantly and demonstrably outweighing those benefits. Accordingly, I do not consider the first limb dis-applies the tilted balance either.

529. To conclude on this consideration, the tilted balance set out in Framework paragraph 14 applies in this case and is a material consideration that should be given substantial weight in the planning balance.

### **The planning balance**

#### ***The development plan***

530. The application proposal would conflict with the policies of the development plan. The application site is beyond the development boundary of Hatfield Peverel and it is not a use appropriate to the countryside. There is a conflict therefore with policies RLP 2 and CS5 which attracts moderate weight in the balance [511]. I do not consider there to be any other conflict with the development plan.

531. The application should therefore be determined in accordance with the development plan unless material considerations indicate otherwise. In this case there are a significant number of material considerations to take into account.

#### ***Material considerations against the development***

##### ***Visual impact***

532. In my understanding, the effect on landscape character and visual impact are two separate, but related, issues although they are usually considered in a single LVIA. My conclusion on landscape character is part of my assessment of the development against the policies of the development plan.

533. In relation to visual impact, I conclude that there would be some harm caused [478 to 479]. However, that would be limited, affecting very few residential occupiers and users of certain public paths only pending the maturing of mitigation planting. Although I agree with DWH's categorisation of the scale of adverse effect, the harm caused is limited and localised. Given my conclusions on the weight that should be given to the emerging NDP [431] any conflict with emerging policy HPE6 on this consideration can only be given very limited weight, particularly as this is a policy that is subject to objection from GDL and possibly others although there is no evidence about that.

#### ***Material considerations in favour of the development***

##### ***Tilted balance***

534. I have concluded that the Council cannot show a 5YHLS [525]. Moreover, at less than 4 years' supply, the shortfall is of some significance. In these circumstances Framework paragraph 14 is engaged by virtue of Framework paragraph 49. There is no reason why the tilted balance should be dis-applied [527 and 528] and I consider that it should attract substantial weight [529].

### *Housing delivery*

535. There is no reason to suppose that the proposal would not deliver a high quality development that includes a mix of market and affordable housing [420 and 422].
536. Mr Graham has raised a concern about housing delivery [295]. What he says accords with my note of Mr Dixon's evidence in chief which Mr Tucker draws upon [135]. This is a dispute between the parties with little firm evidence before the Inquiry to allow a resolution. However, Framework footnote 11 is clear that sites with planning permission (which, as not excluded, must include outline planning permission) should be considered deliverable unless there is clear evidence (examples are set out) to the contrary. In this case at this point in time there is no such evidence. It must be assumed therefore that the whole site could be developed within five years. It is also noteworthy in this context that suggested condition 2 reduces to two years the period within which the reserved matters applications must be submitted. There is no reason therefore not to afford some weight to the delivery of housing over the five year period.

### *Spatial strategy*

537. Notwithstanding any conflict with the development plan arising from the position of the village development boundary, the application proposal would accord with the longstanding and continuing spatial strategy for the area [437]. That attracts some weight in the balance.

### *Economic, social and environmental benefits*

538. These are the three dimensions of sustainable development set out in Framework paragraph 7. The applicant's assessment of each is set out by Mr Dixon (section 8, DWH1).
539. Although not quantified, a range of positive economic benefits are claimed which include an enlarged labour force of economically active residents; extra household spending in the local area and thus improved viability and vitality of local services and facilities; direct support for additional employment in the local area arising from that additional demand; investment in construction and support for construction jobs; New Homes Bonus for local investment; and increased council tax revenues.
540. While it is reasonable to assume that 120 homes will generate additional spending power, there is no evidence in my view to support the contention that this will be spent to the benefit of local businesses and services. However, there is nothing in the Framework to suggest that the economic benefit of a development must be enjoyed by the area in which the development is located to meet this objective. I therefore consider that some weight should be attributed to this set of benefits.
541. I have already accounted for the delivery of a mix of affordable and market housing in the planning balance. The other social benefits claimed are social infrastructure and transport.
542. Under social infrastructure the applicant includes provisions to mitigate the impact of the development on community facilities. First, I do not believe that providing mitigation of a harm that would be caused can be counted as a benefit;

at best it has a neutral effect in the balance. Second, in this case, I do not consider the harm to education and health infrastructure will be mitigated [491]. Nevertheless, I do not consider that there can be a conflict with the development plan policy since DWH has obligated to provide all the contributions sought by the service providers [492].

543. Also included under this heading is the provision of safe access routes to the application site. I accept that some of these measures will be of wider benefit but they arise principally to mitigate what the applicant sees as a potential harm arising from the development taking place.

544. I therefore conclude that very little weight should be attributed to the social benefits claimed.

545. Most of the paragraphs set out under the environmental benefits heading by the applicant in fact explain how the proposal would accord with the policies of the development plan. Such considerations do not amount to benefits in my view.

546. Also claimed are new tree and hedge planting and the creation of additional ecological habitat. I note that in reporting to members on the application, Council officers recognised the potential to add to the ecological value of the site (page 89 SAV38). However, most of the required schemes still need to be worked up and approved [402]. I therefore afford limited weight to this benefit.

### **Conclusion**

547. In my view the conflict with the development plan, which attracts moderate weight applying Framework paragraph 216, and the single material consideration that weighs in favour of determining the application in accordance with it are significantly outweighed by those that indicate it should be determined other than in accordance with the development plan. In my judgement the application represents sustainable development as defined in the Framework and planning permission should be granted.

Recommendation

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548. I recommend that planning permission be granted subject to conditions.

*Brian Cook*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon of Counsel                      Instructed by Ian Hunt Legal Services Braintree District Council

He called

Alison Hutchinson BA                      Partner, Hutchinsons Planning & Development  
MRTPI    Consultants

### FOR THE APPELLANT:

Paul Tucker QC and                      Instructed by Jonathan Dixon BA MA MRTPI  
Philip Robson of Counsel                      Associate Director Savills (UK) Ltd

They called

Matthew Spry BSc                      Senior Director Nathaniel Lichfield and Partners  
(Hons), DipTP (Dist)  
MRTPI MIED FRSA

Jeremy Smith BA CMLI                      Director SLR Consulting Limited

Jonathan Dixon BA MA                      Associate Director Savills (UK) Ltd  
MRTPI

### FOR HATFIELD PEVEREL PARISH COUNCIL:

David Graham of Counsel                      Instructed by direct access  
He called

Mike Renow                                      Parish Councillor  
Philippa Jarvis BSc                      Principal PJPC Ltd (Planning Consultancy)  
DipTP(Hons) MRTPI

### INTERESTED PERSONS:

Andy Simmonds	Local resident
Kenneth Earney	Local resident
Ron Elliston	Local resident
Lesley Moxhay	Local resident
Michael Hutton	Local resident
John Webb	Local resident

## Annex A

### CORE DOCUMENTS

#### **Set A: Appeal Ref: APP/Z1510/W/16/3162004**

##### *CD1 Application Documents*

- 1.1 Application Covering Letter, Application Form and Certificates
- 1.2 Location Plan
- 1.3 Framework Plan
- 1.4 Planning Statement
- 1.5 Design and Access Statement
- 1.6 Landscape and Visual Impact Appraisal
- 1.7 Transport Assessment
- 1.8 Travel Plan
- 1.9 Ecological Appraisal
- 1.10 Arboricultural Assessment
- 1.11 Flood Risk Assessment
- 1.12 Foul Drainage Assessment
- 1.13 Air Quality Assessment
- 1.14 Noise Assessment
- 1.15 Archaeological Desk Based Assessment
- 1.16 Heritage Assessment
- 1.17 Phase 1 Preliminary Risk Assessment
- 1.18 Utilities and Infrastructure Statement
- 1.19 Statement of Community Involvement
- 1.20 Socio-Economic Impact Report
- 1.21 Sustainability Report
- 1.22 Framework Plan Rev H 09.08.16
- 1.23 Education and Heritage response 25.08.16
- 1.24 Bat and GCN survey 05.10.16
- 1.25 Icen Heritage letter 07.10.16

##### *CD2 Correspondence with Local Planning Authority*

- 2.1 Email with minutes of pre-ap meeting 29.03.16
- 2.2 Pre-ap response letter from BDC 08.04.16
- 2.3 Email from GDL to BDC requesting pre-ap response 11.05.16
- 2.4 Email and letter from GDI to BDC 11.05.16
- 2.5 Email exchange re conference call 08.06.16
- 2.6 Email from BDC re Chris Paggi contact 10.06.16
- 2.7 Email from Chris Paggi re POS 17.06.16
- 2.8 Email from GDL to BDC re POS 21.06.16
- 2.9 Email exchange re additional land 30.06.16
- 2.10 Email exchange re education meeting 30.06.16
- 2.11 Email exchange re site visit 05.07.16
- 2.12 Email from GDL to BDC re response to additional land request  
12.07.16
- 2.13 Email from GDL to BDC re officer support 12.07.16
- 2.14 Email from GDI to BDC re submission of 2nd application 13.07.16
- 2.15 Email and letter from BDC re additional land 21.07.16
- 2.16 Email from BDC to GDL re education 01.08.16
- 2.17 Email from GDL to BDC re amendment to Framework (footpath)  
12.08.16



- 2.18 Email from BDC to GDL re legal agreement 23.08.16
- 2.19 Letter from GDL to BDC re legal agreement/conditions 23.08.16
- 2.20 Email from GDL to BDC re legal agreement/heritage 24.08.16
- 2.21 Email from GDL to BDC re education 25.08.16
- 2.22 Email from BDC to GDL re legal agreement 25.08.16
- 2.23 Email from GDL to BDC re feedback from Conservation Officer  
07.09.16
- 2.24 Email from BDC to GDL re financial contributions 09.09.16
- 2.25 Email from GDL to BDC re photos of the site from Hatfield Place  
13.09.16
- 2.26 Email from BDC to GDL re HoTs/conditions 20.09.16
- 2.27 Email from GDL to BDC re legal costs 21.09.16
- 2.28 Email from BDC to GDL re HoTs 23.09.16
- 2.29 Email from BDC to GDL re TRO 27.09.16
- 2.30 Email from BDC to GDL re highways 05.10.16
- 2.31 Email from BDC to GDL re survey work 05.10.16

**CD3 Consultation Responses**

- 3.1 Anglian Water - 24.08.16
- 3.2 BDC - Environmental Health
- 3.3 BDC - Landscape - 05.09.16
- 3.4 ECC - Archaeology 11.04.16
- 3.5 ECC - Drainage 18.04.16
- 3.6 ECC - Education 1 - 20.04.16
- 3.7 ECC - Education 2 - 30.08.16
- 3.8 ECC - Heritage 1 - 24.05.16
- 3.9 ECC - Heritage 2 - 06.09.16
- 3.10 ECC- Highways 12.05.16
- 3.11 Hatfield Peverel Parish Council 12.05.16
- 3.12 Highways England 25.05.16
- 3.13 Highways England 21.06.16
- 3.14 Historic England 16.08.16
- 3.15 Housing Research and Development 27.04.16
- 3.16 NHS England 19.04.16
- 3.17 PRoW 15.04.16

**CD4 Validation Letter**

- 4.1 Validation letter from Braintree District Council dated 30.03.16

**CD5 Committee report and Decision Notice**

- 5.1 Committee Report
- 5.2 Decision Notice

**Set B: Appeal Ref: APP/Z1510/V/17/3180725**

**CD1 Application Documents**

- 1.1 Application Covering Letter, Application Form and Certificates
- 1.2 Location Plan
- 1.3 Framework Plan
- 1.4 Planning Statement
- 1.5 Design and Access Statement
- 1.6 Landscape and Visual Appraisal
- 1.7 Transport Assessment

- 1.8 Travel Plan
- 1.9 Ecological Appraisal
- 1.10 Arboricultural Assessment
- 1.11 Flood Risk Assessment
- 1.12 Foul Drainage Analysis
- 1.13 Air Quality Assessment
- 1.14 Noise Assessment
- 1.15 Archaeological DBA
- 1.16 Heritage Statement
- 1.17 Phase 1 Preliminary Risk Assessment
- 1.18 Utilities and Infrastructure Statement
- 1.19 Statement of Community Involvement
- 1.20 Socio-Economic Report
- 1.21 Sustainability Report
- 1.22 SUDS checklist

**CD2 Additional reports submitted after validation**

- 2.1 Ecology Response to RSPB comments 14.12.16
- 2.2 Additional Heritage Statement to respond to HE 13.01.17
- 2.3 Rebuttal letter to HE comments 09.03.17

**CD3 Correspondence with Local Planning Authority**

- 3.1 Notice to Owners
- 3.2 EIA screening letter
- 3.3 Update and recommendation
- 3.4 RSPB objection
- 3.5 Letter to case officer
- 3.6 Landscaping photos
- 3.7 Bird mitigation land
- 3.8 Ecology matters
- 3.9 Ecology matters - Wistaston decision
- 3.10 Heads of Terms
- 3.11 Single storey buildings around perimeter
- 3.12 Timing of Reserved Matters application
- 3.13 Heads of Terms
- 3.14 Blue land management
- 3.15 Response to RSPB objection
- 3.16 Ecologist qualifications
- 3.17 Overall recommendation
- 3.18 On agenda
- 3.19 Education contribution
- 3.20 HRA matters
- 3.21 Maintenance of blue land
- 3.22 Farmland bird surveys and contributions
- 3.23 Interim breeding bird surveys

**CD4 Consultation Responses**

- 4.1 Essex County Council Specialist Archaeological Advice
- 4.2 Essex County Council SUDS
- 4.3 Braintree District Council Environmental Health
- 4.4 Parish Council
- 4.5a Historic England
- 4.5b Historic England

- 4.6 Essex County Council Education Statement
- 4.7 Essex County Council Historic Buildings Consultant
- 4.8a Highways England
- 4.8b Highways England
- 4.8c Highways Recommendation
- 4.9 Essex County Council Economic Growth and Development
- 4.10a RSPB Response to applicants ecologist
- 4.10b RSPB
- 4.11 NHS Statement
- 4.12 Essex County Council Highways
- 4.13 Essex County Council Ecologist
- 4.14 Braintree District Council Wynne-Williams Landcape Review
- 4.15 Shaun Taylor Landscape Services
- 4.16 Natural England
- 4.17 Anglian Water
- 4.18 Police
- 4.19 Braintree District Council Ecology
- 4.20 Essex County Council Flooding and Water update
- 4.21 Essex Field Club
- 4.22 Archaeology Place Services
- 4.23 Braintree District Council Environmental Health

**CD5** *Third Party Representations*

- 5.1 Mr Mark Scofield
- 5.2 Ms Allison Hinkley
- 5.3 MP Priti Patel
- 5.4 Mrs Diana Wallace
- 5.5 Mr Paul Hawkins
- 5.6 Mrs Linda Shaw
- 5.7 Mr John Dinnen
- 5.8 Mrs Amanda Millard
- 5.9 Mrs Angela Peart
- 5.10a Mr Peter Harvey
- 5.10b Mr Peter Harvey
- 5.10c Mr Peter Harvey
- 5.11 Mr Kenneth Earney
- 5.12a Mr Mark East
- 5.12b Mr Mark East
- 5.13 Mrs S.J.Freeman
- 5.14 Miss Marine Page
- 5.15 Mr Philip Swart
- 5.16 Mrs Susan Farrell
- 5.17 Ron and Marel Elliston
- 5.18 Mr M Fleury
- 5.19 Mrs Rita Hocking
- 5.20 Mr Tom Bedford
- 5.21 Mrs Helen Sadler
- 5.22 Mr B.Knight
- 5.23 Ms Serena Grimes
- 5.24 Andy and Stephanie McGuire
- 5.25 Mr Nicholas Carey
- 5.26 Mrs Greta Taylor

- 5.27 Residents Group
- 5.28 Mr K. Kearns
- 5.29 Mrs Margaret Freeman
- 5.30 Kenneth and Jackie Earney
- 5.31 Mr Kevin Dale
- 5.32 Mr Robert Shales
- 5.33a Ms Janis Palfreman
- 5.33b Ms Janis Palfreman
- 5.34 Mrs Diane Wallace
- 5.35 Mrs Faye Churchill
- 5.36 Mr Derek Jones
- 5.37 Mrs Janet Jones
- 5.38 Miss Grace Clemo
- 5.39 Mrs Valerie Bliss
- 5.40 Mr Bryan Hale
- 5.41 Mr Les Priestley
- 5.42 Ade
- 5.43 Ms Janice Robinson
- 5.44 Mr James Knights
- 5.45 Mr Guy Bosworth
- 5.46 Rachel and Liam Bone
- 5.47 Mr Robert Anstee
- 5.48 Mr Lee Vandyke
- 5.49 Frank Diane Flynn
- 5.50 Mrs Stella Miller
- 5.51 Dr Judith Abbott
- 5.52 Mr Mitchell Cooke
- 5.53 Ms Jane Russell
- 5.54 Mrs Lesley Naish
- 5.55 Mr John Wallace
- 5.56 Mr Peter Naish
- 5.57 Mr Tim Steele
- 5.58 Ms Irene Lindsell
- 5.59 Mr and Mrs Edwards
- 5.60 Kathleen and Albert Evans
- 5.61 Mr Paul Harris
- 5.62 Mr Mark Nowers
- 5.63 Mr Ian May
- 5.64 Ms Ann Ford
- 5.65 Ms Alexandra Harris
- 5.66 Mr Nick Harris
- 5.67 Lynsey and Rob Deans
- 5.68 Ms Theresa Brewster
- 5.69 Ms Sue Pienaar
- 5.70 Ms Karen Devlin
- 5.71 Mr Peter Devlin
- 5.72 Ms Catherine Devlin
- 5.73 Ms Lisa Hanikee
- 5.74 Mr Timothy Barber
- 5.75 Mr Martin Gibbs
- 5.76 S.Warrant
- 5.77 Mr David Bull

- 5.78 Mr Sean Osborne
- 5.79 Mr Richard Parker
- 5.80 Miss Joanna Burch
- 5.81 Mr Colin Moore
- 5.82 Mr Chris Earwicker
- 5.83 Mrs Kate Bryant
- 5.84 Mrs Gillian Jones
- 5.85 S.Warrant
- 5.86 Ms Rita Hocking
- 5.87 Mrs Karen Williams
- 5.88 Mr Philip Hawkins
- 5.89 Ms Jane Hawkins
- 5.90 T Davis
- 5.91 J.C.Roche
- 5.92 Mr Keith Wright
- 5.93 Mr Peter Haldane
- 5.94 Mr John Campbell
- 5.95 Ruth Ramm
- 5.96 No Name
- 5.97 Ms Deborah Fraser
- 5.98 Ms Lindsay Gilligan
- 5.99 Mr Michael Renow
- 5.100 Mr Neil Ruston
- 5.101 Mr Vincent Hawkins
- 5.102 Mr Trevor Wilson
- 5.103 Mr Sebastian Gwyn-Williams
- 5.104 Mr Darryl Day
- 5.105 Mrs Ann Walker
- 5.106 Mr Richard Butler
- 5.107 Mrs Angela Lapwood
- 5.108 Mrs Teresa O'Riodan
- 5.109 Mrs Elise Gwyn-Williams
- 5.110 Mr Daniel McDermott
- 5.111 Mr Richard Windibank
- 5.112 Mrs J.Buckmaster
- 5.113 Mrs J P Wright
- 5.114 Carole and Howard Cochrane
- 5.115 Chistine C Lingwood
- 5.116 D.R.Wallis
- 5.117 Mrs Jean Ashby
- 5.118 Mrs Lesley Wild
- 5.119 Mr Paul Hanikene
- 5.120 Mr George Boyd Ratcliff
- 5.121 Mrs Helen Peter
- 5.122 Mr Mark East
- 5.123 Graham and Jean Lightfoot
- 5.124 Mr Roderick Pudney
- 5.125 Mr Stephen Mitchell
- 5.126 Mrs L.Wild
- 5.127 Mr and Mrs David Warburton
- 5.128 Ms Marian Headland
- 5.129 Mrs Chris Marks

5.130 Mrs Carole Allen  
5.131 Mrs Amanda Bright  
5.132 Mrs Joe Quieros  
5.133 Mr Richard Quieros  
5.134 Mrs Joanne Melly  
5.135 Mrs Claire Harris  
5.136 Miss Natasha Wilcock  
5.137 Mr Ted Munt  
5.138 Mr Neil Ekins  
5.139 Margaret and Robert Parry  
5.140 Mr Neville Oldfield  
5.141 Ms Joanne Middleton  
5.142 Ms Steph Gunn  
5.143 H.J.Lane  
5.144 Mrs M.Blake  
5.145 Mr I and Mrs J Jolly  
5.146 Derek and Jan Newell  
5.147 Henryk Podlesny  
5.148 Lorraine Podlesny  
5.149 Glenn Blake  
5.150 Mr Paul Wallace  
5.151 Stone Path Residents Group  
5.152 Mr David Bebb  
5.153 Mrs Jo Bull  
5.154 Mr David Groves  
5.155 No Name  
5.156 No Name  
5.157 Julie Gammie  
5.158 No Name  
5.159 Mrs Ann Westhersby  
5.160 C Merritt  
5.161 Mr Tony French  
5.161 Mrs Elsie Filby  
5.163 Mr Charles William Joiner  
5.164 Michele Lewars  
5.165 Mr Andrew Jackson  
5.166 Mrs Julia East  
5.167 A.W.Mabbits  
5.168 No name  
5.169 Mr Paul Thorogood  
5.170 No name  
5.171 Jane and Eddie Cook  
5.172 Richard Foulds  
5.173 Mrs M.E.Gratze  
5.174 S.Hughes  
5.175 No Name  
5.176 No Name  
5.177 No Name  
5.178 Alan J Evans  
5.179 Ron and Marel Elliston  
5.180 Elizabeth Pryke  
5.181 Suzanne Evans

- 5.182 Mr Mark Schofield
- 5.183 Sonya Foulds
- 5.184 Daniel Power
- 5.185 Daniel Power
- 5.186 Miss Susan Nye
- 5.187 Philippa Moody
- 5.188 Moira and Steve Hagon
- 5.189 Kevin and Sue Aves
- 5.190 Allison Hinkley
- 5.191 Mr Peter Fox
- 5.192 Mrs Elizabeth Simmonds
- 5.193 Mr Mark Bayley
- 5.194 Mr Andy Simmonds
- 5.195 Mr Stephen Armson-Smith
- 5.196 Miss Charlotte Greaves
- 5.197 Mrs Jodi Earwicker
- 5.198 Mrs Vivian Cooke
- 5.199 Mrs Victoria Wren
- 5.200 Mrs Natacha Murphy

***CD6 Committee Report***

- 6.1 Committee Report
- 6.2 Committee Meeting Minutes

***CD7 Habitats Regulations Assessment***

- 7.1 HRA Screening Report
- 7.2 NE response in respect of HRA

***CD8 Draft Legal Agreement***

- 8.1 Engrossed legal agreement

***CD9 Appeal decisions***

- 9.1 Walden Road, Thaxted
- 9.2 Chapel Lane, Wymondham

***CD10 Braintree District Local Development Framework Core Strategy***

- 10.1 Core Strategy Policies

***CD11 Braintree District Local Plan Review***

- 11.1 Extracts of Policies

***CD12 Braintree District Council Draft Local Plan***

- 12.1 Current status of draft local plan
- 12.2 New policy numbers for publication of draft local plan
- 12.3 Publication draft Local Plan part 1
- 12.4 Publication draft Local Plan part 2

***CD13 Supplementary Planning Guidance/Documents***

- 13.1 Essex Design Guide
- 13.2 External Artificial Lighting 2009
- 13.3 Open Space contributions 2017
- 13.4 Open Space contributions effective 01.04.16
- 13.5 Open Space Action Plan
- 13.6 Open Space SPD Nov 2009

- 13.7 Parking Standards
- 13.8 Affordable Housing SPD

**CD14 Other Guidance**

- 14.1 2007 Landscape Character Assessment
- 14.2 E40 Landscape Character Assessment preface 2006
- 14.3 E40 Landscape Character Assessment intro 2006
- 14.4 Settlement Fringes Landscape Area Evaluation 2015
- 14.5 Landscape Character Assessment

**CD15 Draft Hatfield Neighbourhood Plan 2015-2033**

- 15.1 Reg 14 version of NHP (Superseded)
- 15.2 Pre-examination version HP NHP

**Set C: Appeal Ref: APP/Z1510/V/17/3180725, APP/Z1510/V/17/3180729 & APP/Z1510/W/16/3162004**

**CD16 Policy**

- CD16.1 Emerging Local Plan Part 1
- CD16.2 Emerging Local Plan Part 2
- CD16.3 Emerging HP Neighbourhood Plan

**Parish Council Documentation**

**CD17 Housing documents**

- CD17.1 Neighbourhood Area Housing Requirement Study
- CD17.2 Slipping through the loophole
- CD17.3 Government response online petition
- CD17.4 BDC draft five year supply table at 30/09/17

**CD18 Neighbourhood Plan Background Documents**

- CD18.1 Basic Conditions Statement
- CD18.2 Consultation Statement
- CD18.3 HP Site Assessment 2017
- CD18.4 HP LLCA Oct 2015
- CD18.5 Character Assessment HP
- CD18.6 Workshop for important views
- CD18.7 NPD Support results
- CD18.8 Residents survey Oct 2015
- CD18.9 Residents survey results Oct 2015
- CD18.10 Business survey Sept 15
- CD18.11 Business survey results Sept 15
- CD18.12 RCCE HN report Feb 2015
- CD18.13 Estate agents survey March 2015
- CD18.14 BDC letter to PC re SEA screening
- CD18.15 HP NP SEA screening report 2016
- CD18.16 BD economic dev prospectus 2013-2026
- CD18.17 Minutes 08/12/14
- CD18.18 Minutes 26/01/15
- CD18.19 Minutes 30/03/15
- CD18.20 Minutes 21/03/16
- CD18.21 Minutes 16/08/16
- CD18.22 Minutes 27/02/17
- CD18.23 Minutes 25/09/17



**CD19 Stone Path Drive (SP) Correspondence 80 & 140**

- CD19.1 PC email to BDC 12.05.16
- CD19.2 PC letter to BDC 24/11/16
- CD19.3 PC presentation 28/03/17
- CD19.4 PC email to BDC 30.05.16
- CD19.5 PC letter to BDC 04/04/17
- CD19.6 BDC letter to PC 19/04/17
- CD19.7 Extract PC minutes 24/04/16 - 17/08/16
- CD19.8 MP letter to PC 21/04/17
- CD19.9 Extract PC Minutes 16/11/16
- CD19.10 Extract minutes BDC 11/10/16
- CD19.11 Development boundary 80 & 140

**CD20 SP - Health**

- CD20.1 HP Surgery Letter 31/08
- CD20.2 Surgeries constraints
- CD20.3 Extract village Healthcare Cllr Bebb
- CD20.4 Letter to PINS surgery\_ Schools 25/09/17

**CD21 SP - Education**

- CD21.1 ECC letter 12.01.17 SPM
- CD21.2 ECC letter 15.0617 Arla
- CD21.3 ECC letter 11.0117 GE
- CD21.4 ECC emails 21&22.1216 GE
- CD21.5 ECC letter 27.07.17 Bury Farm
- CD21.6 ECC letter 10.08.17 Sorrells

**CD22 SP - Road infrastructure**

- CD22.1 HE A12 Widening Intro
- CD22.2 Existing traffic capacity and journey times
- CD22.3 Extracts HE A12 Widening Options
- CD22.4 Environmental Constraints Plan
- CD22.5 Ecology impact A12
- CD22.6 Bus stops

**CD23 Gleneagles Way (GE) correspondence**

- CD23.1 PC letter to BDC 11.01.17
- CD23.2 PC presentation 25.04.17
- CD23.3 PC letter to BDC 11.05.17
- CD23.4 MP letter to PC 11.05.17
- CD23.5 BDC letter to PC 01.06.17
- CD23.6 MP letter to PC 02.06.17
- CD23.7 Extract minutes 11.01.17
- CD23.8 List of 3rd Party reps
- CD23.9 Comments from residents (combined)

**CD24 Gleneagles Way (GE) documents**

- CD24.1 PC letter to BDC 30.11.15

- CD24.2 Extract minutes 25.11.15
- CD24.3 CMTE report 26.04.16
- CD24.4 Decision Notice 26.04.16
- CD24.5 Extract minutes BDC 26.04.16
- CD24.5 Location Plan

**Gladman documentation**

***CD25 Stone Path Drive Plans for determination***

- CD25.1 Revised Framework Plan (80)
- CD25.2 Tree retention plan (80)
- CD25.3 Access Plan for both schemes
- CD25.4 Email re access plans
- CD25.5 Tree retention plan (140)

***CD26 Ecology***

- CD26.1 Breeding bird survey report - 2nd application
- CD26.2 Stonepath Bird Survey (Paul Hawkins) Jan 17

***CD27 Heritage***

- CD27.1 Conservation principles
- CD27.2 HE Managing Significance
- CD27.3 HE The setting of Heritage Assets
- CD27.4 Correspondence between Iceini ECC and HE
- CD27.5 Heritage Statement - Additional information

***CD28 Landscape***

- CD28.1 Braintree HEC extracts
- CD28.2 Essex LCA extracts
- CD28.3 HP LLCA
- CD28.4 NCA 86 extracts

***CD29 HLS/OAN***

- CD29.1 PPG - Housing and Economic development
- CD29.2 PPG - Housing and Economic Land availability assessments
- CD29.3 OAN Study Nov 2016 Update, Peter Brett Associates
- CD29.4 SHMA Update December 2015
- CD29.5 BDC: 5 Year Supply Statement as at 30 June 2017
- CD29.6 BDC: 5 Year Supply Housing Trajectory as at 30 June 2017
- CD29.7 BDC: 5 Year Supply Statement as at 30 September 2017
- CD29.8 BDC: 5 Year Supply Housing Trajectory as at 30 September 2017
- CD29.9 BCD Authority Monitoring Review 2015/2016 (AMR, May 2017)
- CD29.10 Planning for the right homes in the right places – Consultation Proposals (Sep 2017)
- CD29.11 Housing White Paper (February 2017)
- CD29.12 Planned and Deliver (Lichfields, 2017)
- CD29.13 Start to Finish (Lichfields, 2016)
- CD29.14 A long-run model of housing affordability, University of Reading
- CD29.15 OBR Working Paper No. 6 – Forecasting House Prices (2014)
- CD29.16 Review of Housing Supply, Delivering Stability: Securing our Future Housing Needs' (March 2004), Kate Barker
- CD29.17 Developing a target range for the supply of new homes across England' (October 2007), NHPAU
- CD29.18 Housebuilding, demographic change and affordability as outcomes

- of local planning decisions; exploring interactions using a sub-regional model of housing markets in England' (2 October 2014) in Planning 2015
- CD29.19 Business West: Wider Bristol Housing Market Area Strategic Housing Assessment 2015: Commentary by Bramley
- CD29.20 Building more homes' 1st Report of Session 2016–17 (15 July 2016)
- CD29.21 The Redfern Review into the decline of home ownership' (16 November 2016)
- CD29.22 Forecasting UK house prices and home ownership' (November 2016) Oxford Economics
- CD29.23 OBR March 2017 Economic outlook accompanying tables and charts – Chart 3.21 on house prices
- CD29.24 Planning Application (ref. 15/01319/OUT) Transport Assessment & Framework Travel Plan, September 2017 (ref. VN30215), Vectos
- CD29.25 Application of proposed formula for assessing housing need DCLG, 14 September 2017
- CD29.26 East Hampshire Local Plan Inspector's Report (April 2014)
- CD29.27 Eastleigh Local Plan Inspector's Report (2015)
- CD29.28 House of Lords Select Committee on Building more homes
- CD29.29 OAHN Study Nov 2016 Update
- CD29.30 Bramley and Watkins report on Housebuilding

**CD30 Planning**

- CD30.1 Committee transcript
- CD30.2 Local plan sub committee 25.05.16
- CD30.3 Examiner procedural matters letter
- CD30.4 PPG determining a planning application (prematurity)
- CD30.5 HP Independent examination correspondence 20.09.17

**CD31 Planning Judgements**

- CD31.1 *BDW & Wainhomes Vs CWAC* 2014
- CD31.2 *Suffolk Coastal* Supreme Court Judgment -2017
- CD31.3 *Telford and Wrekin v SoS for CLG* - 2016
- CD31.4 *Palmer v Hertfordshire Council* - 2016
- CD31.5 *Forest of Dean & SoS for CLG & Gladman* - 2016
- CD31.6 *Colman & SoS for CLG & NDDC & RWE Npower Renewables Ltd* – 2013
- CD31.7 *SODC & SoS for CLG and Cemex Properties UK Ltd (Crowell Road)* 2016
- CD31.8 *Barwood Strategic Land II LP & East Staffs & SoS for CLG* 2017
- CD31.9 *Lee Vs FSS & Swale BC* 2003
- CD31.10 *Phides Estates Ltd & SoS for CLG & Shepway DC & Plumstead* – 2015
- CD31.11 *St Albans City and District Council v (1) Hunston Properties Ltd and (2) SoS for CLG* - 2013
- CD31.12 *(1) Gallagher Homes Ltd and (2) Lioncourt Homes Ltd v Solihull MBC* - 2014
- CD31.13 *West Berkshire District Council v SoS for CLG & HDD Burghfield Common Ltd*

- CD31.14 *Satnam Millennium Limited and Warrington Borough Council* 2015  
 CD31.15 *Kings Lynn and West Norfolk Borough Council v SoS for CLG*  
 2015  
 CD31.16 *Wainhomes and SoS for CLG* 2013  
 CD31.17 *St Modwen v (1) SoS for CLG, (2) East Riding of Yorkshire Council*  
*and (3) Save Our Ferriby Action Group* 2016  
 CD32.18 *St Modwen v (1) SoS for CLG, (2) East Riding of Yorkshire Council*  
*and (3) Save Our Ferriby Action Group* 2017  
 CD31.19 *Chelmsford City Council v SoS for CLG* 2016  
 CD31.20 *Stroud DC v SoS for CLG* 2015

**CD32 Appeal Decisions**

- CD32.1 Land at Blean Common, Blean Appeal Ref:  
 APP/J2210/W/16/3156397  
 CD32.2 Land at West Street, Coggeshall, CO6 1NS, Appeal Ref:  
 APP/Z1510/W/16/3160474  
 CD32.3 Land east of Crowell Road, Chinnor, Appeal Ref:  
 APP/Q3115/W/14/3001839  
 CD32.4 Land of Wethersfield Road, Finchingfield Appeal ref.  
 APP/Z1510/W17/3172575  
 CD32.5 Land north of Pulley Lane and Newland Lane, Newland, Appeal ref  
 APP/H1840/A/13/2199426  
 CD32.6 Land off Stone Path Drive, Hatfield Peverel, Appeal Ref:  
 APP/Z1510/W/16/3162004  
 CD32.7 Land off Western Road, Silver End, Appeal Ref:  
 APP/Z1510/W/16/3146968  
 CD32.8 Land off Plantation Road, Boreham, Essex CM3 3EA Appeal Ref:  
 APP/W1525/W/15/3049361  
 CD32.9 Land at Southwell Road, Farnsfield, Nottinghamshire Appeal Ref:  
 APP/B3030/W/15/3006252  
 CD32.10 Land off Finchingfield Road, Steeple Bumpstead ref.  
 APP/Z1510/W/17/3173352  
 CD32.11 Land to the south of Dalton Heights, Seaham, Appeal Ref:  
 APP/X1355/W/16/3165490  
 CD32.12 Longbank Farm, Ormesby, Middlesbrough, TS7 9EF Appeal Ref:  
 APP/V0728/W/15/3018546  
 CD32.13 Land at Flatts Lane, Normanby Appeal Ref:  
 APP/V0728/W/16/3158336

**CD33 Representations made by Gladman**

- CD33.1 Representations to the Braintree Local Plan (Reg 19) July 2017  
 CD33.2 Representations on the HP NHP (Reg 16) July 2017

**Documents submitted by David Wilson Homes Eastern**

(Where a number in the sequence is missing the document is already listed elsewhere in this Annex)

**Application drawings and documents**

- SAV1 Cover Letter  
 SAV2 Application Form  
 SAV3 Location Plan  
 SAV4 Parameters Plan

SAV5 Access Plan

***Supporting drawings and documents***

SAV6 Planning Statement  
SAV7 Design and Access Statement  
SAV8 Affordable Housing Statement  
SAV9 Air Quality Assessment  
SAV10 Archaeological Desk-Based Assessment  
SAV11 Design Review  
SAV12 Draft S106 Heads of Terms  
SAV13 Extended Phase 1 Habitat Survey & HSI Assessment  
SAV14 Pre-Planning Assessment Report (Incl.: 15/12/16 letter from RJIE to DWH & Proposed Foul Sewerage Plan)  
SAV15 Objective Assessment of Housing Need  
SAV16 Landscape and Visual Impact Assessment (2 parts)  
SAV17 Great Crested Newt eDNA Results  
SAV18 Noise Impact Assessment  
SAV19 Phase One Desk Study Report (4 parts)  
SAV20 Reptile Survey and Badger Walkover Survey  
SAV21 Site-Specific Flood Risk Assessment Report (4 parts)  
SAV22 Statement of Community Engagement  
SAV23 Sustainability Statement  
SAV24 Topographical Survey  
SAV25 Transport Assessment (4 parts)  
SAV26 Tree Survey & Constraints Plan & Schedule  
SAV27 Utilities Report  
SAV28 Letter to landowners dated 20/12/16 enclosing Article 13 Notice.

***Post submission relevant correspondence***

SAV29 Email from BDC (Neil Jones) to DWH (Sean Marten) on 01/03/17 @ 11:15 re noise and air quality attaching: Consultation response from BDC EHO (unknown date).  
SAV30 Letter from Savills (Jonathan Dixon) to BDC (Neil Jones) dated 21/03/17 re noise and air quality, enclosing: Technical Memo re noise (24 Acoustics) dated 21/03/17; and Technical Letter re air quality (MLM) dated 17/03/17.  
SAV31 Email from BDC (Neil Jones) to Savills (Jonathan Dixon) on 29/03/17 @ 17:13 re Committee date.  
SAV32 Email from BDC (Neil Jones) to Savills (Jonathan Dixon) on 30/03/17 @ 12:27 re S106.  
SAV33 Email from BDC (Neil Jones) to Savills (Jonathan Dixon) on 10/04/17 @ 08:51 re air quality.  
SAV34 Email from Savills (Jonathan Dixon) to BDC (Neil Jones) on 11/04/17 @ 15:58 re air quality.  
SAV35 Email from Savills (Jonathan Dixon) to BDC (Neil Jones) on 11/04/17 @ 17:35 re air quality.  
SAV36 Email from BDC (Neil Jones) to Savills (Jonathan Dixon) on 21/04/17 @ 16:25 re air quality & HRA Screening attaching: Consultation response from BDC EHO dated 13/04/17.

***Documents referenced in Jonathan Dixon proof***

SAV37 Letter from BDC to DWH c/o Savills (Jonathan Dixon) dated 20/12/16 acknowledging receipt of the application.

- SAV38 Report to BDC Planning Committee Meeting on 25/04/17 re application, plus Appendix and Addendum.
- SAV39 Minutes to BDC Planning Committee Meeting on 25/04/17 re application (see pages 5-9).
- SAV40 Letter from DCLG (Dave Moseley) to BDC (Tessa Lambert) dated 11/05/17 re potential call-in.
- SAV41 Email from BDC (Neil Jones) to Savills (Jonathan Dixon) & DWH (Sean Marten) on 31/05/17 @ 08:50 re potential call-in.
- SAV42 Letter from DCLG (Dave Moseley) to DWH c/o Savills (Jonathan Dixon) dated 12/07/17 confirming call-in.
- SAV44 Extracts from Reg. 18 Braintree Local Plan 'Draft Document for Consultation' dated 27/06/16 re housing requirement of 845 dpa (see page 30).
- SAV45 Extracts from East of England Plan dated May 2008 re housing requirement of 290 dpa (see page 30).
- SAV46 Reg 22 Notice of Submission of Braintree Local Plan dated 09/10/17.
- SAV47 Evidence (from BDC website) that Hatfield Peverel Neighbourhood Plan (NDP) has been submitted for Examination.
- SAV50 Letter from Savills (Jonathan Dixon) to HPPC dated 30/09/16 setting out representations on behalf of DWH to Reg. 14 NDP consultation.
- SAV51 Report to BDC Local Plan Sub-Committee on 05/10/16 setting out representations to Reg. 14 NDP consultation (see reps to draft NDP Policy HPE 1 on p13).
- SAV52 Letter from Savills (Jonathan Dixon) to HPPC dated 17/07/17 setting out representations on behalf of DWH to Reg. 16 NDP consultation. (NB Subject line incorrectly refers to Reg. 14.)
- SAV55 Letter from Natural England to BDC (Neil Jones) dated 26/10/17 re no objection (or need for HRA).
- SAV56 Draft s106 Agreement
- SAV59 Braintree Pre Submission Site Allocations and Development Management Plan (as amended by further changes) dated September 2014.

### ***Statements of Common Ground***

- SOCG4 David Wilson Homes Eastern and Braintree DC
- SOCG5 David Wilson Homes eastern and Hatfield Peverel PC

### ***Proofs of Evidence***

#### ***David Wilson Homes Eastern***

- DWH1 Jonathan Dixon Proof (Planning)
- DWH2 Jonathan Dixon Appendices
- DWH3 Jeremy Smith Proof (Landscape)
- DWH4 Jeremy Smith Appendices
- 4/POE Matthew Spry Proof and Appendices (Housing Land Supply)

#### ***Braintree District Council***

- BDC1 Alison Hutchinson Proof

BDC1a Alison Hutchinson Appendices  
BDC4 Alison Hutchinson Rebuttal Proof

*Hatfield Peverel Parish Council*

HPPC1 Mike Renow Proof and Appendices  
HPPC2 Philippa Jarvis Proof and Appendices

*Gladman Developments Limited (where relevant)*

3/APP Laurie Handcock Appendices

**Documents submitted during the Inquiry by the parties**

ID1.1 *Lee v First Secretary of State and Swale BC* [2003] EWHC 2139 (Admin) (GDL)  
ID1.2 *Arun DC v Secretary of State for Communities and Local Govnt and Green Lodge Homes LLP* [2013] EWHC 190 (Admin) (GDL)  
ID1.3 What is Neighbourhood Planning? PPG extract (GDL)  
ID1.4 Cumulative Air Quality Impact Assessment (GDL & DWH)  
ID1.5 Transport/Highways Note in response to Inspector's pre-Inquiry note No. 1 (GDL & DWH)  
ID1.6a 7015-L-106 rev B Green Infrastructure Strategy for 80 dw scheme (GDL)  
ID1.6b 7015-L-108 rev C Green Infrastructure Strategy for 140 dw scheme (GDL)  
  
ID1.7 Plans omitted from CD14.4 set B (GDL)  
ID1.8 Statement of Common Ground Education (GDL & DWH)  
ID1.9 Secretary of State Appeal decision APP/D3830/A/12/2189451RD (GDL)  
ID1.10 Council decision on land adjacent to Walnut Tree Cottage, The Street, Hatfield Peverel (GDL)  
ID1.11 Updated table showing past supply against housing requirement 2001/2-2017/18 (GDL & DWH)  
ID1.12 Reworked Table 6.1 as requested by Inspector on 7 December 2017 (GDL & DWH)  
ID1.13 Update post exchange of proofs re 5 year housing land supply at 30/9/17 (GDL & DWH)  
ID1.14 Schedule of supply table for round table discussion (GDL & DWH)  
ID1.15 *Cotswold DC v Secretary of State for Communities and Local Govnt and others* [2013] EWHC 3719 (Admin) (GDL)  
ID1.16 Supplementary Unilateral Undertaking (GDL)  
ID2 Opening statement (GDL)  
ID3 Opening statement (DWH)  
ID4 Opening statement (Council)  
ID5 Opening statement (HPPC)  
ID6 Opening statement (SPMRG)  
ID7 Note on housing land supply (Council)  
ID8 Statement by John Webb (interested person)  
ID9 Presentation by Michael Hutton (interested person)  
ID10 Statement by Lesley Moxhay (interested person)  
ID11 Statement by Ron Elliston (interested person)

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- ID11a Further Statement by Ron Elliston (interested person)
  - ID12 Statement by Kenneth Earney (interested person)
  - ID13 Viewpoints and photographs (HPPC)
  - ID14a Council HRA Screening Report Arla Dairy Site (HPPC)
  - ID14b Natural England consultation response on above (HPPC)
  - ID15 Suggested conditions for the 80 dw and 140 dw schemes (GDL)
  - ID16 Email from Sue Hooton to Council dated 12 December 2017 (GDL)
  - ID17 Draft agreement under s106 (DWH)
  - ID18 Suggested conditions for Gleneagles Way scheme (DWH)
  - ID19 Consultation comment by Essex County Council on Hatfield Peverel Neighbourhood Plan (DWH)
  - ID20 Briefing Note: clarification of presentation provided by Mr John Webb (GDL & DWH)
  - ID21 Note on additional five year land supply sites (SPMRG)
  - ID22 Now ID11a
  - ID23 Statement by Andy Simmonds (interested person)
  - ID24 Not used
  - ID25 Secretary of State Appeal decision APP/P1425/W/16/3145053 (HPPC)
  - ID26 Email thread between Diane Wallace and Alan Massow re green wedge policy in neighbourhood plan (HPPC)
  
  - ID27 Extract from Chapter 7 of the Lewes Local Plan (HPPC)
  - ID28 Statement of compliance with CIL Regulations re: Gladman schemes (Council)
  - ID29 Statement of compliance with CIL Regulations re: David Wilson Homes scheme (Council)
  - ID30 Conserving and enhancing the historic environment: PPG extract (GDL)
  - ID31 Letter dated 12 December 2017 from Cala Homes (GDL)
  - ID32 Email from Linden Homes dated 15 December 2017 (GDL)
  - ID33 Spatial Strategy Formation (Council)
  - ID34 Call in conditions comparison (DWH)
  - ID35 Not used
  - ID36 Not used
  - ID37 Statement of Common Ground: joint position on additional housing land supply sites (Council, GDL & DWH)
  - ID39 Viewpoints and Photographs (HPPC)
  - ID40 Article re: housing at Towerlands park Bocking (SPMRG)
  - ID41 Consultation notification re: housing at Church Road, Great Yeldham (SPMRG)
  - ID42 Letter from the Council to Priti Patel MP dated 29 November 2017 re: five year housing land supply (SPMRG)
  - ID43 Appeal decision APP/A1720/W/16/3156344 Portchester, Fareham, Hampshire (SPMRG)
  - ID44 Appeal decision APP/A1720/A/14/2220031 Lower Swanick, Hampshire (SPMRG)
  - ID45 Report to Cabinet dated 27 November 2017 re: proposed disposal of land to provide access to residential development site off Maldon Road, Witham (SPMRG)
  - ID46 Land east of Gleneagles Way: Statement of Landscape Principles (DWH)



- ID47 Closing submissions (Council)
- ID48 Closing submissions (HPPC)
- ID49 Closing submissions (SPMRG)
- ID50 Closing submissions (DWH)
- ID51 Closing submissions (GDL)
- ID52 Historic Environment Good Practice Advice in Planning Note 3 (GDL)
- ID53 Consolidated suggested conditions post Inquiry round table session (the Council)
- ID54 Response to INSP4 (GDL)
- ID55 Response to INSP4 (DWH)
- ID56 Response to INSP4 (HPPC)
- ID57a Completed planning obligation for 80 dwelling scheme (GDL)
- ID57b Addendum to planning obligation for 80 dwelling scheme (GDL)
- ID58 Completed planning obligation for 140 dwelling scheme (GDL)
- ID59 Completed planning obligation for 120 dwelling scheme (DWH)
- ID60 Letter dated 29 January 2018 re progress on the NDP (HPPC)
- ID61 *Bloor Homes East Midlands Ltd v SSCLG* [2014] EWHC 754 (Admin) (BDC)
- ID62 *Daventry DC v SSCLG and Ors* [2015] EWHC Civ 3459 (BDC)
- ID63 *Shadwell Estates Ltd v Breckland DC* [2013] EWHC 12 (Admin) (SPMRG)
- ID64 *Steer v SSCLG* [2017] EWHC 1456 (SPMRG)
- ID65 *R(Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin); [2015] J.P.L. 22 (HPPC)
- ID66 *R (Forest of Dean Friends of the Earth) v Forest of Dean DC* [2015] EWCA Civ 683 (HPPC)
- ID67 *R(Maynard) v Chiltern District Council* [2015] EWHC 3817 (Admin) (HPPC)
- ID68 *Cawrey Ltd v SSCLG* [2016] EWHC 1198 (Admin) (HPPC)
- ID69 *R(Cherkley Campaign Ltd) v Mole Valley DC* [2014] EWCA Civ 567 (HPPC)
- ID70 *South Oxfordshire District Council v Cemex Properties UK Limited* [2016] EWHC 1173 (HPPC)
- ID71 *Trustees of the Barker Mill Estates v Test Valley BC* [2016] EWHC 3028 (Admin) [2017] PTSR 408 (HPPC)

### **Inspector Documents**

- INSP1 Pre-Inquiry Note no. 1 dated 8 November 2017
- INSP2 Pre-Inquiry Note no. 2 dated 5 December 2017
- INSP3 Email to parties dated 7 December 2017
- INSP4 Post Inquiry sessions note dated 18 January 2018

## Annex B

### Abbreviations

5YHLS	5 year housing land supply
BNLP	Braintree New Local Plan
CRA	Comprehensive Redevelopment Area
CS	Braintree District Core Strategy
DWH	David Wilson Homes Eastern
ECC	Essex County Council
ELCAA	Essex Landscape Character Area Assessment
Framework	National Planning Policy Framework
GDL	Gladman Developments Ltd
GLVIA3	Guidelines for Landscape and Visual Impact Assessment 3rd Edition
HPPC	Hatfield Peverel Parish Council
HRA	Habitats Regulation Assessment
KSV	Key Service Village
LCA	Landscape Character Area
LLCA	Local Landscape Character Assessment for Hatfield Peverel
LPR	Braintree District Local Plan Review
LVIA	landscape and visual impact assessment
NCCA	National Character Area Assessment
NDP	Hatfield Peverel Neighbourhood Development Plan
PPG	Planning Practice Guidance
PROW	Public Right of Way
OAHN	objectively assessed housing need
SEA	Strategic Environmental Assessment
SFE	Settlement Fringes Evaluation
SOCG	Statement of Common Ground
SPMRG	Stone Path Meadow Residents' Group

## Annex C

## Suggested Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 120 dwellings, parking, public open space, landscaping, surface water attenuation and associated infrastructure and demonstrate compliance with the approved plans listed below and broad compliance with the approved plans listed below:  
 Approved Plans:  
 Location Plan: 1296/01 FINAL  
 Access Details: 45604-P-SK205
- 5) Prior to first occupation of the development hereby permitted the provision of the following works shall have been completed, details of which shall have been submitted to and approved in writing by the local planning authority prior to implementation:
  - The access to the application site shown in principle on drawing 45604-P-SK205
  - The cycle/pedestrian access between Gleneagles Way and Glebefield Road as shown in principle on Drawing 45604-P-SK200
  - Improved no entry signage at the end of the A12 southbound off-slip for drivers on The Street, plus improved speed limit signs and road markings for drivers leaving the A12 as show in principle on Drawing 45604-P-SK202
  - Improvements to the visibility splay from Gleneagles Way towards the A12 southbound off-slip shown on Drawing 45604-P-SK20 to include trimming/removal of vegetation/trees, relocation/replacement of signs/street furniture/lamp column(s), regrading/hardening of highway land.
  - A footway and (A12) road signage improvements at The Street/A12 north bound on-slip junction as shown in principle on Drawing 45604-P-SK201.
  - Improvements to the (A12) road signage, kerb alignment and road markings at The Street/Maldon Road as shown in principle on Drawing 45604-P-SK201.
  - The provision of dropped kerbs and associated works where the footway from Hatfield Peverel to Witham crosses the A12 northbound on-slip to the south of the Petrol Filling Station (former Lynfield Motors site), Hatfield Road, Witham.
  - The provision of a zebra crossing on B1019 Maldon Road in the approximate position shown on Drawing 45604-P-SK207

- 6) No building erected on the site shall exceed two storeys in height or have a maximum ridge height of more than 9 metres.
- 7) Any Reserved Matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels.

The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall be carried out in accordance with the approved levels.

- 8) Together with any submission of reserved matters, details of sound insulation measures must be submitted to and approved in writing by the local planning authority. The details must demonstrate that internal noise levels do not exceed 35 dB LAeq 16 hour in living rooms during the daytime (07:00 - 23:00) and also do not exceed 30 dB LAeq 8 hour in bedrooms during the night-time period (23:00 - 07:00) as set out in BS 8233: 2014. In addition, the details must demonstrate that maximum night-time noise levels in bedrooms should not exceed 42 dB L<sub>Amax</sub> more than 10 to 15 times per night. The development must be carried out in accordance with the approved details.
- 9) Together with any submission of reserved matters, details of the proposed boundary mitigation (noise barrier) must be submitted to and approved in writing by the local planning authority. The details must demonstrate that external noise levels will not exceed 55 dB LAeq 16 hour in any of the private residential gardens. The development must be carried out in accordance with the approved details.
- 10) Prior to the commencement of development hereby permitted, a wildlife protection plan shall be submitted and approved by the local planning authority identifying appropriate measures for the safeguarding of protected species and their habitats within that Phase. The plan shall include:
  - i) an appropriate scale plan showing protection zones where any construction activities are restricted and where protective measures will be installed or implemented;
  - ii) details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
  - iii) details of how development work will be planned to mitigate potential impacts on protected species, as informed by the project ecologist;
  - iv) a person responsible for:
    - a) compliance with legal consents relating to nature conservation;
    - b) compliance with planning conditions relating to nature conservation;
    - c) installation of physical protection measures during construction;
    - d) implementation of sensitive working practices during construction;

- e) regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
- f) provision of training and information about the importance of "Wildlife Protection Zones" to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

- 11) Any Reserved Matters application relating to landscaping as required by Condition 1 of this permission shall incorporate for the written approval of the local planning authority a detailed specification of hard and soft landscaping works for each phase of the development. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting. The scheme and details shall be implemented as approved. The scheme and details shall provide for the following:

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed as part of that scheme by the local planning authority.

Prior to the occupation of each dwelling, the hardstanding associated with that dwelling shall be fully laid out.

Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species.

Any Reserved Matters application relating to landscaping shall be accompanied by cross section drawings showing the relative heights of the proposed dwellings in association with landscape features.

- 12) No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall be implemented as approved. The Statement shall provide for:

- Safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;

- The storage of plant and materials used in constructing the development;
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - Wheel washing facilities;
  - Measures to control the emission of dust and dirt during construction;
  - A scheme for recycling/disposing of waste resulting from demolition and construction works.
  - A scheme to control noise and vibration during the construction phase
  - Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.
- 13) Demolition or construction works, including starting of machinery and delivery to and removal of materials from the site shall take place only between 08.00 hours and 18.00 hours on Monday to Friday; 08.00 hours to 13.00 hours on Saturday; and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 14) Details of any proposed external lighting to the site for each phase of the development shall be submitted to, and approved in writing by, the local planning authority as part of any Reserved Matters application. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). For the avoidance of doubt the details shall also:
- identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- All lighting shall be installed, maintained and operated in accordance with the approved details.
- 15) No piling shall be undertaken on the site in connection with the construction of the development until details of a system of piling and resultant noise and vibration levels has been submitted to and approved in writing by the local planning authority. The approved details shall be adhered to throughout the construction process.

- 16) No development or preliminary groundworks shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following completion of the programme of archaeological evaluation as approved within the written scheme of investigation.

No development or preliminary groundworks shall commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

Within 6 months of the completion of fieldwork a post-excavation assessment shall be submitted to the local planning authority. This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum and submission of a publication report.

- 17) No development shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The approved scheme shall subsequently be implemented prior to occupation.

The scheme shall include but not be limited to:

- Limiting discharge rate to 1.25l/s/ha;
- Providing sufficient storage to manage the 1 in 100 year + 40% climate change storm event on site with no flooding of the formal drainage system during the 1 in 30 year event. Provide sufficient storage so that no flooding will occur during the 1 in 30 year event in the case of pump failure;
- Provide adequate treatment across all elements of the development.

- 18) No development shall commence until a Maintenance Plan detailing the maintenance arrangements for each phase of the development, including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and approved in writing by the local planning authority. The Maintenance Plan shall be implemented as approved.

The applicant or any successor in title or adopting authority shall maintain yearly logs of maintenance which shall be carried out in accordance with any approved Maintenance Plan for each phase of the development. These shall be available for inspection upon a request by the local planning authority.

- 19) No development shall commence until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.
- 20) No development shall commence until a foul water strategy has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the local planning authority.
- 21) As part of the submission of the first reserved matters application as detailed within Condition 1, an Arboricultural Method Statement (AMS) shall be submitted and approved in writing by the local planning authority. The AMS will include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, site storage and other construction related facilities. The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (to include frequency of visits; and key works which will need to be monitored) and how they will record their monitoring and supervision of the site.

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

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities within that Phase of the development and shall remain in place until after the completion of the development.

The local planning authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

- 22) No above ground works shall commence in the relevant phase of the development until details of the location of refuse bins, recycling materials storage areas and collection points shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter so retained.
- 23) No clearance of trees, shrubs or hedges in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority to establish whether the site is utilised for bird nesting. Should the survey reveal the



presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.

- 24) Prior to the commencement of above ground construction of the relevant phase of the development details of a scheme for the provision of nest and roost sites for birds and bats shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and thereafter so retained.
- 25) Prior to submission of the first application for Reserved Matters pursuant to this planning permission an updated survey of the application site will have been carried out by a suitably qualified and experienced ecologist to investigate the potential presence on the application site of badgers, bats, reptiles and Great Crested Newts.

Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority for approval as part of the first application for Reserved Matters pursuant to this planning permission.

- 26) In the event that development is not commenced (or, having commenced, is suspended for more than 12 months) within three years of the planning consent, further surveys for Great Crested Newts as necessary shall be undertaken of all suitable ponds within 500 metres of the application site. Details of the methodology, findings and conclusions of the survey shall be submitted to the local planning authority within 8 months of the completion of the survey and a mitigation/compensation scheme, if required shall be provided for approval prior to the commencement of development. Mitigation/compensation works shall be carried out in accordance with the approved scheme.
- 27) Prior to the submission of the first reserved matters application, details must be submitted to demonstrate that ambient concentrations of nitrogen dioxide will not exceed the UK annual mean objective concentration of 40µg/m<sup>3</sup> at any residential property location within the development.
- 28) Prior to first occupation of the development hereby approved, the Developer shall be responsible for the provision and implementation of a Residents' Travel Information Pack for sustainable transport, approved by the local planning authority, (to include six one day travel vouchers for use with the relevant local public transport operator).
- 29) Prior to the first occupation of the development hereby permitted the overhead electricity cables crossing the site east /west shall be diverted underground.
- 30) *No above ground development shall commence in the relevant phase of the development until a schedule and samples of the materials to be used on the external finishes have been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details.*
- 31) *Prior to first occupation of the relevant phase of the development, details of all gates / fences / walls or other means of enclosure within the relevant phase of the development shall be submitted to and approved in writing by the local planning authority. The details shall include position, design,*

*height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the relevant plot.*



# Ministry of Housing, Communities & Local Government

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

EP5

**Braintree District Monitoring Report 2018**  
**Addendum to the Monitoring Report:**

**Subject:**

**Five Year Housing Supply 2018-2023**



**11 April 2019**

**From:** [Carpenter, Kathy](#)  
**To:** [Laura Dudley-Smith](#)  
**Subject:** RE: Request for information forecast development Land south of The Limes Gosfield  
**Date:** 04 December 2018 10:02:00

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Many thanks for your help, I think I can take it from here.

Best wishes,  
Kathy

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**From:** Laura Dudley-Smith  
**Sent:** 03 December 2018 17:35  
**To:** Carpenter, Kathy [REDACTED]  
**Cc:** James Firth  
**Subject:** RE: Request for information forecast development Land south of The Limes Gosfield

Dear Kathryn,

The land at Gosfield is no longer owned by Marden Homes Ltd. We are now acting on the site on behalf of it's new owner, Chelsteen Homes. The contact there is Bill Poulton.

A revised planning application has been submitted to BDC for consideration. There are no significant issues that have been identified however that should present delay to delivery should the revised application be determined favourably.

Please let me know if you would like us to complete a revised form in this regard.

Laura

Laura Dudley-Smith  
Strutt & Parker

---

**From:** Carpenter, Kathy [REDACTED]  
**Sent:** 30 November 2018 17:38  
**To:** Laura Dudley-Smith  
**Subject:** Request for information forecast development Land south of The Limes Gosfield  
**Importance:** High

Dear Laura,

Please see the attached file. Braintree District Council needs to check information the anticipated timing of completions on the above site, as part of work on checking the deliverable housing land supply in the District. Our records show that you were the contact for the development; could you please advise on the site or provide contact details for someone who can confirm?

Kind regards,

Kathryn Carpenter  
**Senior Planning Officer**

Please return forms by Friday 7th December 2018



## Review of Housing Sites Identified in the 5 Year Supply 2018-2023

The National Planning Policy Framework (July 2018) requires local planning authorities to identify and update annually a supply of specific deliverable sites to be measured against their housing requirements (paragraph 73). As part of this process, local planning authorities are required to engage with developers and others who have an impact on delivery (see paragraph 74).

As you represent one or more of these sites, we would appreciate you taking the time to fill out the below form. Please complete a separate form for each site.

This form can be returned electronically to [planningpolicy@braintree.gov.uk](mailto:planningpolicy@braintree.gov.uk) or in hard copy if necessary to: Planning Policy, Braintree District Council, Causeway House, Bocking End, Braintree, CM7 9HB.

This form has three parts: Part A – Developer/Company/promoter Details, Part B - Site details and Part C – Site Progress

### PART A Developer/Promoter Details

Contact Name:	Steve Read
Position:	Divisional Development & Planning Manager
Organisation:	Bellway Homes Ltd
E-mail Address:	
Telephone Number:	

### PART B Site Details (please use separate form for each site)

Site Address/Location:	Site 38 Land east of Sudbury Road Halstead
Planning application reference(s):	BTE/17/0705

Is the site:

Owned by Developer	<input checked="" type="checkbox"/>	Site Actively being marketed	<input type="checkbox"/>
Sale to developer under negotiation	<input type="checkbox"/>	Site not actively being marketed	<input type="checkbox"/>

### PART C Site Progress

Will Housing completions begin on site before April 2023?	Yes
Planning Status at 31 March 2018:	Outline planning permission
Update on Planning Status:	Full application submitted for 218 homes BTE/18/01749, agent jennifer.carrol

# Site Progress cont..

HALSTEAD



Full/reserved matters status: approved, applied for, when planned to be submitted	Submitted FULL APPLICATION SUBMITTED
Details of Discharge of conditions status: submitted	Submitted November 2018; Building Regs Initial Notice (NHBC) submitted
Information on Constraints: Actions needed before completions can be achieved	PLANNING APPROVAL AND COMMENCEMENT OF BUILD.
Access/transport:	ACCESS POINTS AGREED AT OUTLINE APPROVAL
Ground conditions/ contamination:	FARM LAND NO CONTAMINATION EXPECTED.
Drainage (SUDS, flood prevention etc):	APPLICATION WITH FULL PLANNING SUBMISSION
Land ownership:	BELLWAY HOMES.
Other constraints (describe), including market:	N/A.

Total/estimated total site capacity	205 OUTLINE
Dwellings built as at 31 March 2018	0
Outstanding capacity as at 31 March 2018	205
Forecast completions Year 1: April 2018/March 2019	0
Forecast completions Year 2: April 2019/March 2020	20
Forecast completions Year 3: April 2020/March 2021	70
Forecast completions Year 4: April 2021/March 2022	70
Forecast completions Year 5: April 2022/March 2023	58

218 FULL APPLICATION

Other developer/site promoter/landowner comments	
(Internal use)	Outline permission for 205 also included site for a care home; whereas this is omitted from the full application for 218 - i.e. supply may exceed the 205 indicated as at March 2018

**Return by Friday 7<sup>th</sup> December 2018 to:**

[PlanningPolicy@braintree.gov.uk](mailto:PlanningPolicy@braintree.gov.uk)

If you have any other questions about the consultation please contact the Planning Policy Team by email [PlanningPolicy@braintree.gov.uk](mailto:PlanningPolicy@braintree.gov.uk) or by phone on 01376 552525 and ask for Planning Policy.

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**From:** [Wilde, Mathew](#)  
**To:** [Carpenter, Kathy](#)  
**Subject:** FW: 18/60196/PREAPP Land north East of Inworth Road  
**Date:** 05 February 2019 14:23:41  
**Attachments:** [image001.gif](#)

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FYI

Kind Regards,

**Mathew Wilde**

**Senior Planner – Development Management**

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB



[www.braintree.gov.uk](#) |

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**From:** Catherine Williams **Sent:** 05 February 2019 2:21 PM

**To:** Wilde, Mathew

**Subject:** RE: 18/60196/PREAPP Land north East of Inworth Road

Mathew,

In terms of start on site:

- Infrastructure to commence late summer 2019
- With an anticipated build rate of 50 per year we would expect to have 150 completions by April 2023.

Regards,

**Catherine Williams BA(Hons) MA MRTPI**  
**Associate Director**  
**Planning**

Savills, 33 Margaret Street, London, W1G 0JD  
Tel

Email

Website : [www.savills.co.uk](http://www.savills.co.uk)



Before printing, think about the environment

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**From:** Wilde, Mathew  
**Sent:** 28 January 2019 9:59 AM  
**To:** Catherine Williams  
**Subject:** 18/60196/PREAPP Land north East of Inworth Road

Hi Catherine,

Thank you for our meeting on Friday. I have asked Lee to go through the boundary treatment plan with me this week so I will provide comments on this shortly.

In terms of the coloured block plan, please may I have an electronic copy of this?

I have also been asked if I could get some confirmation in writing from you in respect to timescales for the REM submission? And when roughly will works commence?

Could you also please give an indication if possible please?:

- If the site will start to produce completions before April 2023
- View of expected development rates - how many of the 165 are expected to be completed by April 2023?





Many thanks in advance for your help.

Kind Regards,

**Mathew Wilde**

**Senior Planner – Development Management**

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

  | [www.braintree.gov.uk](http://www.braintree.gov.uk) |  

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**Please return forms by Friday 7th December 2018**

# Review of Housing Sites Identified in the 5 Year Supply 2018-2023

The National Planning Policy Framework (July 2018) requires local planning authorities to identify and update annually a supply of specific deliverable sites to be measured against their housing requirements (paragraph 73). As part of this process, local planning authorities are required to engage with developers and others who have an impact on delivery (see paragraph 74).

As you represent one or more of these sites, we would appreciate you taking the time to fill out the below form. Please complete a separate form for each site.

This form can be returned electronically to [planningpolicy@braintree.gov.uk](mailto:planningpolicy@braintree.gov.uk) or in hard copy if necessary to: Planning Policy, Braintree District Council, Causeway House, Bocking End, Braintree, CM7 9HB.

This form has three parts: Part A – Developer/Company/promoter Details, Part B - Site details and Part C – Site Progress

## **PART A** Developer/Promoter Details

<b>Contact Name:</b>	Matthew Wood, agent Phase 2 Planning and Development
<b>Position:</b>	Principal Planner
<b>Organisation:</b>	CALA Homes (North Home Counties) Ltd
<b>E-mail Address:</b>	
<b>Telephone Number:</b>	

## **PART B** Site Details (please use separate form for each site)

<b>Site Address/Location:</b>	Station Field, Land W of Kelvedon Station Station Rd (Monks Farm) Kelvedon
<b>Planning application reference(s):</b>	Site 041 BTE/17/0418

Is the site:

Owned by Developer	<input checked="" type="checkbox"/>	Site Actively being marketed	<input type="checkbox"/>
Sale to developer under negotiation	<input type="checkbox"/>	Site not actively being marketed	<input type="checkbox"/>

## **PART C** Site Progress

<b>Will Housing completions begin on site before April 2023?</b>	Yes,subject to RM approval
<b>Planning Status at 31 March 2018:</b>	Outline permission
<b>Update on Planning Status:</b>	RM to be submitted early 2019

# Site Progress cont..

<b>Full/reserved matters status: approved, applied for, when planned to be submitted</b>	RM to be submitted early 2019
<b>Details of Discharge of conditions status: submitted</b>	Condition submissions to be made early 2019
<b>Information on Constraints: Actions needed before completions can be achieved</b>	
<b>Access/transport:</b>	Access approved at outline stage.
<b>Ground conditions/ contamination:</b>	Agricultural land.
<b>Drainage (SUDS, flood prevention etc):</b>	SUDS system to be included within Reserved Matters application.
<b>Land ownership:</b>	CALA Group
<b>Other constraints (describe), including market:</b>	

<b>Total/estimated total site capacity</b>	250
<b>Dwellings built as at 31 March 2018</b>	0
<b>Outstanding capacity as at 31 March 2018</b>	250
<b>Forecast completions Year 1: April 2018/March 2019</b>	0
<b>Forecast completions Year 2: April 2019/March 2020</b>	50
<b>Forecast completions Year 3: April 2020/March 2021</b>	50
<b>Forecast completions Year 4: April 2021/March 2022</b>	50
<b>Forecast completions Year 5: April 2022/March 2023</b>	50

<b>Other developer/site promoter/landowner comments</b>	
<b>(Internal use)</b>	As condition of the outline permission dated October 2017, reserved matters application for first phase must be submitted by October 2019 (i.e. within 2 years)

**Return by Friday 7<sup>th</sup> December 2018 to:**

[PlanningPolicy@braintree.gov.uk](mailto:PlanningPolicy@braintree.gov.uk)

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**From:** [Heather Organ](#)  
**To:** [Carpenter, Kathy](#)  
**Subject:** RE: Development site at land at Ashen Road Ridgewell  
**Date:** 13 March 2019 15:13:14  
**Attachments:** [~WRD000.jpg](#)  
[image001.png](#)

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Dear Kathryn,


We intend to be in a position to submit an application for planning shortly - in late March or early April 2019. Assuming we are successful I would anticipate completion of the whole site in the first quarter of 2021 based on our clients current aspirations.

I am unable to provide the name of the developer at this time but I trust the above information answers your main queries.

Kind Regards,  
Heather.

Heather Organ BSc Architecture

Heather



---

**From:** Carpenter, Kathy [REDACTED]  
**Sent:** 13 March 2019 11:51  
**To:** Heather Organ <[REDACTED]>  
**Subject:** Development site at land at Ashen Road Ridgewell  
**Importance:** High

Dear Heather Organ,

We spoke on the telephone recently, when I was enquiring about whether this above site is coming forward for development in the next few years, as you acted as agent for a Mr J Williams in a 2018 pre application, following the sale of the site by the landowner to a developer. The site currently has the benefit of an extant outline permission and is shown as a draft allocation in the emerging Draft Braintree District Local Plan. You kindly provided me with a verbal response, confirming that the site is now owned by a developer, and that a detailed planning application is being drawn up for submission (in 2019?) following on from the pre-application consideration.

Could I please ask if you could provide this confirmation in writing for us – by e-mail response would be fine? If possible, as well as confirming whether the site is expected to start to produce completions by April 2023, any information would be helpful if available on expected estimated timescales for submission of the planning application, start on site, and expected number of dwellings by year –  
April 2019/March 2020 (I assume that will be 0)

April 2020/March 2021  
April 2021/March 2022, and  
April 2022/March 2023.

If you are able to confirm the name of the developer that would also be helpful.

Kind regards,

Kathryn Carpenter

**Senior Planning Officer**

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

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Please return forms by Friday 7th December 2018

## Review of Housing Sites Identified in the 5 Year Supply 2018-2023

The National Planning Policy Framework (July 2018) requires local planning authorities to identify and update annually a supply of specific deliverable sites to be measured against their housing requirements (paragraph 73). As part of this process, local planning authorities are required to engage with developers and others who have an impact on delivery (see paragraph 74).

As you represent one or more of these sites, we would appreciate you taking the time to fill out the below form. Please complete a separate form for each site.

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This form has three parts: Part A – Developer/Company/promoter Details, Part B - Site details and Part C – Site Progress

### **PART A** Developer/Promoter Details

Contact Name:	Stuart Williamson agent Amec Foster Wheeler
Position:	
Organisation:	The Hunt Property Trust
E-mail Address:	
Telephone Number:	

### **PART B** Site Details (please use separate form for each site)

Site Address/Location:	Land rear of Halstead Road Earls Colne
Planning application reference(s):	BTE/15/1580

Is the site:

Owned by Developer

Site Actively being marketed

Sale to developer under negotiation

Site not actively being marketed

### **PART C** Site Progress

Will Housing completions begin on site before April 2023?	YES
Planning Status at 31 March 2018:	Outline permission
Update on Planning Status:	

## Site Progress cont..

Full/reserved matters status: approved, applied for, when planned to be submitted	JULY 2019
Details of Discharge of conditions status: submitted	NONE TO DATE
Information on Constraints: Actions needed before completions can be achieved	NONE BEYOND USUAL
Access/transport:	(Access Reserved ie approved)
Ground conditions/ contamination:	Further investigations per outline
Drainage (SUDS, flood prevention etc):	" " "
Land ownership:	-
Other constraints (describe), including market:	-

Total/estimated total site capacity	80
Dwellings built as at 31 March 2018	0
Outstanding capacity as at 31 March 2018	80
Forecast completions Year 1: April 2018/March 2019	
Forecast completions Year 2: April 2019/March 2020	25
Forecast completions Year 3: April 2020/March 2021	55
Forecast completions Year 4: April 2021/March 2022	
Forecast completions Year 5: April 2022/March 2023	

Other developer/site promoter/landowner comments	
(Internal use)	

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**From:** [Conan Farningham](#)  
**To:** [Carpenter, Kathy](#)  
**Cc:** [Havers, Timothy](#); [Banks, Natalie](#); [Alice Patchett](#)  
**Subject:** Silver End/Conrad Rd  
**Date:** 01 March 2019 11:00:51  
**Attachments:** [image001.png](#)  
[image002.jpg](#)

---

Morning,

I would advise the following for Conrad Road, Witham (Southfields):

- . We have submitted the application and awaiting for further timescales etc
- . Yes, this scheme along with Silver End are key to delivering our Homes England Programme and overall targets
- . Completions are assumed as follows but these will likely change following appointment of a contractor and also the decision date:

April 2019/March 2020: 0  
April 2020/March 2021: 21  
April 2021/March 2022: 67  
April 2022/March 2023: 36  
April 2023/March 2024: 26

Please be advised that we are currently programming the S106 units to be delivered April 21/22 hence the spike in completions.

Regards,

Conan

**Conan Farningham**  
**Head of Land and Planning**

Sanctuary Group

Office: 02088261598

Email:



---

**From:** Carpenter, Kathy [REDACTED]  
**Sent:** 28 February 2019 15:44  
**To:** Conan Farningham  
**Subject:** RE: Silver End  
**Importance:** High

Dear Conan – thank you very much for your prompt response. Could I please ask, are you able to provide me with the equivalent information in respect of Conrad Road Witham, which I believe you know as Southfields?

Kind regards,  
Kathy Carpenter

Kathryn Carpenter  
**Senior Planning Officer**  
Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB  
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# Review of Housing Sites Identified in the 5 Year Supply 2018-2023

The National Planning Policy Framework (July 2018) requires local planning authorities to identify and update annually a supply of specific deliverable sites to be measured against their housing requirements (paragraph 73). As part of this process, local planning authorities are required to engage with developers and others who have an impact on delivery (see paragraph 74).

As you represent one or more of these sites, we would appreciate you taking the time to fill out the below form. Please complete a separate form for each site.

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This form has three parts: Part A – Developer/Company/promoter Details, Part B - Site details and Part C – Site Progress

## **PART A** Developer/Promoter Details

<b>Contact Name:</b>	Stephen M Clark
<b>Position:</b>	Chief Executive
<b>Organisation:</b>	Churchmanor Estates plc
<b>E-mail Address:</b>	
<b>Telephone Number:</b>	

## **PART B** Site Details (please use separate form for each site)

<b>Site Address/Location:</b>	Site 050 Land south of Maltings Lane Witham
<b>Planning application reference(s):</b>	BTE/12/1071

Is the site:

Owned by Developer  Site Actively being marketed

Sale to developer under negotiation  Site not actively being marketed

## **PART C** Site Progress

<b>Will Housing completions begin on site before April 2023?</b>	Yes
<b>Planning Status at 31 March 2018:</b>	Outline planning permission
<b>Update on Planning Status:</b>	See below

## Site Progress cont..

<b>Full/reserved matters status: approved, applied for, when planned to be submitted</b>	
<b>Details of Discharge of conditions status: submitted</b>	
<b>Information on Constraints: Actions needed before completions can be achieved</b>	
<b>Access/transport:</b>	
<b>Ground conditions/ contamination:</b>	
<b>Drainage (SUDS, flood prevention etc):</b>	
<b>Land ownership:</b>	
<b>Other constraints (describe), including market:</b>	Need a mini Masterplan to deal with housing/neighbourhood shops and public open space

<b>Total/estimated total site capacity</b>	268
<b>Dwellings built as at 31 March 2018</b>	205
<b>Outstanding capacity as at 31 March 2018</b>	63
<b>Forecast completions Year 1: April 2018/March 2019</b>	
<b>Forecast completions Year 2: April 2019/March 2020</b>	
<b>Forecast completions Year 3: April 2020/March 2021</b>	
<b>Forecast completions Year 4: April 2021/March 2022</b>	
<b>Forecast completions Year 5: April 2022/March 2023</b>	

<b>Other developer/site promoter/landowner comments</b>	Current discussions with LPA case officer Neil Jones to combine this application with the provision of Neighbourhood Shops
<b>(Internal use)</b>	Discussions with LPA taking place on proposed mixed use development on remaining, final phase of largely completed strategic site (Land south of Maltings Lane)

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# Review of Housing Sites Identified in the 5 Year Supply 2018-2023

The National Planning Policy Framework (July 2018) requires local planning authorities to identify and update annually a supply of specific deliverable sites to be measured against their housing requirements (paragraph 73). As part of this process, local planning authorities are required to engage with developers and others who have an impact on delivery (see paragraph 74).

As you represent one or more of these sites, we would appreciate you taking the time to fill out the below form. Please complete a separate form for each site.

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This form has three parts: Part A – Developer/Company/promoter Details, Part B - Site details and Part C – Site Progress

## **PART A** Developer/Promoter Details

<b>Contact Name:</b>	Kevin Coleman, agent Phase 2 Planning & Development Ltd
<b>Position:</b>	Mersea Homes Ltd And Hills Residential Ltd
<b>Organisation:</b>	
<b>E-mail Address:</b>	
<b>Telephone Number:</b>	

## **PART B** Site Details (please use separate form for each site)

<b>Site Address/Location:</b>	Site 52 Land West of Panfield Lane Braintree
<b>Planning application reference(s):</b>	BTE/15/1319

Is the site:

Owned by Developer	<input type="checkbox"/>	Site Actively being marketed	<input type="checkbox"/>
Sale to developer under negotiation	<input checked="" type="checkbox"/>	Site not actively being marketed	<input type="checkbox"/>

## **PART C** Site Progress

<b>Will Housing completions begin on site before April 2023?</b>	Yes
<b>Planning Status at 31 March 2018:</b>	Without permission; adopted Local Plan Allocation, hybrid application for: 411 homes outline; plus 189 homes full
<b>Update on Planning Status:</b>	Planning application planned to be put before Planning Committee Spring 2019

## Site Progress cont..

<b>Full/reserved matters status: approved, applied for, when planned to be submitted</b>	Hybrid application submitted
<b>Details of Discharge of conditions status: submitted</b>	
<b>Information on Constraints: Actions needed before completions can be achieved</b>	
<b>Access/transport:</b>	
<b>Ground conditions/ contamination:</b>	
<b>Drainage (SUDS, flood prevention etc):</b>	
<b>Land ownership:</b>	
<b>Other constraints (describe), including market:</b>	

<b>Total/estimated total site capacity</b>	600
<b>Dwellings built as at 31 March 2018</b>	0
<b>Outstanding capacity as at 31 March 2018</b>	600
<b>Forecast completions Year 1: April 2018/March 2019</b>	0
<b>Forecast completions Year 2: April 2019/March 2020</b>	0
<b>Forecast completions Year 3: April 2020/March 2021</b>	25
<b>Forecast completions Year 4: April 2021/March 2022</b>	100
<b>Forecast completions Year 5: April 2022/March 2023</b>	100

<b>Other developer/site promoter/landowner comments</b>	Assumed programme is for infrastructure start on site before the end of 2019, residential development starting in 2020 on the hybrid/detailed element, with 25 completions second half of 2020, followed by approx. 100 per annum thereafter. Assuming of course that we actually get planning permission 1st half of 2019.
<b>(Internal use)</b>	

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EP6

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## Appeal Decision

Inquiry Held on 27-30 April, 4-7, 11 and 12 May 2021

Site visit made on 10 May 2021

by Harold Stephens BA MPhil Dip TP MRTPI FRSA

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

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Appeal Ref: APP/Q3115/W/20/3265861

Little Sparrows, Sonning Common, Oxfordshire RG4 9NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Senior Living (Sonning Common) Limited and Investfront Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P19/S4576/O, dated 12 December 2019, was refused by notice dated 30 June 2020.
  - The development proposed is a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas at Little Sparrows, Sonning Common, in accordance with the terms of the application, Ref P19/S4576/O, dated 12 December 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matters

2. At the Inquiry an application for a partial award of costs was made by South Oxfordshire District Council (the Council) against the Appellant. This is the subject of a separate Decision.
3. The appeal follows the refusal of the Council to grant planning permission to a hybrid planning application for development at Blounts Court Road, Sonning Common. The planning application was determined under delegated powers

on 30 June 2020 and there were seven reasons for refusal (RfR) set out in the decision notice.<sup>1</sup>

4. The application was supported by a number of plans, reports, and technical information. A full list of the plans on which the appeal is to be determined is set out at Appendix 4 of SoCG 4 Planning<sup>2</sup> which was agreed by the main parties. A full list of all documents forming part of the consideration of this appeal is set out at Appendix 3 of SoCG 4 which was agreed by the parties.<sup>3</sup>
5. I held a Case Management Conference (CMC) on 4 March 2021. At the CMC the main issues were identified, how the evidence would be dealt with at the Inquiry and timings. In the weeks following the CMC the main parties continued discussions on the appeal to ensure that matters of dispute were clear and that all matters of agreement were documented in either Statements of Common Ground or in draft Planning Conditions such that time on these matters was minimised at the Inquiry. The following Statements of Common Ground were submitted: SoCG 1 Landscape; SoCG 2 Transport; SoCG 3 Viability; SoCG 4 Planning and SoCG 5 Five Year Land Supply.
6. At the Inquiry a Planning Obligation was submitted.<sup>4</sup> The Planning Obligation is made by an Agreement between Investfront Limited, Lloyds Bank PLC, Senior Living (Sonning Common) Limited, South Oxfordshire District Council and Oxfordshire County Council under s106 of the TCPA 1990. The Planning Obligation secures, amongst other matters, an off-site financial contribution in lieu of on-site affordable housing provision of £7,510,350. The s106 Agreement is signed and dated 26 May 2021 and is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement<sup>5</sup> and an Addendum to the CIL Statement<sup>6</sup> were also submitted in support of the Planning Obligation. I return to the Planning Obligation later in this decision.
7. In relation to RfR7 (affordable housing), following discussions on viability, the Appellant reached agreement with the Council on the payment of an off-site financial contribution towards affordable housing that is secured through a s106 Agreement. Therefore, it is agreed that having regard to development viability, the appeal proposal would provide an adequate level of affordable housing provision and this matter is no longer in dispute.
8. The application was screened for Environmental Impact Assessment (EIA) prior to submission of the application and the Council determined that EIA was not required on 6 November 2019. I agree with the negative screening that was undertaken by the Council.

### Main Issues

9. In the light of the above I consider the main issues are:

(i) *Whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;*

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<sup>1</sup> See Appendix A in CD H.1

<sup>2</sup> CD H.5

<sup>3</sup> Ibid

<sup>4</sup> INQ APP11

<sup>5</sup> INQ LPA7

<sup>6</sup> INQ LPA8



- (ii) *The impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common;*
- (iii) *The effect of the design of the proposed development on the character and appearance of the village;*
- (iv) *Whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.*
- (v) *Whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB.*

## Reasons

### *Planning Policy context*

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this appeal, the development plan comprises the following documents:
  - The South Oxfordshire Local Plan 2035 (Adopted 2020) (SOLP); and
  - The Sonning Common Neighbourhood Plan (2016) (SCNP).
11. The determination of the planning application, the subject of this appeal, took place against the background of a different development plan framework to that now in place. Although the SOLP has been subsequently adopted, the SCNP was based upon the Core Strategy which has been withdrawn, including the out of date housing requirements derived from the old Regional Strategy, significantly reducing the weight that can be afforded to it.
12. The development plan policies that are relevant to this appeal are agreed by the main parties and are set out in SoCG 4<sup>7</sup> and INQ LPA6 provides an agreed schedule of the replacement policies for those cited in the decision notice.
13. The SCNP is currently under review. An initial public consultation was held between 29 February - 23 March 2020 but the Plan has not at this stage progressed further and there is as yet no agreed timetable. No weight can be given to that review.
14. SoCG 4 sets out the sections of the NPPF which are relevant in this case.<sup>8</sup> It also sets out a list of Supplementary Planning Documents and Guidance<sup>9</sup> which should be considered in this appeal and specific parts of the National Planning Practice Guidance (PPG)<sup>10</sup> which are considered relevant.
15. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). The Chilterns AONB is a 'valued landscape' in respect of paragraph 170 of the NPPF. AONBs, along with National Parks and the Broads, benefit from the highest status of protection in relation to conserving and

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<sup>7</sup> Paragraph 3.3

<sup>8</sup> Paragraph 3.5

<sup>9</sup> Paragraph 3.6

<sup>10</sup> Paragraph 3.7

enhancing landscape and scenic beauty. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) places a duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB. Paragraph 172 of the NPPF **requires "great weight" to be given to those matters in decision making.** It is common ground that the appeal proposal involves major development within the AONB and as such should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

16. Paragraph 172 of the NPPF requires particular consideration to be given to:  
(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and (c) any detrimental effects on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. I deal with these matters under the main issues but at the outset it is important to address whether or not the Council has a five year supply of housing.

#### *Five Year Housing Land Supply*

17. Paragraph 73 of the NPPF sets the requirement for Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient **to provide a minimum of five years' worth of housing against their housing** requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old.
18. Since 2018, Oxfordshire only needed to demonstrate a three-year supply of housing. However, on 25 March 2021 the Minister of State for Housing confirmed that a five-year housing land supply was again required. The Council produced a Housing Land Supply Interim Statement (IHLS)<sup>11</sup> setting out their initial position for the period 1 April 2020 to the 1 April 2025 which asserts a 5.35-year supply. However, at the Inquiry, the Council conceded that the supply had fallen on its own case to 5.08 years. The five-year supply requirement is a minimum requirement and it needs to be deliverable. The definition of deliverable is contained in Annex 2 to the NPPF.
19. The most up-to-date position as regards the difference between the main parties is summarised in the agreed SoCG 5. There is no disagreement as to the housing need (900 dpa) or the time period for the assessment (2020/21 to 2024/25). The five-year requirement including an agreed shortfall of 922 dwellings and 5% buffer is 5,693. The difference between the main parties comes down to **the Council's position that there is a 5.08 year supply of deliverable housing sites and the Appellant's assertion that it is instead a 4.21-year supply.** Table 3 of SoCG 5 contains a schedule of 15 disputed sites. I have assessed these disputed sites in the context of the test of deliverability set out in Annex 2 of the NPPF. This specific guidance indicates which sites should be included within the five-year supply.
20. I have also had regard to the PPG advice published on 22 July 2019 on **'Housing supply and delivery' including the section that provides guidance on**

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<sup>11</sup> CD: K.32 South Oxfordshire Local Plan Housing Land Supply Interim Statement 2021

**‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:**

*“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”*

This advice indicates to me the **expectation that ‘clear evidence’ must be** something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not **in itself constitute ‘clear evidence’**. **Developers are financially incentivised** to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.
22. It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position. For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years.
23. **Overall, I consider that the Appellant’s assessment of supply** set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. **I am satisfied that the Appellant’s approach is consistent with national policy**, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times.
24. My conclusion on housing land supply is that there are a number of sites that **together significantly reduce the Council’s five-year housing land supply**. Many of the sites that the Council includes within the supply cannot be justified applying the current definition of deliverable. Following discussions between the main parties, deductions from the IHLS figure of 6,093 dwellings, have been identified and summarised at Table 1 of SoCG 5 and the impact which this has on the five year housing land supply is summarised at Table 2.

25. I consider that the **Council's** supply figure should be reduced to reflect the **Appellant's position set out** in Table 2 of SoCG 5. The **Council's** supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to 4.21 years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.

*First Issue - whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;*

*The Need for Extra Care*

26. The Council argues that the appeal proposal would be contrary to Policies H1 and H13 of the SOLP and due to its location in the AONB, outside but next to Sonning Common, brings into play Policies ENV1 and Policy H4 of the SOLP, and Policies ENV1, ENV2, H1, H2 and H2a of the SCNP. It is also claimed that the provision of 133 units of specialist housing for the elderly would be inconsistent with the proportionate growth in general housing planned for Sonning Common at both levels of the development plan.
27. Clearly the need for specialist accommodation for older people is recognised in the SOLP, which promotes the identification of suitable sites in the neighbourhood planning process and the inclusion of specialist accommodation on strategic sites,<sup>12</sup> and favours specialist housing for the elderly over conventional housing on unallocated sites.<sup>13</sup> Although extra care housing is referred to in the supporting text,<sup>14</sup> the SOLP does not prescribe particular levels of provision by type of accommodation, which allows flexibility in provision, adapting to what is an evolving sector. I note that no attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. No quantum for extra care accommodation is set out in the SOLP. Although Table 4f of the SOLP shows an outstanding requirement for 96 units over the plan period for Sonning Common it makes no reference to the needs arising from within existing households arising from their ageing.
28. Quantification of the need for open market extra care housing is not straightforward, in part because whether an owner-occupier moves to extra care housing is ultimately a matter of choice, in part because there is no prescribed or generally accepted methodology. The Government very clearly supports the identification and provision of extra care accommodation as a recognised form of specialist accommodation for the elderly.<sup>15</sup> Moreover, it is important to bear in mind that the NPPF definition<sup>16</sup> of '**older people**' does not

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<sup>12</sup> See CD: C.4 Policy H13(2), (3)

<sup>13</sup> See CD: C.4 Policy H1(3)(ii)

<sup>14</sup> See CD: C.4 paragraph 4.70

<sup>15</sup> See paragraphs 59 and 61 of the NPPF

<sup>16</sup> See Annex 2

exclusively mean the very frail elderly rather it embraces a wide range of people in that category both in terms of a very wide age range and significant variation in issues surrounding matters like mobility and general health.

29. Within the PPG on 'Housing for older and disabled people' it states that:<sup>17</sup>

*"The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking"*

30. The Government plainly recognises that the need is 'critical' and the importance of 'choice' and addressing 'changing needs'. Offering greater choice means a greater range of options being offered to people in later life and that the range of options should at the very least include the categories the Government recognises in its guidance. This includes extra care. The PPG also advises what 'range of needs should be addressed'. It recognises the diverse range of needs that exists and states that:<sup>18</sup>

*"For plan-making purposes, strategic policy-making authorities will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people".*

31. Plainly, when compared with Government guidance, the development plan is left wanting in terms of addressing a need for extra care. There is no reference in Policy STRAT 1 to the PPG insofar as assessing the needs of older people. There is no reference in Policy STRAT 2 to the accommodation needs of those local residents who will make up more than a quarter of the total population of South Oxfordshire by 2035. Policy H13 in the SOLP expressly deals with specialist housing for older people. It covers all forms of specialist housing for older people, but it is completely generic as to provision. No attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. The needs of all older people are simply lumped together. Nor is there any engagement with the market constraints and viability considerations relating to specialist accommodation for older people evidenced by Mr Garside during the Inquiry.
32. Paragraph 3 of Policy H13 suggests that provision be made within strategic allocations. The strategic sites are mostly focused around Oxford or in the more northern part of the District. Only one such strategic site has planning permission – Wheatley Campus but no extra care is proposed. The Council want to see it on Ladygrove East. That is not a strategic allocation in the SOLP. But in any event the Council is seeking affordable extra care there and the developer (Bloor Homes) is resisting it. The Council conceded that the strategic sites do not really feature at all in its five-year housing land supply calculations. The Council also accepted that landowners and developers would achieve a better return if they build market houses.

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<sup>17</sup> See paragraph 001 Reference ID: 63-001-20190626

<sup>18</sup> See paragraph 003 Reference ID: 63-003-20190626

33. Reference is made to encouraging provision through the neighbourhood planning process.<sup>19</sup> However, without a more definitive district wide requirement it would be difficult for neighbourhood plan groups to assess the levels of provision required, which will vary; and neighbourhood plan groups generally lack the expertise to fully appreciate the requirements and the different housing models available and their viability and practicality.<sup>20</sup>
34. **The Appellant's primary evidence on need is given by** Mr Appleton, the principal author of two key publications in this area: *More Choice: Greater Voice (2008)*<sup>21</sup> and *Housing in Later Life (2012)*.<sup>22</sup> Both of these publications seek to address how best to quantify the need for specialist housing for the elderly. They advocate a method which is based on the population and other nationally available data to look at the characteristics of an LPA area.
35. The PPG highlights the need to begin with the age profile of the population. I note that the proportions of people aged 65 and over within South Oxfordshire District currently sits above the national average.<sup>23</sup> Furthermore, there is presently a population of 15,000 in South Oxfordshire District, who are aged 75 years or older which is forecast to increase to 21,100 by 2035.<sup>24</sup>
36. In terms of care needs, 4,019 people in this population have difficulty managing at least one mobility activity on their own at present, set to rise to 6,046 by 2035.<sup>25</sup> They are overwhelmingly owner occupiers, with 81.23% of people aged 75-84 and 75.25% aged 85 and over owning their own home compared with 13.74% and 17.42% respectively Council or social rented.<sup>26</sup> Importantly, South Oxfordshire sits significantly above the national trend toward owner occupation as the dominant tenure for older people.
37. For the Appellant it is argued that there is a significant under-supply of retirement housing for leasehold sale to respond to the levels of owner-occupation among older people in the District.<sup>27</sup> There is a total of approximately 1,641 units of specialist accommodation for older people. However, there is a very marked disparity in the availability of specialised housing for older homeowners compared with the supply available to older people in other tenures.<sup>28</sup> The current rate of provision favours those in tenures other than home ownership with nearly four times as many units available to them in sheltered, retirement and extra care housing than are currently available for their peers who are homeowners.<sup>29</sup> At present, it is submitted that there are 120 units of affordable extra care housing and 113 units of market extra care housing.<sup>30</sup>
38. Mr Appleton sets out a provision rate for private extra care of 30 per 1,000 of the 75 and over population in the District based on a total provision of 45 extra care units per 1,000 (4.5%) across both the affordable and private sectors, but split on a ratio of one third for social rented and two thirds for

<sup>19</sup> See CD: C.4 Policy H13 paragraph 2

<sup>20</sup> POE of Simon James paragraph 5.1.11

<sup>21</sup> CD: K.44

<sup>22</sup> CD: K.45

<sup>23</sup> See APP 2.3 Nigel Appleton Section 6

<sup>24</sup> See APP 2.3 Nigel Appleton Table One

<sup>25</sup> See APP 2.3 Nigel Appleton Table Five

<sup>26</sup> See APP 2.3 Nigel Appleton Table Twelve

<sup>27</sup> See APP 2.3 Nigel Appleton paragraph 9.2

<sup>28</sup> See APP 2.3 Nigel Appleton Table Fourteen

<sup>29</sup> See APP 2.3 Nigel Appleton paragraphs 9.7-9.9

<sup>30</sup> See APP 2.3 Nigel Appleton Table Fourteen

sale. This takes into consideration the research in "**More Choice: Greater Voice**" and revisions in "*Housing in Later Life*". I note that the 45 units per 1,000 is to be divided as suggested in order to bring supply into closer alignment with tenure choice among older people.<sup>31</sup> That is 450 units now. Projecting forward, an indicative provision of 633 units of market extra care would be required by 2035.<sup>32</sup> The Council refers to the **Oxfordshire's Market Position Statement**<sup>33</sup> which assumes a lower need figure for extra care housing but the focus there appears to be on social rented extra care housing. The Council also suggests that the SHMA<sup>34</sup> evidence is to be preferred. However, I note that it does not identify figures for extra care, nor does it relate to the present PPG.<sup>35</sup> In my view, **Mr Appleton's** provision rate is preferred and the need for more private extra care is overwhelming.

39. At present even a very modest level of provision of 30 units per 1,000 in the 75 and over population seems unlikely in South Oxfordshire District, especially as the SOLP now requires affordable housing to be provided, when previously it was not required. No other extra care market proposals are coming forward. The Rectory Homes proposal at Thame, refused on appeal for not providing an affordable contribution has been resubmitted but the s106 Agreement is not signed. Nor is Rectory Homes Ltd a provider of care.
40. In my view, there is a strong case that **Mr Appleton's** 45 per 1,000 overall, with 30 per 1,000 to market extra care, should be far more ambitious given not only the true tenure split in the District but also what it could mean for the ability to contribute towards addressing the housing crisis. Mrs Smith conceded that the figure of 30 per 1,000 was hardly ambitious and, if anything, was underplaying the scale of the potential need.
41. Turning to supply, with only 113 units of market extra care units of extra care housing existing in South Oxfordshire and a current need of 450 units this leaves a shortfall of 337. As to the existing pipeline, Mr Appleton analysed the same at Figure Two of his Needs Report, which was updated at INQ APP12. The total 'pipeline' supply of extra care not already included in **Mr Appleton's** tabulation of current supply are the proposed 110 units in Didcot and Wallingford, and the 65 units proposed at Lower Shiplake. This gives a total gain of 175 units. However, both Wallingford and Didcot sites have been confirmed as affordable extra care. The Council did not dispute the 175 figure and Mrs Smith accepted that she did not know if the 110 units in Didcot and Wallingford would be affordable or market. I consider that only 65 units can reasonably be considered as pipeline.
42. The pipeline needs to be set against the current shortfall of 337 which still leaves 162 units even if Didcot and Wallingford are included and 272 if they are not. That is a substantial unmet need now which will only further climb and in respect of which there is nothing in the pipeline and no prospect of any strategic allocated site delivering in the five year housing land supply.
43. There is plainly a very limited supply of extra care housing for market sale (leasehold) in South Oxfordshire. Adding further concern, it is of note that

<sup>31</sup> See APP 2.3 Nigel Appleton paragraph 11.6

<sup>32</sup> See APP 2.3 Nigel Appleton Table Seventeen

<sup>33</sup> See CD: K.27 Market Position Statement for Oxfordshire in relation to Care Provision and Extra Care Housing Supplement assumes a need for 25 units of extra care housing for every 1,000 of the population aged 75+ page 9

<sup>34</sup> See CD: 14 HOUS5 Oxfordshire Strategic Housing Market Assessment April 2014

<sup>35</sup> Ibid

from 2012 to date just 133 units have been delivered despite there being in the same period permissions for a net gain of 447 additional Care Home beds. This runs completely contrary to the policy set out in the Market Position Statement of reducing reliance on Care Home beds and increasing capacity in extra care. The case for more market extra care provision now is very clear. Furthermore, the need is set only to grow.

44. **The Council sought to undermine the Appellant's need case with reference to** earlier data from Housing LIN and the @SHOP tool. This on-line tool is highlighted in the PPG as a basis for calculating need. But the fact is it only provides a figure based on existing prevalence and then seeks to project that forward with a proportion increase based on the increase in the 75+ age group in the District. This is not a measure of need.
45. The Council provided a list of specialist accommodation for older people<sup>36</sup> most of which is not market extra care, but mostly affordable extra care. Oxfordshire County Council has two sites with market extra care, but those schemes are in Banbury and Witney and not in the District.<sup>37</sup> In short, the pipeline adds up to very little. I consider there is hardly any market extra care housing in the District. The stark fact is that choice is largely unavailable.

#### *Policy Compliance*

46. Plainly the proposed development would make a substantial contribution toward the provision of a more adequate level of provision for older homeowners looking for an environment in which their changing needs could be met. The fact that the need is proposed to be met at Sonning Common seems entirely appropriate. Sonning Common is one of just 12 larger villages where a need for extra care provision has been identified in the SCNP, and where there is the oldest 65 and over population in the County. The SCNP expresses support for a small scale development of extra care housing in Policy H2a but no site is allocated for such use. The Sonning Common Parish Council (SCPC) accepted that SCNP policies referred to in the RFR are out of date due to a lack of five year housing land supply. That includes Policies ENV1, ENV2 and H1, which is only expressed as a minimum.
47. Policy H13 (1) in the SOLP gives support to extra care on unallocated sites. This adds to the weight that can be given to the need case. Policy H13 is the key policy in respect of specialist accommodation for older people. Though the appeal site is not a strategic site, nor allocated in the SCNP, Policy H13 does not itself require it to be. I have already discussed the difficulties associated with any of the strategic sites coming forward with market extra care either within the five year housing land supply period or at all.
48. Policy H13 (1) is clear that encouragement will be given to developments in **locations "with good access to public transport and local facilities."** The Council accepted that public transport for staff on the site would be more likely to take the form of bus services and they would perhaps have no difficulty walking. For residents there is a choice and it depends on their mobility. I saw that most of the site is flat. It does have a gradual gradient to the west then a steeper gradient close to Widmore Lane. The presence of a hairpin in the proposed design is to deal with the gradient which requires a

<sup>36</sup> See Nicola Smith's Appendix 1

<sup>37</sup> CD: K.27 page 5



longer path to accommodate people with disabilities. I note that a minibus service is proposed which would take residents to the local supermarket. With regard to other trips, for example to the post office or to other facilities, residents could walk or take the minibus. Importantly, the core building has all facilities centrally. Residents could cook in their premises and meals would be provided on site. There would also be a small convenience shop on site and staff would be on hand to not only care for but also to assist people. Garden maintenance would be provided and there would be a wellbeing centre to help **people's health and fitness**. Overall, the facilities would take care of a considerable amount of day-to-day needs. In my view all of this would comprise "**good access to public transport and local facilities.**"

49. With regard to matters of principle I accept that Policies ENV1 and STRAT 1 (ix) of the SOLP affords protection to the AONB and in the case of major development, it will only be permitted in exceptional circumstances and where it can be demonstrated to be in the public interest. I give these matters detailed consideration in other issues. The proposal fully accords with Policy H1 3ii) of the SOLP. With regard to Policy H4 of the SOLP, although the timeframe for review of the SCNP does not run out until December 2021 that does not bring the SCNP back into date. Whilst the review of the SCNP has commenced, it is at its earliest stage and no weight can be given to it. I conclude on the first issue that the appeal proposal would conflict with some but would comply with other elements of **the Council's strategy for the** delivery of older persons accommodation throughout the district.

*Second issue - the impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common*

50. SoCG 1 Landscape has been agreed between the parties and addresses landscape and visual matters. The appeal site is within the Chilterns AONB which is a '**valued landscape**' in respect of **paragraph 170 of the NPPF**. The Chilterns AONB Management Plan 2019-2024<sup>38</sup> defines the 'special qualities' of the AONB and the most relevant to the appeal site and its context are summarised at paragraph 3.5 of SoCG 1.
51. In essence, the Council, supported by the SCPC, the Chilterns Conservation Board and others, consider that the proposed development would create a prominent and incongruous intrusion **into Sonning Common's valued rural** setting, relate poorly to the village, and cause material harm to the landscape character of the AONB. It is also claimed that the proposal would not conserve or enhance the landscape and scenic beauty of the AONB and would fail to protect its special qualities.<sup>39</sup> The policy context at the time of the decision notice referenced policies in the South Oxfordshire Local Plan 2011 which is now superseded by the adopted policies in the SOLP.<sup>40</sup> Policies ENV1 and ENV2 of the SCNP are also relevant. I note the illustrative Masterplan,<sup>41</sup> the LVIA and the Landscape Appendix<sup>42</sup> submitted by the Appellant.

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<sup>38</sup> CD: F4 pages 10 and 11

<sup>39</sup> See RfR 2

<sup>40</sup> See LPA INQ6 which sets out the relevant SOLP policies including STRAT1 (ix), ENV1 and ENV5 and Design policies DES1, DES2, DES3 and DES5

<sup>41</sup> See Appendix 4.3.1 of James Atkin Drawing reference 1618\_L\_01\_01 Rev3

<sup>42</sup> CD: A.9 and CD A.10 **Landscape and Visual Impact Assessment and Landscape Appendix**

52. To address these points, it is necessary to understand what the special qualities of the Chilterns AONB are and the extent to which those special qualities relate to the appeal site and its context. From the evidence that is before me and from my site visit, I do not consider the appeal site or its local landscape context to be representative of the special qualities as set out in the Chilterns AONB Management Plan. Where the appeal site does exhibit some such qualities, they are generic. In all other respects, they are entirely absent.
53. Planning policy and statute give equal protection to all parts of the AONB. However, it would be unrealistic to expect the appeal site and its immediate context to share all or even most of these special qualities. It is important to have a balanced interpretation of how such special qualities relate. To that **end, Mr Atkin's Table 1**<sup>43</sup> summarises that relationship, drawing together judgements on the landscape and the extent to which the appeal site is characteristic, or otherwise, of the AONB. **In summary, Mr Atkin's analysis** demonstrates that the appeal site does not reflect the majority of the special qualities and, where there is a connection, the association is limited. It seems to me that the appeal site is more typical of an agricultural landscape that is commonplace around many settlement fringes. Plainly the appeal site and its local landscape context is less sensitive than other parts of the AONB.
54. The core characteristic of the appeal site and its context, and the most relevant of the special qualities to it, is the extensive mosaic of farmland with tree and woodland cover. However, this is probably the broadest and most **generic of the special qualities acting as a 'catch all' for the extensive areas of farmland** across the area. Other parts of the AONB are more distinct. The ancient woodland of Slade's Wood is located off site, outside of the AONB designation, though it does form part of its setting. As to extensive common land, this is not representative of the appeal site. In its local landscape context, Widmore Pond is designated as common land but is not an **'extensive' area contrasting with other parts of the AONB.**
55. At my site visit I saw that the appeal site, being directly adjacent to the relatively modern settlement fringe of Sonning Common, detracts from any potential tranquillity. This is particularly so due to the neighbouring JMTC complex and associated car parking. It is common ground that the JMTC is 'institutional in scale'. In terms of ancient routes, there is no formal access to the appeal site. In the local landscape context, the closest rights of way are the public footpaths to the north-west and east both of which give access to the wider landscape to the north and east of Sonning Common where the characteristics of the AONB are more readily apparent.
56. The Council agreed that new development can be accommodated in the AONB and as a matter of principle can be an integral component. Indeed, the SCNP allocates development within its boundaries. I saw that the AONB in this location already contains a significant amount of built development. That contrasts significantly with the deep, rural area of countryside within the AONB some of which is located to the north east of the appeal site where the road turns east down the valley bottom heading to Henley-on-Thames. There, there is no settlement or village, no industrial buildings or surface car parks

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<sup>43</sup> See James Atkin's Appendix 4.1 pages 18-20

with 100 plus spaces. It is simply deep countryside with very limited urban development and is very attractive. That cannot be said about the appeal site.

57. Having considered how the special qualities of the AONB relate to the appeal site, I now consider the landscape character of it. The appeal site is partly located on an area of plateau between two valleys, within a landscape identified in the South Oxfordshire Landscape Character Assessment (2017)<sup>44</sup> as semi-enclosed dip slope, which in turn forms part of the broader Chilterns Plateau with Valleys Landscape Character Area (LCA10). The eastern part of the site is located above the 95m contour on the plateau area.<sup>45</sup> The southern and western parts of the site fall towards a shallow valley which contains neighbouring parts of Sonning Common. At a further distance to the north is a deeper valley which separates Sonning Common from Rotherfield Peppard.
58. The Landscape Assessment for the Local Plan 2033 for the semi enclosed dip slope LCT states:

*"...this part of the Chilterns dip slope has a surprisingly uniform character, despite its irregular pattern of plateaux and valleys and its mosaic of farmland and woodland. This complexity is a consistent and distinctive feature of the area, and the most obvious differences in landscape character are between the very intimate, enclosed wooded landscapes and those which have a more open structure and character."*

It is clear to me that there is a difference between the parts of the AONB in the dry valley and those on the plateaus.

59. What is distinctive about this part of the landscape and relevant to the landscape of the appeal site and its context is the uniformity across a larger scale area of the landscape characterised by a complex mosaic of farmland and woodland. It is this complex mosaic at the larger scale which is more closely aligned with the special qualities of the Chilterns AONB and not the **appeal site itself. It isn't the loss of a part of this mosaic that is important**, which in the case of the appeal site would be a relatively small agricultural piece of the mosaic; rather, it is the implications for the wider mosaic and whether that would be disrupted in terms of a reduction of its scale, or would result in the creation of a disbalance between particular parts of the mosaic.
60. SCPC referred to the Sonning Common Character Assessment and Design Statement 2013.<sup>46</sup> I accept that this formed part of the evidence base to the SCNP, but it appears to still be in draft form only many years later. Its main purpose was to provide comparative comment on sites identified for potential future development limited to only the shortlisted sites. It does not address the wider appeal site. I have also taken into account the Oxfordshire Historic Landscape Characterisation Project<sup>47</sup> and the various landscape capacity assessments cited by Mr Jeffcock that have looked at the appeal site.
61. As I perceive it, Sonning Common is very much part of the local landscape context, just as much as the adjacent agricultural land and the wider mosaic of the AONB. The appeal site performs a role of a brief transition and gateway between the suburban and rural environments. In its local context, the settlement fringes of Sonning Common, including the residential areas across the valley and on the plateau to the west and south are influential in terms of

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<sup>44</sup> CD: D.23, section 15.

<sup>45</sup> See John Jeffcock's Appendix 1, Figs 2, 7, 8

<sup>46</sup> CD: C.7

<sup>47</sup> CD: I.5

the local landscape character, as is the prominent built form of the JMTC to the north. Adjacent to the appeal site is the JMTC car park which further erodes **the sense of more 'remote' or rural countryside. To the south the** settlement extends some distance along Peppard Road and there is a clear experience of entering the suburban character of the village, long before the appeal site is perceptible. There are specific locations where the settlement edge is less apparent notably along Blounts Court Road from the east and in this direction the more rural aspect of the site is more dominant.

62. **The Council's LCA draws a very clear distinction between the character of** development on the plateau and the character found in the dry valleys.<sup>48</sup> The landscape strategy set out there suggests that development on the plateau is in keeping whereas into the valley is a negative thing. It seems clear to me that Sonning Common has grown up developmentally on two plateaus either side of the dry valley.
63. It is common ground that, like any development anywhere, physical impacts on the landscape fabric will be limited to those which occur within the appeal site itself. However, landscape character impacts and the consequent effects would not be limited to the appeal site. It is agreed that there are not likely to be significant effects on the wider landscape or visual effects further afield than a localised area set out in the SoCG 1.<sup>49</sup>
64. Although there would be localised losses of vegetation due to the access off Blounts Court Road and the proposed pedestrian connection to Widmore Lane, the proposed development would largely involve the loss of open agricultural land and the construction in its place the built development of the appeal proposals. On the most elevated part of the site, there would be a substantial, cruciform core building, 2.5 storeys (about 11.2m)<sup>50</sup> in height, with a footprint of approximately 3,900m<sup>2</sup>, and four apartment blocks with ridge heights of between 10.3m and 11.2m, the largest two of which would have footprints of about 550m<sup>2</sup> each. However, the recent application submitted for the JMTC shows that the present buildings making up the complex are between 8.7m and 10.6m depending on ground levels with block 4 up to nearly 11m in height. I accept that there would be a physical loss to the mosaic, but in character terms, the appeal site is not essential to its character and the built elements of the scheme would be consistent with the settlement fringe.
65. There would be potential impacts arising from the 15m woodland belt along the southern and eastern edges of the appeal site. This would be beneficial in terms of moderating the effect of the development. It would also provide a green infrastructure link between Slade's Wood and the green infrastructure network in the surrounding landscape. This would have a positive impact on the 'wooded' aspects of the mosaic. The woodland belt would create a further **'layer' in the landscape which** would physically and visually contain the site.
66. The overall consequence of this is that there will be a highly localised impact **on the 'mosaic' in terms of agricultural** land use, but not to a point where, given the scale of what makes this distinct, the mosaic is disrupted or undermined. At a local and wider scale, this would not constitute 'harm' to the Chilterns AONB. Only a small part of the mosaic would be impacted, and this

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<sup>48</sup> CD: D18 page 572 which deals with Sonning Common at 9.10

<sup>49</sup> CD: H.02 SoCG 1 Landscape paragraphs 3.21-3.22

<sup>50</sup> See John Jeffcock's POE paragraph 4.3.3.

would not alter the overall character of the wider mosaic or the LCT. Plainly such limited impacts would **not cause 'material harm' to the landscape** character of the AONB, nor would it conflict with the aims of protecting its special qualities. The appeal site would, in being development on a plateau, be in keeping with the landscape character.

67. I accept that the appeal site and the immediate landscape context within the Chilterns AONB form part of a valued landscape<sup>51</sup> this is primarily on the basis of the landscape designation and related less to the demonstrable physical attributes of the appeal site.<sup>52</sup> **Although the Appellant's LVIA determines landscape value to be 'high' with some localised variations, I consider that the appeal site in its local landscape context is of 'medium to high' value taking into consideration that it is in the AONB but also the site's own merits.** There is, frankly, a considerable difference between this area and more typical, characteristic parts of the AONB.
68. As to landscape susceptibility, this can be appropriately described as 'low to **medium' in the appeal site's local landscape.** This is a medium scale enclosure that has capacity to accommodate some form of development across the majority of the site. The settlement of Sonning Common provides some reference and context for development and the presence of the JMTC in this part of the AONB reduces landscape susceptibility to new development. The **landscape sensitivity is appropriately judged as 'medium' with the AONB** designation having a high sensitivity. Mr Jeffcock considers that the appeal site has a high landscape value and high sensitivity to change. However, his assessment is overstated. In my view the appeal site has a medium to high value, and low to medium susceptibility with medium sensitivity overall.
69. The appeal site is located on the very fringe of the AONB, and Sonning Common is excluded from it. This is not a core part of the Chilterns AONB and its special qualities are largely absent. Of relevance is the mosaic of wooded farmland that characterises much of the plateau and dip slope. The appeal proposals would result in a change to this characteristic at a very localised level, with the loss of an open agricultural field to built development but balanced with the introduction of further woodland and green infrastructure. This would not disrupt, or unduly influence, the mosaic. I agree that the **'slight to moderate adverse' effect on landscape character** would not represent a significant impact in respect of the Chilterns AONB.<sup>53</sup>
70. As for visual effects, these would differ depending on the viewer and the viewpoint. The landscape witnesses provided a number of example viewpoints and I carried out an extensive site visit with the parties to see these and other views for myself. I have also taken into account the ZTV<sup>54</sup> and LVIA information provided by the Appellant.
71. SoCG 1 Landscape records that the physical impacts of the proposed development would be limited to the appeal site, and that consequent impacts on landscape character would be limited to a relatively small number of areas including viewpoints to the south (the route of the B481 Peppard Road); to the south west (Sonning Common village e.g. Grove Road); to the north

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<sup>51</sup> Within the meaning of paragraph 170(a) of the NPPF

<sup>52</sup> See James Atkin's Table 2 POE pages 27-28

<sup>53</sup> See James Atkin's POE page 33 paragraph 6.48

<sup>54</sup> Zone of theoretical visibility

(footpath 331/16/20) close to the southern edge of Rotherfield Peppard); to the west (the settlement edge of Sonning Common) and to the east and north east (the routes of public right of way 350/11/20 and 350/10/10). Outside of these areas it was agreed there would not likely be any significant effects on the wider landscape or on visual receptors further afield.<sup>55</sup>

72. In terms of visual amenity, the evidence demonstrates that potential views of the appeal proposals would be limited to a small envelope, largely related to the immediate context of the appeal site and not extending further into the Chilterns AONB landscape. This limited visibility reduces the perception of change to landscape character. The ZTV demonstrates that, aside from some locations very close to, or immediately adjacent to the appeal site, potential visibility from the wider landscape (and AONB) is limited. In my view this accords with **the landscape character guidance which refers to the 'semi-enclosed dip slope' as having a 'strong structure of woods and hedgerows' which provide 'visual containment and results in moderate to low intervisibility'**. This strong structure of woods and hedgerows provides containment in the landscape.
73. What is clear, is that only a small number of nearby locations would have direct views of the appeal proposals. This includes a very short section of Peppard Road, short sections of public footpaths to the east (350/11/20 and 350/11/40) and the approach to the settlement along Blounts Court Road. In each of these instances, impacts could be moderated by appropriate landscape works and particularly the inclusion of the woodland belt. The contained nature of the appeal site and the limited extent of landscape effects mean that the overall character of the semi-enclosed dip slope LCT would not be fundamentally altered and the effects on landscape character at this scale would not be significant. Plainly, the appeal proposals would not give rise to significant visual effects overall; either in the local landscape context of Sonning Common or in respect of the scenic quality of the Chilterns AONB.
74. **The most relevant assessment is that of 'Year 15' once the tree planting proposals have had the opportunity to thrive.** Those proposals are a specific and positive part of the proposed development which would deliver additional environmental functions to that of visual screening. It is common ground that the planting would be significant. It is reasonable to expect that the growth of native species would reach good heights in the medium term and mature heights that are comparable to the existing trees and woodland in the area. There would be glimpses of the built development through the perimeter planting. However, it would provide a substantial screen in the long term and help to integrate the appeal proposals into the landscape particularly when viewed from the east and from the south.
75. For the above reasons I conclude on this issue that the proposed development would have some localised landscape and visual effects, but these would not result in unacceptable impacts on the AONB or the landscape setting of Sonning Common. As such, in respect of this issue I consider the appeal proposal would conflict with Policies STRAT 1 (ix) and ENV1 of the SOLP together with Policy ENV1 of the SCNP. However, for the reasons set out above those adverse effects would be limited. I shall consider this further in the planning balance.

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<sup>55</sup> CD: H.2 SoCG 1 Landscape paragraphs 3.21-3.22

*Third Issue - the effect of the design of the proposed development on the character and appearance of the village*

76. **The Council's concerns about the** design of the proposed development are based on RfR4 and are supported by the SCPC. In summary these are: (i) the development would not integrate with the village by reason of scale, massing, layout and character; (ii) it would result in a dominant and intrusive form of development having a significant urbanising effect on the settlement edge; and (iii) the layout and design would result in poor amenity for residents by virtue of the lack of access to private amenity space and publicly accessible green space, an overdominance of car parking and limited space for tree planting. I address each of these concerns in turn.
77. The main parties agreed a section on design within SoCG 4 Planning.<sup>56</sup> Amongst other matters it is agreed that: the detailed layout (Phase 1) is the proposed layout for that part of the site; the proposed masterplan is provided to demonstrate how the development could be laid out to respond to the physical and technical constraints and opportunities of the site; the layout for Phase 2 will be subject to future reserved matters (appearance, landscaping, **layout and scale**) and remain in the Council's control; the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed; and the extent of existing tree retention and the selection of proposed plant species, grass, hedge and shrub planting is agreed.
78. It is also noteworthy that policies within RfR4 relate in the main to the previous South Oxfordshire Core Strategy 2012 and South Oxfordshire Local Plan 2011. The corresponding policies are set out at INQ LPA6. Policy D1 of the SCNP 2016, the South Oxfordshire Design Guide<sup>57</sup> and the NPPF (in particular paragraphs 127, 130 and 131) also apply.
79. I turn first to integration with the village in terms of scale, massing, layout and character. The Council and the SCPC are concerned that the scale and layout of the proposed development are being driven by operational requirements and the business model of the Appellant. Reference is made to the large apartment blocks and the village core which it is claimed are at odds with the more modest scale of development in Sonning Common. However, I consider it is important at the outset to understand the existing context and character of Sonning Common. At my site visit I saw that Sonning Common is not the archetypal Chilterns Village, and it clearly lies outside the AONB. It **was developed in a more planned manner with the character being 'plotlands' and later infill housing termed 'estates'**.
80. The local vernacular consists of a mix of building types, but the immediate neighbouring existing development is comprised of the estates typology - Churchill Crescent, Pond End Road and the northern edge of Widmore Lane. The existing context has a range of design components that help create its character. In particular, I note that Sonning Common: is primarily 2 storeys but with elements of 2.5 storeys; is primarily domestic in scale; has predominantly traditional architecture; is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape; and has occasional larger built form such as the school or JMTC. Furthermore,

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<sup>56</sup> CD: H.5 SoCG 4 Planning Section 6

<sup>57</sup> CD: C.8

Sonning Common has: brick walls; painted rendering on walls; clay roof tiles; chimneys; and a mix of gables, hipped roofs and porches.

81. The Design and Access Statement (DAS)<sup>58</sup> describes the appeal proposals as domestic in scale and character. I accept that the scheme is largely domestic in form and with detailing consistent with residential houses in the area.
82. In terms of *height*, the proposed buildings would reflect the heights of buildings within Sonning Common. Both plotlands and estate buildings include two storey buildings and two storey buildings with roof rooms. The proposed apartment buildings would be two storeys with the Village Core rising to two and a half storeys in places. The Village Core has accommodation in the roof space to keep the overall ridge height low. The height to the ridgeline from ground level of the Village Core Centre building is up to 2.5 storeys dropping to single storey on the eastern side. This must be seen in the context of the height of the adjacent JMTC, typically equivalent to 3 storeys, and groups of 2.5 storey dwellings on the northern side of Blounts Court Road to the west of the site. Most of the proposed development would be two storeys in height as is the overwhelming majority of built development in Sonning Common.
83. As to *massing*, the initial indicative sketch elevation demonstrates that the apartments and the Village Core would have the appearance of semi-detached buildings or groups of buildings combined into short terraces with a varying roofline which are reflective of the existing residential buildings in Sonning Common.<sup>59</sup> The massing of the apartments is derived from a variety of footprint depths which, when formed into larger blocks, allows for the scale and mass to be broken down into roof elements with simple breaks in the roofline. Appropriate equal roof pitches would give each apartment building an elegant scale. There would be elements of hipped roofs, and chimneys incorporated into the roof plane. The apartment buildings would have balconies, single and double gables further breaking down the overall mass. The Village Core would have accommodation in the roof space and the roof planes would be broken down with larger single gables, smaller double gables with a central gutter and small dormer windows.
84. In my view the *layout* of the proposed development would reflect the way **existing 'plotlands' and 'estates' buildings in Sonning Common are** orientated, with the arrangement of buildings fronting the main vehicular route with active frontages. A number of apartments would be arranged around the Village Core. Buildings fronting Blounts Court Road would be positioned so that they would replicate the linear street scenes typical of development within Sonning Common.<sup>60</sup> I note that the proposed building line would be setback some 15m-20m from the road edge to retain an element of openness along the streetscape allowing boundaries to be defined by planting and hard landscaping. This would reflect the layout of the 'plotlands' buildings within Sonning Common. Buildings along the main access route and internal streets would similarly front the street with setbacks from 6m-15m allowing boundaries to be defined by planting and hard landscaping. The setback for 'estate' residential buildings ranges from about 4m-14m. In my view, the proposals would be in a similar range.

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<sup>58</sup> CD: A.31

<sup>59</sup> See Mr Carr's Appendix UD4

<sup>60</sup> See CD: C7 Sonning Common Character Assessment and Design Statement



85. The Council and SCPC argued that the appeal proposal could be smaller in scale. However, it was accepted that greater economies in scale could be achieved with larger retirement village developments with extensive communal facilities. It is noteworthy that the Appellant is proposing a development which is half the size of the optimum.<sup>61</sup>
86. With regard to *character* it is clear that the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed, as recorded in the SoCG 4. In any event, the proposed development would accord with the local vernacular which consists of a mix of building types found within the key character areas. In summary, Sonning Common has predominantly traditional architecture and the proposed development would have traditional architectural detailing; it is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape and the proposed development would have similarly substantial planting in the streetscape as well as proposed and existing large scale tree planting creating a tree lined backdrop. Sonning Common has also occasional larger built form such as the school or JMTC and the proposed development has a Village Core.
87. It is fair to say that Sonning Common has an eclectic architecture which is quite conventionally suburban. There is a significant amount of 1970s housing. It has a fairly bland architecture, evidenced by the images in the Sonning Common Character Assessment and Design Statement.<sup>62</sup> Given that the site is within the Chilterns AONB, the design should not just duplicate Sonning Common, but use materials such as flint panels and dark stained boarding and design components that respond to the AONB setting.
88. In my view, the architecture would reflect a varied composition with gables, projections and porches. The proposed elevations would respect the traditional patterns, style and scale of buildings and the fenestration would be inspired by traditional Chiltern building with a solid wall area balanced with the window and door openings, relatively pitched roofs with a ridgeline, use of 'L' and 'T' building shapes, chimneys and prominent flint panels.
89. It is clear to me that the proposed new buildings would plainly add to the sense of place and local character **and would 'belong' to the Chilterns**. The proposed development would also create a soft edge to the countryside<sup>63</sup> and would not 'turn its back' on it; particularly given the lack of any rear garden fences defining the edge of the settlement.
90. I recognise that this is a hybrid application and there is therefore an outline element to the proposals. However, to demonstrate their commitment to provide the same level of detailing and materials as presently indicated, the Appellant has produced a Design Commitment Statement.<sup>64</sup> Importantly, this could be conditioned to provide reassurance and an additional way of ensuring that the future reserved matters keep to the quality required in this setting.
91. The Council contended that the proposal would be a dominant and intrusive form of development and it would have an urbanising effect on the settlement edge. I disagree. The apartments and cottages proposed as part of the appeal scheme would be largely consistent with a domestic form and would be very

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<sup>61</sup> See INQ LPA 2 page 13.

<sup>62</sup> See CD: C7 page 16

<sup>63</sup> See CD: K4 Chilterns Building Design Guide principle item 3.16 page 25

<sup>64</sup> See Mr Carr's Appendix UD7

similar in size and form to houses in Sonning Common and the wider AONB. It is logical to site the Village Core building where it is, on a predominately level area, avoiding any large man-made cuttings and embankments to facilitate it. Plainly having the core building on a level area is appropriate for residents in their later years of life who would want facilities to be very easy to access.

92. The NPPF emphasises the importance of making efficient use of land.<sup>65</sup> Clearly where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. I accept that it is imperative that sites such as the appeal site are optimised when developed. However, optimising does not mean fitting in as much as you can regardless, but it does mean using land efficiently. As this would be an apartment based development then I accept that it would have a greater density than a conventional residential scheme.
93. The Council argued that the proposal would have an urbanising effect. However, the proposed development would be very different to an urban character. There would be a significant landscape setting breaking up the built form and the countryside edge, when read in the context of the proposed planting, would be assimilated in townscape terms. Much has been made of the AONB designation in which the appeal site falls; but this does not mean preservation without any change. The proposed development would in many **ways be read as part of the evolution of the area's character.**<sup>66</sup> In my view the proposed development would create an appropriate designed edge to the settlement and an appropriate robust transition with a managed landscape that is a better edge than the back gardens adjoining the settlement boundary that can be found at the settlement edge around parts of Sonning Common.
94. **I turn now to the Council's concerns that the layout and design would result in** poor amenity for residents by virtue of a lack of access to private amenity space. It is common ground that in policy terms, there is no private amenity requirement prescribed for a retirement community care village. Nonetheless, the proposed development would provide a total of 1,300 msq of private amenity space<sup>67</sup> comprising: private balconies totalling 0.03 hectare; and directly accessible private landscape and terraces totalling 0.1 hectare.
95. Over and above the private amenity space there would be an extensive amount of publicly accessible green space provided. Again, I note that there is no policy requirement for a retirement community care village yet there would be: landscaped space amongst and between the built form (including foot and cycleways) totalling 1.7 hectares; and a native tree belt and woodland buffer totalling 1 hectare. Combined with the private amenity space there would be 2.83 hectares of amenity land which would be ample given that the site totals 4.5 hectares. That is 62.8% of the appeal site and equivalent to 212.78 msq for each of the 133 units.
96. All of the above is in the context of extra care developments being very different to general housing. I accept that residents do not want the work of managing their own garden. In my view, the layout of the development would

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<sup>65</sup> NPPF paragraph 123.

<sup>66</sup> See Michael Carr's POE paragraph 7.20

<sup>67</sup> See Appendix UD5 of Michael Carr's POE

be safe, attractive and inclusive with plenty of natural surveillance of the landscaped spaces which is important given the age restriction of the development and why people would choose to live there.

97. The appeal proposals include access to landscaped spaces and woodland opening up an area that would otherwise be inaccessible private land. This maximises the public benefit of the scheme and would positively contribute to the health and well-being of both residents and the community, to which weight is given in the NPPF as part of the social objective. The Council agreed that there may well be community integration and intergenerational activity through the facilities on site.
98. With regard to car parking, the appeal proposals have been designed to avoid what would otherwise be unplanned **'ad hoc' parking through a formal** provision. This is not in one place, rather the design would disperse the necessary parking across the proposed development in a series of clusters. These would be set back and visibly screened from the main routes through the development and would avoid harsh urban parking courts. The proposed 15m woodland belt is a relevant consideration. The proposed planting would buffer and screen views of parked cars and both soften and integrate the parking areas so that they are read as designed landscaped courts. The Council raised concerns about the space available for tree planting. However, in my view there would be ample space on site to accommodate the tree **planting the final details of which would be under the Council's control.**
99. Overall, I consider the proposal would be in broad accordance with the SOLP policies including DES1, DES2, DES3, DES4 and DES5, SCNP policies D1 and D1a and other design guidance and the NPPF. I conclude on the third issue there would be no reason to dismiss the appeal due to the effect of the design of the proposed development on the character and appearance of the village.

*Fourth Issue - whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development*

100. This issue relates to the absence of a completed s106 Agreement to secure infrastructure to meet the needs of the development. At the time of the decision, agreement could not be reached with the Council on the requirements for a planning obligation. Since then, agreement has been reached and a s106 Agreement was submitted at the Inquiry. I have considered the s106 Agreement in the light of the CIL Regulations 2010, as amended, the advice in the NPPF and the PPG.
101. The NPPF indicates that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.<sup>68</sup> Regulation 122 of the CIL Regulations, as amended by the 2011 and 2019 Regulations, and paragraph 56 of the NPPF make clear that Planning Obligations should only be sought where they meet all of the following three tests: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development.

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<sup>68</sup> NPPF paragraph 54

102. The **Council's need for additional infrastructure and services is set out in** relevant SOLP policies which include H9 Affordable housing; INF1 Infrastructure; DES 1 Delivering High Quality Development; TRANS2 Promoting Sustainable Transport and Accessibility; TRANS4: Transport Assessments, Transport Statements and Travel Plans; and TRANS5: Consideration of Development Proposals. The Council's **SPD (2016) is also** relevant. Based on the SPD and the relevant policies, the appeal proposal should provide: (i) a financial contribution towards local primary health care (£73,735); (ii) a recycling and waste contribution (£24,738); (iii) a street naming contribution (£2,977); (iv) a District S106 monitoring fee (£2,686); (v) an affordable housing contribution (£7,510,350); (vi) a public transport services contribution (£117,000); (vii) a travel plan monitoring contribution (£2,040); and (viii) a County S106 monitoring fee (£1,500).
103. The primary care contribution is directly related to the development because it results from the additional pressure on local health services as a result of the future residents. It is fair and reasonable as the amount has been calculated based on the number of future residents. The recycling and waste contribution is necessary for the development to be served by waste infrastructure and the calculation is directly related to the bins needed for this development. It is necessary for the development to be served by street naming plates and the calculation is directly related to the name plates needed for this development. The completion of a planning obligation requires the Council to administer and monitor those obligations. The monitoring fee contribution is necessary to **cover the Council's costs and is directly related to the nature of the obligation.**
104. The proposal will deliver affordable housing which is required under Policy H9 of the SOLP. It will do so via a contribution in lieu of on-site provision. The s106 Agreement secures the payment of £7,510,350 to be paid by the owners. A financial contribution towards off-site affordable housing is necessary to equate with a 40% affordable housing provision under Policy H9. It is directly related to the development and fairly and reasonably related in scale and kind. The financial contribution has been calculated based on the open market value of a unit to be delivered on the site.<sup>69</sup> The s106 Agreement requires the total affordable housing contribution to be used towards the provision of off-site affordable housing within the District.
105. The relevant policies which support the transport contributions are set out in the CIL Compliance Statement.<sup>70</sup> A contribution is required to provide an improved bus service (service 25) for residents, visitors and staff associated with the proposed development as an appropriate and viable alternative to the use of private cars and to promote travel by public transport. The contribution required would be used towards increasing the frequency of the existing service operating between Sonning Common and Reading to every 30 minutes between 0600 - 2030, Monday to Saturday and an hourly service in the evenings (up to 2300) and on Sundays (0800-1800). The contribution is directly related to the number of residential units but excludes the proposed 16 high care units, as these residents are unlikely to use public transport. A

<sup>69</sup> INQ LPA7 provides the methodology for the calculation of the commuted sums based on the open market value of a unit to be delivered on the site.

<sup>70</sup> INQ LPA7 NPPF paragraphs 102, 103, 108 and 111; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 1 Policy and Overall Strategy Updated 2016 Policy 3 and Policy 34; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 2 Bus & Rapid Transit Strategy (2016) paragraphs 91, 93-95.

travel plan monitoring fee is required to monitor the implementation of the travel plan and an administration and monitoring fee is required to monitor the planning obligation.

106. In my view, all of the obligations in the Planning Obligation are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision. I conclude on the fourth issue that the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.

*Fifth Issue - whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB*

107. There is no dispute that the appeal scheme would be a major development in the AONB. The tests relating to allowing such development are set out clearly in paragraph 172 of the NPPF. The relevant factors which must be considered are then listed in paragraph 172 a) to c) but it is not an exhaustive list. Great weight must be given to conserving and enhancing landscape and scenic beauty in AONBs and planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

*The need for the development and the impact on the local economy*

108. I have already discussed the need for the development in detail under the first issue. That discussion is not repeated in detail here, but it is plainly relevant to paragraph 172 a) of the NPPF. There is an immediate unmet need for extra care market housing. This arises not from some ambitious target for extra care. The target for need suggested by Mr Appleton is in fact very modest. It is just 4.5% of the **District's population of people 75 years of age and over**. It arises because there is hardly any of it available. There are only two schemes which have been built offering 113 units. The only future supply which is available is the market extra care that would be provided at Lower Shiplake for 65 units. Retirement Villages has now sold that site and want a larger site. Whether the Lower Shiplake scheme gets built is therefore uncertain. But even with it the supply of extra care that is available is only 178 units.
109. This against a need, based on a modest aspiration of 4.5% - that is 450 units across the whole District for an overall population of 15,000 in this age category, gives rise to an immediate shortfall of 272. The figure is 337 if the Lower Shiplake proposal is excluded. The stark fact is there is hardly any choice or to put it another way choice is largely unavailable.
110. I am in no doubt that the development of 133 units is needed. Firstly, it is needed to address the immediate shortfall in the five year housing land supply in the District which is only equivalent to some 4.21 years. Secondly, it is needed in this District where at present a population of 15,000 who are aged 75 years or older is forecast to increase to 21,100 by 2035. The demographic evidence indicates a 'critical' need for extra care housing in the District. In this case, the proposed development should be of sufficient size to support the communal facilities that are necessary to ensure an effective operation.

111. Thirdly, it is important to recognise the fact that extra care accommodation, together with all other forms of specialist housing for older people can assist in 'freeing up' existing family and other housing by allowing them to 'right size' by moving to more appropriate accommodation. This type of specialist housing could significantly contribute towards the easing of the present housing crisis in this District where under occupancy amongst older households is greater than for England as a whole. The sale of the 133 units in the appeal proposals would release 133 family houses of three bedrooms or more.<sup>71</sup> The appeal scheme would be likely to free up 39 family dwellings locally but it could be as high as 64.<sup>72</sup> Significant weight can be given to this.
112. Fourthly, the health and well-being benefits of the appeal proposal should also be recognised and given significant weight. Such benefits to elderly people are entirely obvious. I accept that such health and care benefits apply and also that they are separate from housing delivery. The benefits specialist housing for older people can bring include addressing concerns about suitable supervision, frailty, care, assistance, recreation, loneliness and isolation.
113. I do not consider the impact of refusing the proposed development would be seriously damaging to the local economy, there is no clear evidence to that effect. There is no requirement that has to be demonstrated. However, I do accept that the proposal would deliver economic benefits to the local economy and jobs as well.<sup>73</sup> The Appellant has also proposed a local employment and procurement condition which I accept is plainly relevant.<sup>74</sup> I am satisfied that there is a need for the development and that it is in the public interest.

*The cost and scope of developing elsewhere or meeting the need in another way*

114. With regard to paragraph 172 b) of the NPPF, **the Council's case is that with** Policy H1 and H13 the need for specialised housing for the elderly can be met outside of the AONB. The Council **refers to the Oxford County Council's Market** Position Statement Extra Care Housing Supplement 2019-2022 and to the SHMA. However, the Council does not quantify a need for extra care, albeit the SHMA does recognize it as a category of need and distinguishes between market and affordable extra care housing.<sup>75</sup> The Council also suggests that **the need can be met in people's homes** and that needs can be met by 2035. In my view, there is a specific need for extra care provision and market extra care housing. The needs which have been identified are modest and the idea that they be met at home is misplaced. The most relevant need is the immediate need and **Mr Appleton's** evidence demonstrates what this is.
115. I note that at both the application and appeal stages the Appellant relied upon a sequential assessment of alternative sites to show a lack of suitable sites. The Council questioned this assessment but never really suggested any alternative sites. At the Inquiry reference was made to 8 extra care sites in **Mrs Smith's Appendix 1. However,** all of those sites have been addressed by Mr Appleton and that information was updated during the Inquiry to reveal that there were no sites with planning permission in the pipeline other than

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<sup>71</sup> Paragraph 6.24 of Roland Bolton's POE

<sup>72</sup> Paragraph 6.27 of Roland Bolton's POE

<sup>73</sup> See CD: A.6 Economic Benefits Assessment Report, it is calculated that operation of the site would provide up to circa 70 jobs (FTE). This does not include construction jobs, which are assessed to be of the order of 108 over a period of 4 years, although in practice this maybe higher dependent upon individual project needs.

<sup>74</sup> See *Verdin v SSCLG* [2016] EWHC

<sup>75</sup> See CD: D.14 Table 6 page 25

Lower Shiplake which is now uncertain. Therefore, it seems to me that the **Council's own evidence supports the Appellant on the lack of alternatives.**

116. Moreover, when the Appellant persuaded the landowner to agree to pay the full affordable housing contribution, that significantly strengthened the **Appellant's case** in respect of paragraph 172 b). That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP now requires for C2 uses. Mrs Smith accepted that there are no other sites in the District with planning permission for extra care market housing. The problem is a combination of land economics and SOLP Policy H9 which requires affordable housing on extra care housing schemes. Given this context the appeal proposal does connote rarity and uniqueness.
117. Extra care housing undoubtedly operates in a very different market. Mr Garside provided detailed evidence to the Inquiry how the market for land operates to the detriment of extra care operators. Extra care housing providers cannot compete with house builders or with other providers of specialist housing for older people because of the build costs, the level of the communal facilities and the additional sale costs including vacant property costs. The communal facilities must be provided before any units can be sold and sales tend to be slower.<sup>76</sup> However, I accept that extra care schemes can charge a premium for the specialist accommodation provided and also benefit from an income from deferred management fees.
118. It seems to me that these factors, all mean that age restricted developments and in particular extra care communities are less viable than traditional housing schemes. Ultimately, age restricted developers are less able to pay the same price for land as residential developers and it is much harder for age restricted developers, and in particular those seeking to deliver extra care, to secure sites for development and meet the housing needs they aim to supply.<sup>77</sup> Viability is clearly a relevant factor which supports the case under paragraph 172 b) of the NPPF. There is also a strong case for the appeal scheme given the lack of alternative sites in the light of Policy H9 of the SOLP.
119. I note that the SOLP does not allocate any sites for extra care housing, unlike for example in Central Bedfordshire. I also note that the need for extra care housing is recognised in the SCNP, which supports, as was agreed, extra care housing on unallocated sites due to Policy H2a. I am satisfied that the **Appellant's need could not be met elsewhere or in any other way and that it would be in the public interest for this to happen on the appeal site.**

*Detrimental effect on Environmental, Landscape and Recreation opportunities, and the extent to which they could be moderated.*

120. This factor has been considered in the second issue above. That discussion is not repeated here but it is plainly relevant to paragraph 172 c). Suffice it to say that I have concluded that there would only be localised landscape and visual effects on the AONB. These limited impacts would not cause material harm to the landscape character of the AONB, nor would they conflict with the aims of protecting its special qualities. I have concluded there would be localised landscape and visual effects on the AONB that could be moderated.

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<sup>76</sup> See section 4 of Richard Garside's POE

<sup>77</sup> See paragraph 4.65 of Richard Garside's POE

### *Other Benefits*

121. The scheme would deliver other benefits. In my view, these can also form part of the exceptional circumstances and public interest. It is the collective benefits and harms which are relevant to paragraph 172 of the NPPF. Both Mr James and Mr Garnett gave evidence as to numerous other significant benefits, individually and cumulatively, which should be weighed in favour of the proposals. These include contributing to the overall supply of housing which is under five-years; savings in public expenditure (NHS and adult care);<sup>78</sup> creating new employment and other economic investment (construction and operation);<sup>79</sup> providing new facilities and services further reinforcing the role and function of Sonning Common; and additional net revenues from Council tax and new homes bonus receipt. Mrs Smith accepted the economic benefits and that bringing facilities to the area, particularly for the older population would be a benefit. It was also accepted that there could be benefits in supporting existing facilities in that residents of Inspired Village sites having the option to support those businesses if they wanted to. No good reason was provided by the Council for discounting the benefits evidence by Mr James or Mr Garnett. The social and economic benefits are matters to which I attribute significant weight. There is a very strong case on exceptional circumstances and public benefits here.

### *Conclusion*

122. Section 85 of the CROW Act 2000 seeks to conserve and enhance the natural beauty of an AONB and paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB. This is not the same as requiring that every development proposal engenders enhancement. Indeed, if that were the case it is difficult to see how major development in an AONB could ever be permitted. It is clearly a matter of balance, but in undertaking that exercise the NPPF makes clear that conserving and enhancing the designated resource is a matter of great weight. In this case I have given great weight to conserving and enhancing landscape and natural beauty of the AONB. The need for the development and the conclusion that there are presently no alternatives outside the designated area are also matters of substantial importance in the public interest. The social and economic benefits attract significant weight. Overall, the benefits would outweigh the localised landscape and visual effects to the AONB. For these reasons I conclude on this issue that exceptional circumstances are demonstrated and that the development would be in the public interest.

### *Other Matters*

123. I have taken into account all other matters raised including the concerns raised by the SCPC, the Rotherfield Peppard Parish Council, the representations made by interested persons including those who gave evidence at the Inquiry and those who provided written submissions. I have already dealt with many of the points raised in the main issues.

124. The SCPC and others objected to the proposed development in the context of the neighbourhood planning process. However, the review of the SCNP has

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<sup>78</sup> See paragraphs 6.16 to 6.33, PoE of Stuart Garnett. See also CD: K7, CD: K8 (Appendix 1 at page 20 onwards), CD: K12 (pages 2-3), and CD: K30 (pages 6, 12, 13, 20 and 24-26 in particular).

<sup>79</sup> See paragraphs 6.10 to 6.15, PoE of Stuart Garnett



been ongoing since around 2018 but there are no concrete proposals. It is suggested that the proposal is not small scale. However, site SON2 is in fact 3.3 hectares and broadly of the same scale.<sup>80</sup> The SCNP expressly supports extra care housing at Policy H2a albeit no site is allocated. The SCNP policies are now out of date because of the lack of a five year housing land supply to which I attach significant weight. The concerns about the neighbouring planning process are not sufficient to warrant dismissing this appeal.

125. A number of interested persons cited concerns over impacts on local services **in particular the doctor's surgery and parking capacity within the centre of Sonning Common**. With respect to impacts on local health services, Mr **Garnett's evidence provides details of both operational efficiencies and** associated social benefits of extra care, which includes the financial benefits arising from savings to the NHS and social care. I consider that extra care housing benefits elderly people in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to assume that these factors would likely result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the NHS. This is borne out in the research submitted to the Inquiry.
126. A number of objectors raised concerns over parking capacity within the centre of Sonning Common. However, the appeal site lies within an acceptable walking distance of a number of the facilities within the village centre. Trip generation associated with the proposals would not have a materially negative impact on the road network. I note also that a Travel Plan has been submitted in relation to the proposals.<sup>81</sup> I consider that this matter is capable of being secured by means of an appropriately worded planning condition. In addition **to the 'supported transport provision' that would be provided for residents, it** would be reasonable to expect that a number of residents would use the existing footpath links to access the village centre.
127. A number of objectors also raised concerns over transport safety and the sufficiency of parking on the appeal site. I note that a number of matters are agreed between the Council and the highway authority in SoCG2 Transport. A new vehicular access would be constructed to the east of the existing access on Blounts Court Road. The proposed scheme would provide for off-site highway improvements comprising works associated with the proposed site access, proposed works to pedestrian facilities along the site frontage either side of the site access, widening of the carriageway and a gateway feature along Blounts Court Road, and provision of a zebra crossing on Widmore Lane. Provision would also be made within the scheme for 93 car and 58 cycle parking spaces (12 visitor, 10 staff and 36 resident) that would be provided in relation to the full aspect of the development. Notwithstanding the original RfR5 the highway authority raises no objection to the proposal subject to the agreed conditions and the contributions contained within the s106 Agreement. In my view the concerns raised about transport issues would not provide a reason for rejection of this appeal.
128. A number of objections relate to the impact on local ecology. The appeal site contains habitats of a lower biodiversity value, which are common and

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<sup>80</sup> See CD: K.18 page 580

<sup>81</sup> See CD: A.8

widespread throughout the District. The appeal scheme provides for a net increase in biodiversity across the site, specifically an increase of 51% for the detailed element. The Ecological Impact Assessment<sup>82</sup> was accepted by the Council as demonstrating net benefit<sup>83</sup> and I attach significant weight to this.

129. At the Inquiry reference was made to numerous appeal decisions. I have taken these into account as appropriate in coming to my decision in this case.

### Planning Balance

130. I have concluded that the appeal proposals would be a major development in the AONB where exceptional circumstances apply, and which would be in the public interest. I have given great weight to conserving and enhancing landscape and scenic beauty in the AONB. In terms of paragraph 172 a) of the NPPF I am in no doubt that there is a need this development of 133 units to address the immediate shortfall in the five year housing land supply; to address the critical need for extra care housing in the District; to assist in the freeing up of family housing within South Oxfordshire and to provide the health and well-being benefits to elderly people.

131. The Council argued that with Policy H1 and Policy H13 the need for specialist housing for older people could be met outside the AONB; could be met in **people's homes and that needs could be met by 2035. However, I** have concluded that there is a specific and immediate need for extra care provision and market extra care housing. From the up-to-date evidence provided at the Inquiry it is clear to me that there are no sites with planning permission in the pipeline other than the Lower Shiplake site which is now uncertain. The case under paragraph 172 b) has been met. That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP Policy H9 now requires for C2 uses. In my view extra care housing cannot compete with housebuilders or even other forms of specialist housing for older people because of the build cost, the level of communal facilities and additional sale costs including vacant property costs.

132. In terms of paragraph 172 c) I have concluded there would be localised landscape and visual effects, but these would be relatively small. Only a limited part of the mosaic would be impacted, and this would not alter the overall character of the wider mosaic of the LCT. Plainly such limited impacts would not cause material harm to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. In terms of visual impact, only a small number of nearby locations would have direct views of the appeal proposals where glimpses of the development would be filtered and moderated by perimeter planting and particularly by the woodland belt. Overall, I have concluded under paragraph 172 of the NPPF that the circumstances in this case are exceptional and that the grant of planning permission would be in the public interest.

133. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case where the test in paragraph 172 of the NPPF

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<sup>82</sup> See CD: A32

<sup>83</sup> See PoE of Simon James Appendix 11

has been met it is difficult to see how a decision maker could nonetheless refuse to grant planning permission applying paragraph 11 of the NPPF. However, in terms of the development plan I accept that the proposal conflicts with some elements of the development plan, but it also complies with others. Policies in the SOLP are up-to-date and can be given full weight. The appeal proposal conflicts in part with the SOLP, in particular in terms of the overall strategy (STRAT1) and with relevant policies relating to the AONB (ENV1) However, there is partial accord with Policy H13 and full accordance with Policies H1 3ii, H4, H9, H11, DES1, DES2, DES3, DES4 and DES5.

134. With regard to the SCNP, this was made in 2016, against a different housing requirement albeit it is still within the grace period allowed by Policy H4(2) of the SOLP. The SCNP policies can only be given limited weight in the context of the NPPF as it was based on a Core Strategy which is now withdrawn, and it is out of date for that reason. Its policies reliant on the AONB are also out of date given the lack of a five year housing land supply. The proposal would conflict with Policy H1 in so far as the limitation of development is concerned but the policy is expressed as a minimum and the base target has been increased through the SOLP quantum of housing so the appeal scheme would contribute to that. There would be conflict with Policy ENV1 which aims to protect the AONB but there are exceptional circumstances here. There would be broad accordance with Policy H2a, D1 and D1a and ENV2 albeit that three storey development is an exception and must be justified. I conclude that the appeal proposal is in overall accordance with the development plan and there are no material considerations which indicate otherwise.
135. Even if I had decided that the proposal was in overall conflict with the development plan this is a case where there is no five year housing land supply and therefore the most important policies for determining the appeal are out of date.<sup>84</sup> As to which policies are out of date, it is agreed that the most important for determining the appeal are set out in the RfR. Thus, the tilted balance would be triggered by way of footnote 7 of the NPPF unless paragraph 11 d) i. is satisfied. In this case under paragraph 11 d) i. the adverse effects would not provide a clear reason for refusing the proposed development. It follows therefore that even if the appeal proposal was contrary to the development plan and the tilted balance under paragraph 11 d) ii. of the NPPF applied then the many and varied benefits of the proposals set out above would significantly and demonstrably outweigh any adverse effects. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed.

### Planning Conditions

136. The Council submitted a list of conditions which I have considered in the light **of the advice in paragraphs 54 and 55 of the NPPF and the Government's PPG** on the Use of Planning Conditions. The Appellant has agreed to all of the suggested conditions except for Condition 27 which relates to a Procurement and Employment Strategy. The Appellant has also given consent in writing that Conditions 7-27 may be applied as pre-commencement conditions.<sup>85</sup> Conditions 1, 4 and 5 relate to required time limits and Conditions 2 and 3 are necessary to determine the scope of the application and for the avoidance of

<sup>84</sup> NPPF paragraph 11 d) footnote 7

<sup>85</sup> See INQ APP14

doubt. Conditions 6, 7 and 29 are necessary to secure net gains for biodiversity and Condition 8 is required to minimise the impacts of the development on biodiversity. Condition 9 is necessary to limit the local impact of construction work and Condition 10 is required to ensure that electric vehicle charging is provided. Condition 11 is required in the interests of highway safety and Condition 12 is necessary to ensure adequate car parking.

137. Condition 13 is required in the interests of sustainability and to encourage the use of cycling. Condition 14 on sample materials and Condition 15 on ground levels are required in the interests of visual amenity. Condition 16 is required to ensure adequate provision for the management of waste. Condition 17 is necessary to ensure high standards of sustainable design and construction. Condition 18 is necessary to protect the appearance of the area, the environment and wildlife from light pollution. Conditions 19 and 20 are necessary to ensure that the development is assimilated into its surroundings. Condition 21 is necessary to safeguard the trees which are visually important on the site. Condition 22 is required to safeguard heritage assets of archaeological interest. Condition 23 is necessary to prevent pollution and flooding. Condition 24 is required to ensure the proper provision of foul water drainage. Condition 25 is required to prevent pollution and flooding. Condition 26 is necessary to ensure that the development is not unneighbourly.
138. Condition 27 relates to a procurement and employment strategy. The Council considers that the condition would fail the test of necessity as there is no policy support for this requirement and there would be problems about enforcement. However, it seems to me that a local employment and procurement condition is plainly relevant following the Verdin judgment.<sup>86</sup> Employing local people and using local produce, to save miles travelled seems to epitomize the principle of sustainable development. Moreover, the strategy would put in place arrangements to ensure that the information was regularly provided to the Council to demonstrate the performance and effectiveness of the initiatives. The condition would not impose unreasonable or unjustified demands on the Council. The condition would meet the tests in the NPPF.
139. Condition 28 is required to ensure the provision of adequate pedestrian and cycle access to the site in the interests of highway safety. Condition 30 is necessary to ensure that sustainable transport modes are taken up. Condition 31 is necessary to avoid sewage flooding and potential pollution incidents. Condition 32 is necessary to ensure that the development is not unneighbourly or detrimental to highway safety. Condition 33 is required to protect the occupants of nearby residential properties from noise disturbance. Condition 34 is required to mitigate any impacts on air pollution.

#### Overall conclusion

140. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

*Harold Stephens*

INSPECTOR

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<sup>86</sup> See INQ APP15 Verdin v SSCLG [2016] EWHC

## SCHEDULE OF PLANNING CONDITIONS (1-34)

### Time limit and approved plans relating to the full planning permission

#### Commencement – Full

- 1) The development subject to full planning permission, comprising the areas shown as shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] must be begun not later than the expiration of three years beginning with the date of this permission.

#### Approved Plans

- 2) That the element of the development hereby approved full planning permission, as shown within the areas shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] shall be carried out in accordance with the details shown on the following approved plans, except as controlled or modified by conditions of this permission:

URB SC [08] 00 01 Rev D02 (Site Location Plan)  
URB SC [08] 00 03 Rev D04 (Proposed Block Plan)  
02 Rev 03 (Landscape Plan)  
03 Rev 03 (Hard Landscaping)  
04 Rev 03 (Soft Landscaping)  
URB VC [08] 70 01 Rev D02 (Village Core Elevations)  
URB VC [08] 70 02 Rev D01 (Village Core Elevations)  
URB VC [08] 70 03 Rev D01 (Village Core Elevations)  
URB VC [08] 70 04 Rev D01 (Village Core Elevations)  
URB VC [08] 00 01 Rev D02 (Village Core Ground Floor Plan)  
URB B01 [08] 70 01 Rev D01 (Block 1 Elevations)  
URB B02 [08] 70 01 Rev D01 (Block 2 Elevations)  
URB B03 [08] 70 01 Rev D01 (Block 3 Elevations)  
URB B04 [08] 70 01 Rev D01 (Block 4 Elevations)  
URB B01 [08] 00 01 Rev D00 (Block 1 Floor Plans)  
URB B01 [08] 20 01 Rev D00 (Block 1 Roof Plan)  
URB B02 [08] 00 01 Rev D00 (Block 2 Floor Plans and Roof Plan)  
URB B03 [08] 10 01 Rev D00 (Block 3 Floor Plan)  
URB B03 [08] 00 01 Rev D00 (Block 3 Floor Plan)  
URB B03 [08] 20 01 Rev D00 (Block 3 Roof Plan)  
URB B04 [08] 00 01 Rev D00 (block 4 Floor Plans)  
URB B04 [08] 20 01 Rev D00 (block 4 Roof Plan)  
URB SS [08] 00 01 Rev D00 (Substation)  
OX5025-11PD-004 Rev H – Road Carriageway Widening  
OX5025-16PD-006 Rev A - Cross Sections of Proposed Widening along Blounts Court Road  
OX5025-16PD-004 Rev C - Proposed Off-Site Improvements  
OX5025-16PD-002 Rev C - Proposed Site Access Arrangements  
OX5025-16PD-003 Rev D - Proposed Internal Layout  
OX5025-11PD-007 Rev F - Review of Revised Masterplan (6 Metres Internal Carriageway)  
OX5025-11PD-009 Rev F Proposed Zebra Crossing at Widmore Lane

## Outline Plans

- 3) That the element of the development hereby approved outline planning permission, as shown within the areas shaded blue on Drawing No. URB SC [08] 00 01 D02 (Site Location Plan) shall be carried out in general accordance with the details shown on the following documents:

Illustrative Masterplan PW.1618.L.01 Rev 03  
Design and Access Statement May 2020  
Design Commitment Statement URB-SC A3 90 02-D00 April 21

## Reserved matters and time limit relating to the outline planning permission

### Reserved Matters

- 4) Within a period of three years from the date of this permission all of the reserved matters shall have been submitted for approval in writing by the Local Planning Authority. The reserved matters shall comprise: details of the layout, scale, appearance and landscaping of the development. All reserved matters for any one phase shall be submitted concurrently. No development shall commence within any one phase until there is written approval of all of the reserved matters for that phase and the development shall be carried out in accordance with all of the approved reserved matters.

### Commencement – Outline

- 5) The site subject to outline planning permission, comprising the area shown as shaded blue on Drawing No. URB SC [08]00 01 D02 (Site Location Plan) [Phase 2], shall be begun not later than whichever is the later of the following dates:
- (i) 3 years from the date of this permission: or
  - (ii) 2 years from the approval of the final reserved matters application.

### Biodiversity Enhancement Plan – Outline

- 6) Concurrent with the submission of any reserved matters application related to this outline planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the outline details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
  - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.

- (d) Selection of specific techniques and practices for establishing vegetation.
- (e) Sources of habitat materials (e.g. plant stock) or species individuals.
- (f) Method statement for site preparation and establishment of target features.
- (g) Extent and location of proposed works.
- (h) Details of a biodiversity metric assessment

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

#### Pre-commencement conditions

#### Biodiversity Enhancement Plan – Full

- 7) Prior to the commencement of the development subject of full planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:
- (a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
  - (c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.
  - (d) Selection of specific techniques and practices for establishing vegetation.
  - (e) Sources of habitat materials (e.g. plant stock) or species individuals.
  - (f) Method statement for site preparation and establishment of target features.
  - (g) Extent and location of proposed works.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

#### Construction Environmental Management Plan for Biodiversity

- 8) Prior to the commencement of any development (including vegetation clearance) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- (a) Update ecological surveys for relevant habitats and species, update surveys shall follow national good practice guidelines (badgers surveys shall be no older than 6 months).
  - (b) Risk assessment of potentially damaging construction activities.

- (c) Identification of biodiversity protection zones.
- (d) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction.
- (e) The location and timing of sensitive works to avoid harm to biodiversity features.
- (f) The times during construction when specialist ecologists need to be present on site to oversee works.
- (g) Responsible persons and lines of communication.
- (h) Use of protective fences, exclusion barriers and warning signs.

Thereafter the approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

### Phasing

- 9) Prior to the commencement of any development subject to full planning permission or submission of the first Reserved Matters for the development subject to outline planning permission, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved phasing plan.

### Electric Vehicle Charging

- 10) Prior to the commencement of each phase of development a scheme to provide that phase with Electric Vehicle Charging Points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Electric Vehicle Charging Points shall be implemented prior to the first occupation of that phase.

### Estate Roads and Footpaths

- 11) Prior to the commencement of each phase of development, details of the estate roads and footpaths within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, before first occupation of any unit within that phase, the whole of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained.

### Car Parking Plan

- 12) Prior to the commencement of the reserved matters phase of the development plans showing car parking within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed car parking provision shall be provided before first occupation of that part of the site and be retained as such thereafter.

### Cycle Parking

- 13) Prior to the commencement of each phase of development, details of cycle storage, for that phase shall be submitted to and approved in writing by the



Local Planning Authority. The agreed cycle parking shall be provided before first occupation of that part of the site and be retained as such thereafter.

#### Materials

- 14) Prior to the commencement of each phase of development, details of all materials, including samples where required, to be used in the external construction and finishes of the development within that phase shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved details.

#### Site Levels

- 15) Prior to the commencement of any development, detailed plans showing the existing and proposed ground levels of that phase, together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

#### Refuse and Recycling

- 16) Prior to the commencement of each phase of development, details of refuse and recycling storage for that phase shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be implemented in accordance with the approved details prior to the occupation of the development in each phase and retained thereafter.

#### Energy Statement

- 17) Prior to the commencement of each phase of development, an Energy Statement demonstrating how the development within that phase will achieve at least a 40% reduction in carbon emissions compared with code 2013 Building Regulations, and details of how this will be monitored, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

#### External Lighting

- 18) Prior to the commencement of each phase of the development approved in full, and accompanying the first Reserved Matters application for the development approved in outline, a detailed lighting scheme (including street and pathway lighting) for that phase, including a programme for its delivery, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

#### Landscaping

- 19) Prior to the commencement of each phase of development, a scheme for the landscaping of that phase including the planting of trees and shrubs, the

treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.

The details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme.

The scheme shall be implemented prior to the first occupation or use of that phase of development and thereafter be maintained in accordance with the approved scheme.

In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

#### Landscape Management Plan

- 20) Prior to the commencement of the first phase of development, a maintenance schedule and a long term management plan for the soft landscaping works for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include those areas of the site which are to be available for communal use as open space. The schedule and plan shall be implemented in accordance with the agreed programme.

#### Tree Protection

- 21) Prior to the commencement of any site works or operations (including the removal of any vegetation or trees) required in relation with the full or outline planning permission, an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The matters to be encompassed within the arboricultural method statement shall include the following:
- (a) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities.
  - (b) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection.
  - (c) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage.
  - (d) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby.

- (e) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees.
- (f) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels.
- (g) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage.
- (h) Provision for the supervision of any works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.
- (i) The details of the materials and method of construction of the pedestrian and cycle access to Widmore Lane, which is to in part be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of surface required in relation to its usage.
- (j) A specification of the foundation design for the pedestrian and cycle access to Widmore Lane demonstrating absolute minimal soil excavation, soil compaction or soil contamination within the root protection area of the adjacent trees.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

#### Implementation of Archaeological work

- 22) Prior to any earth works forming part of the development or the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

#### Ground Investigation

- 23) Prior to the commencement of each phase of development the results of an intrusive ground investigation, analysing the potential for dissolution features and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The results shall then be implemented in accordance

with the approved programme and used to inform the surface water drainage design.

### Foul Drainage

- 24) Prior to the commencement of each phase of development, a detailed foul water drainage scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the foul water drainage works to serve that phase have been completed.

### Surface Water Drainage

- 25) Prior to the commencement of each phase of development, a detailed surface water drainage scheme relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. This should be based on the principles contained within Flood Risk Assessment and Drainage Strategy reference 3424 Dec 2019 by Scott Hughes Design, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

The scheme shall include:

- (a) Discharge rates.
- (b) Discharge volumes.
- (c) Catchment plans.
- (d) Maintenance and management of SUDS features.
- (e) Sizing of features – attenuation volume.
- (f) Site wide infiltration tests to be undertaken in accordance with BRE365.
- (g) Ground Investigation Report.
- (h) Detailed drainage layout with pipe/chamber/soakaway numbers & sizes.
- (i) Proposed site levels, floor levels and an exceedance plan.
- (j) Detailed network calculations to include the worst case 1:100 + 40% event.
- (k) SUDS features and sections.
- (l) Details of proposed Primary, Secondary and Tertiary treatment stages to ensure sufficient treatment of surface water prior to discharge.
- (m) Drainage construction details.
- (n) A compliance report to demonstrate how the scheme complies with the **“Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire.”**
- (o) A range of SuDS techniques throughout the site to manage water quantity and maintain water quality.

The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the surface water drainage works to serve that phase have been completed.

## Construction Method Statement

- 26) No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- (a) the parking of vehicles of site operatives and visitors;
  - (b) loading and unloading of plant and materials;
  - (c) storage of plant and materials used in constructing the development;
  - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (e) wheel washing facilities;
  - (f) measures to control the emission of dust and dirt during construction;
  - (g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - (h) details of measures for the control of noise during construction works;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction methods.

## Procurement and Employment Strategy

- 27) Prior to the commencement of development, a Local Employment and Procurement Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The Strategy shall include:
- (i) Details of recruitment within the development to achieve a minimum of 25% of village staff from within a 5 mile radius of Sonning Common;
  - (ii) Details of the use of local businesses, including purchase of food, beverage and other items to achieve a minimum of 50% of fresh produce (meat, bakery, dairy, fruit and vegetables) from within a 5 mile radius of Sonning Common;
  - (iii) The timing and arrangements for the implementation of these initiatives; and
  - (iv) Suitable mechanisms for monitoring the effectiveness of these initiatives.

All parts of the approved Local Employment and Procurement Strategy shall be implemented in full and retained thereafter.

## Pre-occupancy conditions

### Pedestrian and Cycle Access

- 28) Prior to occupation of any development subject to full or outline planning permission, details of the pedestrian/cycle access to the site from Widmore Lane, including a 3.5m wide combined pedestrian/cycle path through the site, associated street lighting facilities and a zebra crossing along Widmore Lane shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on those shown on plan OX5025-11PD-009 Rev F, subject to the tree protection measure shown in condition 21. The works shall

be carried out and completed in accordance with the approved details before occupation of any part of the site, and permanently retained as such thereafter.

### Landscape and Ecology Management Plan

- 29) Prior to the first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) for the whole site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- (a) Description and evaluation of features to be managed.
  - (b) Ecological trends and constraints on site that might influence management.
  - (c) Proposals for ecological enhancements for habitats and species as agreed in the Biodiversity Enhancement Plan.
  - (d) Aims and objectives of management.
  - (e) Appropriate management options for achieving aims and objectives.
  - (f) Prescriptions for management actions.
  - (g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - (h) Details of the body or organization responsible for implementation of the plan.
  - (i) Ongoing monitoring and remedial measures.

The LEMP shall include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The development shall be implemented in accordance with the approved details and management prescriptions implemented across the site for a timeframe to be agreed within the LEMP.

### Green Travel Plans

- 30) Prior to the occupation of the first phase of the development hereby approved a full and detailed Travel Plan and Travel Information Packs shall be submitted to and approved in writing by the Local Planning Authority. These documents will be updated upon the submission of subsequent phases of the development. Thereafter, that part of the development shall be implemented in accordance with the approved documents and the associated Travel Information Packs issued to each resident upon first occupation.

### Wastewater

- 31) No properties shall be occupied in any phase until confirmation has been provided that either:

- (i) All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or-
- (ii) A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

#### Service and Delivery Management Plan

- 32) No building shall be occupied until details of a comprehensive servicing and delivery management plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Deliveries and service areas shall be managed in accordance with the agreed scheme.

#### Compliance conditions

##### Construction Hours

- 33) The hours of operation for construction and demolition works shall be restricted to 08:00-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written permission of the Local Planning Authority.

##### Air Quality

- 34) The air quality mitigation measures outlined in the Air Quality Assessment (Ref REP-10111755A-20191212) shall be carried out in accordance with the recommendations and specifications in the report and implemented prior to occupation of each unit. Thereafter, the mitigation measures shall be retained **as approved and in accordance with manufacturer's instructions.**

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Robin Green of Counsel

Instructed by the Solicitor to South  
Oxfordshire District Council

*He called:*

Mr John Jeffcock  
BA (Hons) MA CMLI NZILA

Associate of Michelle Bolger Expert  
Landscape Consultancy

Mr Julian Kashdan-Brown  
B Arch (Hons) Dip Arch MSc MA RIBA

Architect and Urban Designer

Mrs Nicola Smith BSc (Hons) MSc

Principal Major Applications Officer

Mrs Emma Bowerman BA (Hons) MSc

Principal Major Applications Officer

### FOR THE APPELLANT:

Mr Christopher Young QC  
Ms Leanne Buckley Thompson of Counsel

Both instructed by the Appellant

*They called*

Mr Nigel Appleton MA (Cantab)

Executive Chairman of Contact  
Consulting (Oxford) Ltd

Mr Stuart Garnett BSc Dip TP MRTPI

Planning Director Inspired Villages

Mr James Atkin BSc (Hons) Dip LM CMLI

Director (Landscape) Pegasus Group

Mr Michael Carr BA (Hons) Dip LA Dip UD  
RUDP

Director (Design and Master  
Planning) Pegasus Group

Mr Roland Bolton BSc (Hons) MRTPI

Senior Director, DLP Planning Ltd

Mr Richard Garside RICS

Director and Head of Development  
Consultancy at Newsteer

Mr Simon James BA Dip TP MRTPI MIEMA

Managing Director DLP Planning Ltd

### FOR SONNING COMMON PARISH COUNCIL:

Mr Ben Du Feu of Counsel

Instructed by the Parish Council

*He called*

Mrs Emily Temple BSc (Hons) MSc MRTPI

Director ET Planning Ltd



FOR OXFORDSHIRE COUNTY COUNCIL:

Mr Dave Harrison BSc (Hons) MSc CMILT M Inst TA	Senior Public Transport Planner
Ms Judith Coats LLB	Infrastructure Funding Team Leader
Interested Persons	
Mr Tom Fort	Chairman of Sonning Common Parish Council
Ms Julia Whitelaw	Local Resident
Dr Kim Emmerson	General Practitioner
Ms Georgina Forbes	Local Resident
Mr Jonathan Berger	Acting Chair of the Rotherfield Peppard Parish Council
Mrs Joanne Shanagher	Local Resident
Dr Michael Stubbs PhD MSc MRICS MRTPI	Planning Adviser, The Chilterns Conservation Board

DOCUMENTS SUBMITTED AT THE INQUIRY:

Local Planning Authority Documents

INQ LPA1	Opening Statement
INQ LPA2	Factsheet 6 Design Principles for Extra Care Housing (3 <sup>rd</sup> edition)
INQ LPA3	Proof of evidence Erratum sheet, Nicola Smith
INQ LPA4	Appendix 1 update, Nicola Smith
INQ LPA5	Five-year Housing Land Supply Erratum, Nicola Smith
INQ LPA6	Replacement Policies Schedule
INQ LPA7	CIL Compliance Statement
INQ LPA8	CIL Compliance Statement Addendum
INQ LPA9	Costs application
INQ LPA10	Conditions
INQ LPA11	Closing Submissions

Appellant Documents

INQ APP1	Opening Statement
INQ APP2	Summary and comparison of landscape and visual effects
INQ APP3	Correction sheet to JWA06
INQ APP4	Open letter to Boris Johnson
INQ APP5	Briefing Note Errata to Contextual Study of James Atkin
INQ APP6	Service Charges Note of Stuart Garnett
INQ APP7	References to height Johnson Matthey Planning Statement

INQ APP8 NPPF consultation document  
INQ APP9 Mr Doyle email  
INQ APP10 Extracts from Village News by Tom Fort  
INQ APP11 s106 Agreement  
**INQ APP12 Nigel Appleton's Note**  
INQ APP13 Central Bedfordshire Policy H3 Main Modifications  
INQ APP14 Pre commencement note  
INQ APP15 Verdin Judgment  
INQ APP16 Closing Submissions  
INQ APP17 Appellant's response to the Costs application

#### R6 Party Documents

INQ PC1 Opening Statement  
INQ PC2 Closing Submissions

#### Interested Persons Documents

IP1 Statement by Mr Tom Fort  
IP2 Statement by Ms Julia Whitelaw  
IP3 Statement by Dr Kim Emmerson  
IP4 Statement by Ms Georgina Forbes  
IP5 Statement by Mr Jonathan Berger  
IP6 Statement by Mrs Joanne Shanagher  
IP7 Statement by Dr Michael Stubbs

EP7

## Smith, Nicola

---

**From:** Dawn Brodie [REDACTED]  
**Sent:** 16 April 2021 16:38  
**To:** Bowerman, Emma  
**Subject:** RE: P21/S0112/PEJ and P17/S3952/O - Hale Road, Benson

Sorry Emma,

I was trying to speak to the client.

Yes please use the latest delivery information we provided you with. In terms of pre-app we don't really have an issue advising that you are aware that we are progressing the reserved matters application despite the outline having not quite been issued yet.

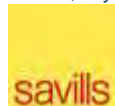
In terms of the time limit extension, I am hopeful that the final matters will be tidied up and agreed well in advance of this date however, to allow for some slippage I am happy to agree this date on behalf of my client. Of course, the sooner we can get this issued the better from our point of view!

Many thanks and have a good weekend.

Dawn

**Dawn Brodie**  
Associate Director  
Planning

Savills, Wytham Court, 11 West Way, Oxford OX2 0QL



Tel



 Before printing, think about the environment

---

**From:** Bowerman, Emma [REDACTED]  
**Sent:** 16 April 2021 16:26  
**To:** Dawn Brodie <[REDACTED]>  
**Subject:** FW: P21/S0112/PEJ and P17/S3952/O - Hale Road, Benson

**EXTERNAL EMAIL: Be cautious when opening attachments or clicking links**

Hi Dawn

I have worked through the info we have and I can see that you already responded to us on delivery (attached). So sorry to have asked again. I will suggest we increase delivery rates to 30 in 2024/25 and 30 2025/26 as per your email on 8 March 2021.

I would be grateful for a response to the other two matters.

With kind regards

Emma

Emma Bowerman  
Principal Major Applications Officer  
Planning  
South Oxfordshire and Vale of White Horse District Councils  
Direct dial: [REDACTED]  
Email: [REDACTED]  
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**Due to the Coronavirus outbreak our offices continue to be closed, therefore we are all working remotely. Due to the current circumstances our responses will take longer. Your patience is appreciated.**

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**From:** Bowerman, Emma  
**Sent:** 16 April 2021 11:31  
**To:** Dawn Brodie [REDACTED]  
**Subject:** RE: P21/S0112/PEJ and P17/S3952/O - Hale Road, Benson

Many thanks Dawn – I will get this over to my manager for final sign off so if there is anything to resolve, we can do this before the S106 is complete.

I also had a quick query in terms of the delivery of this site, as we have an appeal coming up where our five year land supply is being challenged and this is one of the sites where the Appellant is questioning delivery – extract below from their proof (attached):

- a) **Site: 1929 Benson NDP: Site BEN 2 (52 dwellings).**
- 5.2 This Site was allocated in Benson NDP and the outline application has remained undetermined since 2017 (P17/S3952/O)
- 5.3 The Council's trajectory is based on developer's delivery intentions.  
*Appellants Commentary*
- 5.4 No Planning Permission has been granted. The target date for decision 20th April 2018 and there is no activity recorded on the application since 2018.
- 5.5 Reduce supply by 52 dwellings.

The council's housing land supply statement has this site down as delivering 26 homes in 2023/24 and 26 homes in 2024/25 and it states that this trajectory is based on the developers delivery intentions. Can you please confirm that this still accords with your expected delivery rates?

Also, I thought it might be prudent for us to agree a new target decision date for P17/S3952/O, to reflect the timeframes that we are working towards to complete the S106 and grant outline planning permission. Can you please agree to extend the target decision date for P17/S3952/O to 1 June 2021?

And finally, would it be acceptable to you / your client for the council to refer to the fact that we have engaged in pre-application discussions for the subsequent Reserved Matters application? We would not need to attach our pre-application response, which at the moment is retained as confidential, but will be publicly available when a Reserved Matters application is submitted. It would simply involve referring to the dates of your pre-application request.

I would be grateful if you could get back to me on these three matters as soon as possible due to the tight timeframes involved in the appeal.

Kind regards

## Smith, Nicola

---

**From:** [REDACTED]  
**Sent:** 12 March 2021 11:52  
**To:** Mircheva, Yoanna  
**Cc:** Sandith, Richard  
**Subject:** FW: Site delivery information

Morning Yoanna

Please see below a completed housing trajectory for Newnham Manor (highlighted in yellow).

Kind regards

Arron Twamley BA (Hons) Dip TP MRTPI  
Director ATP Ltd

Paddock Barn, Buckland, Oxfordshire, SN7 8PY



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**From:** Mircheva, Yoanna [REDACTED]  
**Sent:** 01 March 2021 15:29  
**To:** [REDACTED]  
**Cc:** Sandith, Richard [REDACTED]  
**Subject:** Site delivery information

Dear Arron

South Oxfordshire District Council is updating its housing trajectory for sites. As part of this process we are updating the projected delivery rate of permitted and allocated sites. To assist the Council with this process, can you please provide the projected delivery rate for the site:

- Land to the south of Newnham Manor, Crowmarsh Gifford Planning reference P16/S3852/FUL.

Can you please provide the projected construction delivery rate by financial year (1st April to 31st March):

Year	2021/22	2022/23	2023/24	2024/25	2025/26		
No. of dwellings completed	0	30	40	30	x		

The projected delivery rate should be as realistic as possible, taking account of time to secure planning permission and site preparation, therefore can you also provide details on the following, if applicable:

- estimated timeframes for progressing the site through any further full or reserved matters applications;

We anticipate the planning application will be taken back to planning committee late spring and the completion of the S106 shortly thereafter. Although a hybrid planning application the housing will benefit from full planning consent.

- estimated timeframes for progressing discharge of conditions;

We would ensure the planning conditions are submitted for determination by SODC within the Summer 2021

- estimated timeframes for progressing the signing of S106;

Completion by early Summer 2021

- site preparation or whether the site is under construction, and if so the number of completions;

n/a

- whether there is a developer(s) on board;

The applicant is the developer.

- is the site being marketed; and/or

n/a

- any site constraints that could impact the delivery of the site.

None.

- If applicable, how many self-build or custom build plots will be provided on the site.

None.

- If applicable, how many gypsy and traveller pitches will be provided on the site.

None.

We understand that circumstances are difficult at the moment, but it would be greatly appreciated if you could provide at least an estimated delivery rate **by end of play 12 March** please.

If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

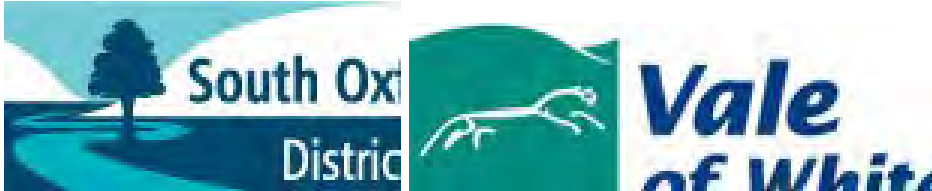
If you have any queries, please do not hesitate to contact me.

Best wishes,

**Yoanna Mircheva**  
**Enquires Officer/ Assistant Planning Officer**  
Planning Policy  
South Oxfordshire and Vale of White Horse District Councils

Email [REDACTED]

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Please be aware that some of our staff may be redeployed to other roles where necessary to assist and deal with the Coronavirus outbreak.

Thank you for your understanding.



## Smith, Nicola

---

**From:** Grant Williams [REDACTED]  
**Sent:** 15 April 2021 15:12  
**To:** Moule, Phil  
**Cc:** Jason Cross; Moss, Lisa; Scotting, Cathie  
**Subject:** RE: 17S19 - Land north east of Didcot - P15/S2902/O

Hi Phil,

Keeping well thanks.

Based on current information and assumed run rate, the following applies.  
This will be updated on a regular basis in line with occupations which we submit.

- **Completions to date: 45**
- **Completions by End of 2021: 95**
- **Completions by End of 2022: 173**
- **Completions by End of 2023: 251**
- **Completions by End of 2024: 330**
- **Completions by End of 2025: 408**

Kind Regards,

Grant Williams  
Engineer

t. [REDACTED]



The Spirella Building, Bridge Road, Letchworth Garden City, SG6 4ET

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**From:** Moule, Phil [REDACTED]  
**Sent:** 15 April 2021 14:04  
**To:** Grant Williams [REDACTED]  
**Cc:** Jason Cross [REDACTED]; Moss, Lisa [REDACTED]; Scotting, Cathie [REDACTED]  
**Subject:** FW: 17S19 - Land north east of Didcot - P15/S2902/O  
**Importance:** High

Hi Grant,

Hope you are well.

In addition to the number of completions to date, please could you provide the projected completions over the next 5 years. The most recent information we have for (Croudace) Didcot NE is shown below, but I do not think this can be correct as (i) you have completions already and (ii) you will have projected completions between now and 2024/2025.

Land Suppl	Site Name	Settlement (parish)	Major or	Detailed permission in	Outlin plan
1009	Land to the North East of Didcot	Didcot	Major	No	P15

If you could provide your projected completions that would be greatly appreciated. It is needed for a report, so if you could advise by Monday that would be great.

Many thanks in advance,

Phil

Phil Moule MRTPI  
**Principal Major Applications Officer**  
**South Oxfordshire District Council and Vale of White District Council**

Tel: [REDACTED]

Email: [REDACTED]

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---

**From:** Grant Williams <[REDACTED]>  
**Sent:** 24 March 2021 16:55  
**To:** Moss, Lisa [REDACTED]  
**Cc:** Jason Cross [REDACTED]; Ken Armstrong [REDACTED]  
**Subject:** RE: 17S19 - Land north east of Didcot - P15/S2902/O

Hi Lisa,

Just wanted to confirm with our Sales Director.

## Smith, Nicola

---

**From:** Emily Ford <[REDACTED]>  
**Sent:** 09 March 2021 09:03  
**To:** Mircheva, Yoanna  
**Cc:** Ben Stephenson; Sam Gammon  
**Subject:** RE: Site delivery information

**Categories:** Green Category

Dear Yoanna

Further to your email below, I am pleased to provide the following information in respect of projected delivery on the Homes England land at Didcot Gateway South.

Year	2021/22	2022/23	2023/24	2024/25	2025/26	TOTAL
No. of dwellings completed			38	53	53	144

The above is based on an outline planning application being submitted in Spring 2021, with consent secured in October 2021. Homes England are anticipating tendering for delivery partners in 2021 with a developer to be appointed in May/June 2022. Reserved matters applications are anticipated during 2022, with consent secured by early 2023. On that basis, construction is anticipated to start in Spring 2023.

I trust this assists. Please do not hesitate to contact me if any further information would be of use.

Kind regards,

**Emily Ford**

Senior Planner



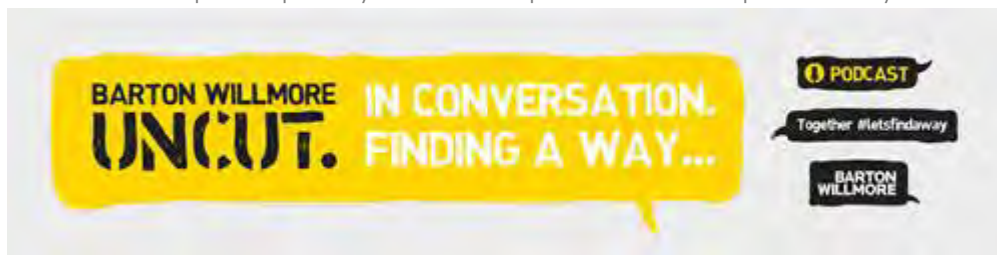
**DDI:** [REDACTED]

The Blade, Abbey Square, Reading, Berkshire, RG1 3BE



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**From:** Mircheva, Yoanna <[REDACTED]>  
**Sent:** 08 March 2021 15:05  
**To:** Emily Ford <[REDACTED]>  
**Subject:** FW: Site delivery information  
**Importance:** High

Dear Emily,

**Smith, Nicola**

---

**From:** Colin Campbell [REDACTED]  
**Sent:** 12 March 2021 10:45  
**To:** Mircheva, Yoanna  
**Subject:** RE: Site delivery information

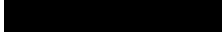
Yoanna

Please see below

Regards

Colin

**Colin Campbell**  
**Head of Planning**



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**From:** Mircheva, Yoanna [REDACTED]  
**Sent:** 08 March 2021 13:40  
**To:** Colin Campbell [REDACTED]  
**Subject:** FW: Site delivery information  
**Importance:** High

Dear Colin,

Please see my previous email. If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

Best wishes,

**Yoanna Mircheva**  
Enquires Officer/ Assistant Planning Officer  
Planning Policy  
South Oxfordshire and Vale of White Horse District Councils

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Please be aware that some of our staff may be redeployed to other roles where necessary to assist and deal with the Coronavirus outbreak.

Thank you for your understanding.

---

**From:** Mircheva, Yoanna  
**Sent:** 01 March 2021 15:34  
**To:** Colin Campbell <[REDACTED]>  
**Cc:** Sandith, Richard <[REDACTED]>  
**Subject:** Site delivery information

Dear Colin

South Oxfordshire District Council is updating its housing trajectory for sites. As part of this process we are updating the projected delivery rate of permitted and allocated sites. To assist the Council with this process, can you please provide the projected delivery rate for the site:

- Land West of Marley Lane, Chalgrove. Planning reference P17/S0094/O.

Can you please provide the projected construction delivery rate by financial year (1st April to 31st March):

Year	2021/22	2022/23	2023/24	2024/25	2025/26		
No. of dwellings completed		70	70	60			

The projected delivery rate should be as realistic as possible, taking account of time to secure planning permission and site preparation, therefore can you also provide details on the following, if applicable:

- estimated timeframes for progressing the site through any further full or reserved matters applications; **RMs approved March 2021**
- estimated timeframes for progressing discharge of conditions; **pre-comm conditions discharged April**
- estimated timeframes for progressing the signing of S106; **n/a**
- site preparation or whether the site is under construction, and if so the number of completions; **n/a**
- whether there is a developer(s) on board; **agreement in place to sell to Ridgepoint Homes who have RMs submitted**
- is the site being marketed; and/or **see above**
- any site constraints that could impact the delivery of the site. **no**
- If applicable, how many self-build or custom build plots will be provided on the site. **none**
- If applicable, how many gypsy and traveller pitches will be provided on the site. **none**

We understand that circumstances are difficult at the moment, but it would be greatly appreciated if you could provide at least an estimated delivery rate **by end of play 12 March** please.

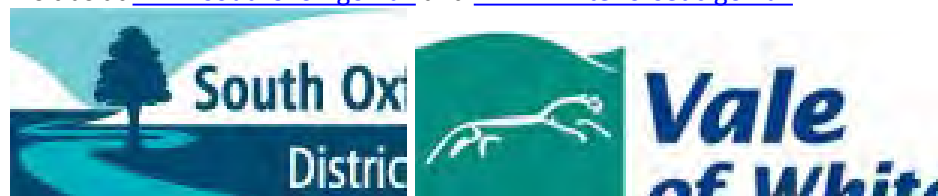
If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

If you have any queries, please do not hesitate to contact me.

Best wishes,

**Yoanna Mircheva**  
**Enquires Officer/ Assistant Planning Officer**  
 Planning Policy  
 South Oxfordshire and Vale of White Horse District Councils

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Thank you for your understanding.

## Scotting, Cathie

---

**From:** Eastwood, Stephanie (Avison Young - UK)  
**Sent:** 12 March 2021 12:58  
**To:** Mircheva, Yoanna  
**Cc:** Gardner, Robert (Avison Young - UK); Ward, Louisa (Avison Young - UK)  
**Subject:** FW: Site delivery information - OBU Wheatley Campus

Hi Yoanna

I hope you are well.

Further to your email below we have reviewed the housing delivery trajectory for the Wheatley Campus site following the outcome of the appeal in April last year based on what we consider to be reasonable assumptions from the information currently available, noting that my client will be disposing of the site to a developer to construct and deliver the scheme.

Please see below our updated housing trajectory:

2021/2022	2022/2023	2023/2024	2024/2025	2025/2026	2026/2027	2027/2028	2028/2029
-	-	76	92	92	92	92	56

CBRE has been appointed by the University to market and dispose of the site. It expects formal marketing to commence in late spring and for the sale of the site to be completed by the end of the summer this year. However, there is already significant interest in the site from multiple house builders.

We would assume that a lead in of c. 16 months be allowed for the approval of reserved matters and discharge of pre-commencement conditions in relation to the first phase of development by the housebuilder before a start on site in around December 2022. Following site preparation, it is anticipated that the first dwelling could then be complete and occupied by around June 2023.

The trajectory is based on the assumption that development will commence in two phases on the areas of the site where there are no significant existing University buildings that would need to be demolished whilst the University continues to occupy certain buildings within the centre of the centre of the site in the short-term. The University would vacate the small number of buildings that it continues to occupy in the main body of the campus and demolition works would take place whilst the initial phases of development are under construction and subsequent phases of development would follow.

At this stage, it is anticipated that there would be two sales outlets on site. It is expected that these would each deliver approx. 2.5 market sales per month (i.e. 60 dwellings per annum across the two outlets). As affordable housing would be pepper-potted through the site and be built out contiguously with the private sale dwellings. We assume that an additional approx. 32 affordable dwellings per annum would be delivered based on the proportion of affordable housing secured as part of the consent (34.5%). This would give a total annual delivery rate of c. 92 dwellings (in a full year) as set out above.

Hopefully this is of assistance and is all clear, however, please let us know if you have any queries.

Many thanks,

Steph

**Stephanie Eastwood**  
Associate Director

  
3 Brindleyplace, Birmingham, B1 2JB



**From:** Mircheva, Yoanna [REDACTED]  
**Sent:** 01 March 2021 17:00  
**To:** Eastwood, Stephanie (Avison Young - UK) [REDACTED]; Gardner, Robert (Avison Young - UK) [REDACTED]  
**Cc:** Sandith, Richard [REDACTED]  
**Subject:** Site delivery information

**External Sender**

Dear Stephanie and Robert,

South Oxfordshire District Council is updating its housing trajectory for sites. As part of this process we are updating the projected delivery rate of permitted and allocated sites. To assist the Council with this process, can you please provide the projected delivery rate for the site:

- Land at Wheatley campus, Oxford Brookes University.

Can you please provide the projected construction delivery rate by financial year (1st April to 31st March):

Year	2021/22	2022/23	2023/24	2024/25	2025/26		
No. of dwellings completed							

The projected delivery rate should be as realistic as possible, taking account of time to secure planning permission and site preparation, therefore can you also provide details on the following, if applicable:

- estimated timeframes for progressing the site through any further full or reserved matters applications;
- estimated timeframes for progressing discharge of conditions;
- estimated timeframes for progressing the signing of S106;
- site preparation or whether the site is under construction, and if so the number of completions;
- whether there is a developer(s) on board;
- is the site being marketed; and/or
- any site constraints that could impact the delivery of the site.
- If applicable, how many self-build or custom build plots will be provided on the site.
- If applicable, how many gypsy and traveller pitches will be provided on the site.

We understand that circumstances are difficult at the moment, but it would be greatly appreciated if you could provide at least an estimated delivery rate **by end of play 12 March** please.

If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

If you have any queries, please do not hesitate to contact me.

Best wishes,

**Yoanna Mircheva**  
**Enquires Officer/ Assistant Planning Officer**  
Planning Policy

South Oxfordshire and Vale of White Horse District Councils

Email: [REDACTED]

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## Smith, Nicola

---

**From:** Smith, Nicola  
**Sent:** 19 April 2021 13:00  
**To:** Smith, Nicola  
**Subject:** FW: URGENT Lower Shiplake - Reserved matters pursuant to P18/S3210/O

**From:** Taylor-Drake, Charlotte (Avison Young - UK) [REDACTED] >  
**Sent:** 16 April 2021 12:17  
**To:** Smith, Tracy [REDACTED]  
**Cc:** Stockall, Peter (Avison Young - UK) [REDACTED] >  
**Subject:** RE: URGENT Lower Shiplake - Reserved matters pursuant to P18/S3210/O

Hi Tracy

I do not have a specific phasing plan but, yes, it is proposed to construct, complete and occupy the development within the next 5 years.

Kind regards

Charlotte

### Charlotte Taylor-Drake

Associate Director, Planning Development and Regeneration

[REDACTED]

---

[REDACTED] Smith, Tracy [REDACTED]  
**Sent:** 16 April 2021 11:24  
**To:** Taylor-Drake, Charlotte (Avison Young - UK) [REDACTED] >  
**Cc:** Stockall, Peter (Avison Young - UK) [REDACTED]  
**Subject:** Re: URGENT Lower Shiplake - Reserved matters pursuant to P18/S3210/O

### External Sender

Many thanks Charlotte, do they have phasing plan for build out.  
Would it be constructed and completed within the next 5 years?  
Many thanks.  
T

Tracy Smith  
**Principal Planning Appeals Officer**  
**South Oxfordshire and Vale of White Horse District Councils**  
Mobile: [REDACTED]  
Email: [REDACTED]

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**PLEASE NOTE I AM IN A PUBLIC INQUIRY WC 26 APRIL AND WILL BE UNLIKELY TO RESPOND TO EMAILS NOT RELATED TO THAT INQUIRY.**

**I AM THEN ON LEAVE AND WILL RETURN TO THE OFFICE ON TUESDAY 18 MAY**

---

**From:** Taylor-Drake, Charlotte (Avison Young - UK) [REDACTED] >  
**Sent:** 16 April 2021 11:16  
**To:** Smith, Tracy [REDACTED]  
**Cc:** Stockall, Peter (Avison Young - UK) <[REDACTED]>  
**Subject:** RE: URGENT Lower Shiplake - Reserved matters pursuant to P18/S3210/O

Hi Tracy

I can confirm that the site has been bought from RV with the intention to build it out and deliver the scheme in line with the outline planning permission. The operator will be ARCO accredited as an operator of a retirement villages with 24/7 care and facilities. The intention is to submit reserved matters/discharge planning conditions with a view to commence development in Q1 2022.

I hope that helps but please let me know if you have any queries.

Kind regards

Charlotte

**Charlotte Taylor-Drake**  
Associate Director, Planning Development and Regeneration

[REDACTED]

---

**From:** Smith, Tracy [REDACTED]  
**Sent:** 16 April 2021 10:23  
**To:** Taylor-Drake, Charlotte (Avison Young - UK) [REDACTED]  
**Cc:** Stockall, Peter (Avison Young - UK) [REDACTED]  
**Subject:** Re: URGENT Lower Shiplake - Reserved matters pursuant to P18/S3210/O

External Sender

**2244 Land to the east of Reading Road Lower Shiplake RG9 4BG Shiplake  
P18/S3210/O (65 dwellings)**

5.58 Site has outline planning permission (P18/S3210/O) granted on appeal.

5.59 The Council's trajectory based on officer's assessment of lead-in times and build out rate analysis.

*Appellants Commentary*

5.60 The Council's assessment relies solely on average lead in times and build out rates.

5.61 There has been no activity in terms of discharging conditions or RM.

5.62 This is not clear evidence of delivery.

5.63 Remove 65 dwellings.

Many thanks Charlotte.

T

Tracy Smith

**Principal Planning Appeals Officer**

**South Oxfordshire and Vale of White Horse District Councils**

Mobile: [REDACTED]

Email: [REDACTED]

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**I AM THEN ON LEAVE AND WILL RETURN TO THE OFFICE ON TUESDAY 18 MAY**

**Smith, Nicola**

---

**From:** Alex Dalton <[REDACTED]>  
**Sent:** 12 March 2021 15:40  
**To:** Mircheva, Yoanna  
**Cc:** [REDACTED]  
**Subject:** Re: FW: Site delivery information (Site B)

Dear Yoanna,

Apologies for the delay in coming back to you. I have filled in the table in your email, and responded to your questions in red.

Please let me know if you need any more information.

Kind regards,

Alex

Alexander Dalton MPlan LRTPI  
Project Planner  
for and on behalf of:

Howard Sharp and Partners LLP  
79 Great Peter Street  
Westminster  
London  
SW1P 2EZ

[REDACTED]  
[REDACTED]  
On 08/03/2021 15:55 Mircheva, Yoanna [REDACTED] wrote:

Dear Tom and Alex,

Please see my previous email. If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

Best wishes,

**Yoanna Mircheva**

**Enquires Officer/ Assistant Planning Officer**  
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Email: [REDACTED]

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Thank you for your understanding.

---

**From:** Mircheva, Yoanna  
**Sent:** 01 March 2021 17:05  
**To:** [REDACTED]  
**Cc:** Sandith, Richard [REDACTED]  
**Subject:** Site delivery information

Dear Tom and Alex,

South Oxfordshire District Council is updating its housing trajectory for sites. As part of this process we are updating the projected delivery rate of permitted and allocated sites. To assist the Council with this process, can you please provide the projected delivery rate for the site:

- Watlington NDP: Site B- Land Off Cuxham Road and Willow Close.

Can you please provide the projected construction delivery rate by financial year (1st April to 31st March):

Year	2021/22	2022/23	2023/24	2024/25	2025/26		
No. of dwellings completed		10	30	20	10		

The projected delivery rate should be as realistic as possible, taking account of time to secure planning permission and site preparation, therefore can you also provide details on the following, if applicable:

- estimated timeframes for progressing the site through any further full or reserved matters applications;  
**RM submission likely this year**
- estimated timeframes for progressing discharge of conditions;  
**Pre-commencement conditions anticipated to be discharged by 2022/23**
- estimated timeframes for progressing the signing of S106;  
**S106 expected to finalise early this year**
- site preparation or whether the site is under construction, and if so the number of completions;  
**Construction has not yet commenced**
- whether there is a developer(s) on board;  
**Terms agreed with interested housebuilder**
- is the site being marketed; and/or
- any site constraints that could impact the delivery of the site.  
**No significant constraints. In terms of timescale, the route of the edge road needs to be finalised to inform the RM submission**
- If applicable, how many self-build or custom build plots will be provided on the site.  
**0**
- If applicable, how many gypsy and traveller pitches will be provided on the site.  
**0**

We understand that circumstances are difficult at the moment, but it would be greatly appreciated if you could provide at least an estimated delivery rate **by end of play 12 March** please.



If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

If you have any queries, please do not hesitate to contact me.

Best wishes,

Yoanna Mircheva

Enquires Officer/ Assistant Planning Officer  
Planning Policy  
South Oxfordshire and Vale of White Horse District Councils

Email: [REDACTED]

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Please be aware that some of our staff may be redeployed to other roles where necessary to assist and deal with the Coronavirus outbreak.

Thank you for your understanding.

**Smith, Nicola**

---

**From:** Alex Dalton [REDACTED]  
**Sent:** 12 March 2021 15:42  
**To:** Mircheva, Yoanna  
**Cc:** [REDACTED]  
**Subject:** Re: FW: Site delivery information

Dear Yoanna,

I have filled in the table in your email below. Please also see my comments in red.

My mobile is best if you have any queries.

Kind regards,

Alex

Alexander Dalton MPlan LRTPI  
Project Planner  
for and on behalf of:

Howard Sharp and Partners LLP  
79 Great Peter Street  
Westminster  
London  
SW1P 2EZ

[REDACTED]  
[REDACTED]  
On 08/03/2021 15:54 Mircheva, Yoanna [REDACTED] wrote:

Dear Tom and Alex,

Please see my previous email. If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

Best wishes,

**Yoanna Mircheva**

**Enquires Officer/ Assistant Planning Officer**  
Planning Policy  
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Email: [REDACTED]

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Please be aware that some of our staff may be redeployed to other roles where necessary to assist and deal with the Coronavirus outbreak.

Thank you for your understanding.

---

**From:** Mircheva, Yoanna

**Sent:** 01 March 2021 17:06

**To:** [REDACTED]

**Cc:** Sandith, Richard [REDACTED]

**Subject:** Site delivery information

Dear Tom and Alex,

South Oxfordshire District Council is updating its housing trajectory for sites. As part of this process we are updating the projected delivery rate of permitted and allocated sites. To assist the Council with this process, can you please provide the projected delivery rate for the site:

- Watlington NDP: Site C- Land off Pyrton Lane.

Can you please provide the projected construction delivery rate by financial year (1st April to 31st March):

Year	2021/22	2022/23	2023/24	2024/25	2025/26		
No. of dwellings completed			25	25	10		

The projected delivery rate should be as realistic as possible, taking account of time to secure planning permission and site preparation, therefore can you also provide details on the following, if applicable:

- estimated timeframes for progressing the site through any further full or reserved matters applications;

RM submission likely this year

- estimated timeframes for progressing discharge of conditions;

Pre-commencement conditions anticipated to be discharged by 2022/23

- estimated timeframes for progressing the signing of S106;

S106 expected to finalise early this year

- site preparation or whether the site is under construction, and if so the number of completions;

Construction has not yet commenced

- whether there is a developer(s) on board;

Terms agreed with interested housebuilder

- is the site being marketed; and/or

- any site constraints that could impact the delivery of the site.

No significant constraints. In terms of timescale, the route of the edge road needs to be finalised to inform the RM submission

- If applicable, how many self-build or custom build plots will be provided on the site.

0

- If applicable, how many gypsy and traveller pitches will be provided on the site.

0

We understand that circumstances are difficult at the moment, but it would be greatly appreciated if you could provide at least an estimated delivery rate **by end of play 12 March** please.

If you are not the correct contact, please either forward this email on to the correct person with me cc'd or please pass on their contact details.

If you have any queries, please do not hesitate to contact me.

Best wishes,

Yoanna Mircheva

Enquires Officer/ Assistant Planning Officer  
Planning Policy  
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Email: [REDACTED]

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Thank you for your understanding.

## Smith, Nicola

---

**From:** Nick McEntyre <[REDACTED]>  
**Sent:** 19 April 2021 14:29  
**To:** Emma Runesson; Smith, Nicola  
**Subject:** Re: Land at Marley lane, Chalgrove

Nicola,

This is confirmed.

Please let me know if you require anything further.

Kind Regards

**Nick McEntyre**  
Managing Director

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**From:** Smith, Nicola [REDACTED]  
**Sent:** Monday, April 19, 2021 11:52:58 AM  
**To:** Nick McEntyre [REDACTED]  
**Subject:** Land at Marley lane, Chalgrove

Dear both,

I hope you are well,

As I have mentioned previously, I am involved in a Public Inquiry which starts next week, the appellants have questioned our five year land supply and yours is one of the sites where the Appellant is questioning delivery – extract below from their proof :

#### **I) 1639 Land West of Marley Lane, Chalgrove (P17/S0094/O) 10/04/2018 (200 dwellings)**

6.2 Site has outline planning permission.

6.3 The Council's trajectory is based on developer delivery intentions; RM approval Q3 2020 and start on site Q4 2020.

*Appellants Commentary*

6.4 While there has been activity in discharging conditions it is noted that a further OL application was submitted by Hill Property Investments on the 18 December 2020 on the grounds that: *Given the ongoing uncertainty regarding COVID, the applicants consider it prudent to submit this application in case for any reason the extant application should expire on 1st May 2021.*

6.5 The reserved matters are still outstanding the landowner has expressed doubts regarding the implementation of the consent in a timely manner. Furthermore, the lead in time and build out rate is more optimistic than the councils evidence base (CD:K32 appendix C page 57). Utilising this evidence would suggest that there will be at least a year between RM approval and first completions so first completion will be 2022/3 build out rate of 52 dpa as per Interim Report would deliver 156 dwellings not 200 and this would mean a reduction of 44 dwellings.

6.6 Reduce supply by 44 dwellings.

The council's housing land supply statement has this site down as delivering 20 homes in 2021/22, 90 in 2022/23 and 90 in 2023/24 and it states that this trajectory is based on the developers delivery intentions. I would be extremely grateful if could please confirm as soon as possible that this accords with your expected delivery rates? I am currently preparing a rebuttal statement so I would be grateful for a response as soon as possible.

Kind Regards

Nicola

Nicola Smith  
Principal Major Applications Officer  
Planning Service  
Vale of White Horse District Council and South Oxfordshire District Council

T: [REDACTED]

E: [REDACTED]

A : 135 Eastern Avenue, Milton Park, Milton, Abingdon, OX14 4SB

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EP8





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## Appeal Decision

Inquiry held on 8 - 11 November 2022

Site visit made on 11 November 2022

by H Porter BA(Hons), MSc PGDip, IHBC

an Inspector appointed by the Secretary of State

Decision date: 18<sup>th</sup> January 2023

---

Appeal Ref: APP/D3125/W/22/3301202

Land West of Wroslyn Road, Freeland, Oxon, OX29 8AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Senior Living (Freelands) Ltd against the decision of West Oxfordshire District Council.
  - The application Ref 21/02627/OUT, dated 2 August 2021, was refused by notice dated 31 May 2022.
  - The development proposed is outline planning application for the erection of a retirement community of up to 160 extra care units (C2 use class) with associated communal facilities and open space, with access from Wroslyn Road, (all matters reserved except access) and retention of veterinary practice in the coach house.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters, other than access, reserved for future consideration. I have dealt with the appeal on the basis that plans showing landscaping, site layout, building heights and detailed design are indicative and that up to 160 extra care units could be provided. During the appeal process, **a discrepancy in the site's 'red line' boundary** was identified and revised plans submitted. I am content to determine the appeal on the basis of the updated plans since the revisions have not materially altered the scheme and no prejudice would result.
3. Under the Inquiry Procedure Rules, Freeland Parish Council and Freeland Friends (the Rule 6 party) were granted Rule 6 status. A General Statement of Common Ground (SoCG) along with additional SoCGs covering Landscape and Visual Matters, Urban Design Matters, and Housing Land Supply (HLS), plus HLS Addendum, were agreed by the Appellant and the Council.
4. I undertook an accompanied Inquiry site visit on 11 November 2022. I also saw the site and general surroundings on three occasions during the Inquiry week, on an unaccompanied basis and from vantages suggested by the parties. This includes one early evening visit when it was dark.
5. A number of non-designated heritage assets (NDHAs) are located within or adjacent to the appeal site, while listed buildings and a Registered Park and Garden (RPG) are proximate to it. Mindful of the provisions within the National Planning Policy Framework, July 2021 (the Framework) that seek to conserve and enhance the historic environment, during the Inquiry, and at my request, the parties made written submissions clarifying their positions in respect of

various designated and non-designated heritage assets and their significance, including any contribution made by their settings. **I have taken the parties' heritage responses into account in my decision.**

6. On 22 November 2022, the Council published its HLS Position Statement (PS) for the period 1 April 2022 to 31 March 2027, which indicates a 5-year supply of 4,400 dwellings equating to 4.1 years. I deal with this in more detail below.
7. A completed agreement made under s106 of the Town and County Planning Act 1990 (the s106 Agreement) was submitted on 9 December 2022. The submission of the s106 Agreement **means the Council's second reason for refusal of the scheme<sup>1</sup>** has fallen away. The various provisions and contributions within the s106 Agreement are set out in my reasoning and planning balance. Consideration of the tests set out in the Framework and Regulation 122 of the Community Infrastructure Regulations 2010 (as amended) (the 122 Regs), would only be relevant if I had been minded to allow the appeal.

### Main Issues

8. The main issues in this appeal are:
  - The effect of the proposed development on the character and local distinctiveness of Freeland, including its effect on the local landscape and relevant heritage assets; and,
  - Whether the appeal site offers an appropriate location for the proposed development, having regard to whether it would offer suitable access to a good range of services and facilities and where the need to travel by private car can be minimised.

### Reasons

#### *The site, proposals and policy background*

9. The appeal site occupies around 4.3 hectares of land on the west side of Wroslyn Road, towards the southern end of Freeland. The site is part of the grounds associated with Freeland House, which is in use as a care home and within the ownership of the Eynsham Park Estate. The appeal site has matured vegetal boundaries and is accessed via a tree-lined driveway off Wroslyn Road. The same driveway leads to Freeland House, which is outside the appeal site and identified as a non-designated heritage asset (NDHA)<sup>2</sup>. A cluster of agricultural-type buildings, a former coach house and stables, are within the north-west corner of the appeal site, and also identified as NDHAs<sup>3</sup>. Just **outside the site's red line and north of the driveway are two estate cottages<sup>4</sup>** and a red brick walled garden<sup>5</sup>, also identified as NDHAs associated with the Freeland House estate. A little way to the west, beyond Cuckoo Lane lies the Grade II listed Eynsham Hall Park and Garden (List Entry Number: 1001288), a designated heritage asset.
10. The largest portion of the appeal site is occupied undeveloped grazing paddocks populated by occasional mature trees, including a central Corsican pine. A band of established woodland **marks the site's western boundary and**

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<sup>1</sup> CD AD18

<sup>2</sup> CD E2 para 2.16

<sup>3</sup> CD SD21 para 4.11

<sup>4</sup> Freeland Garden Cottage and Stables House

<sup>5</sup> Freeland Nurseries

offers a green buffer between the paddocks and Freeland House. The local landform falls gradually away down towards four detached dwellings that stand **between the site's south**-eastern boundary and Wroslyn Road.

11. The outline scheme proposes the erection of a retirement community, comprising up to 160 Extra Care units within a series of cottages and apartment buildings, **as well as a 'Village Centre' containing communal facilities** including a wellbeing centre, shop, cafe, and restaurant. An extant veterinary practice housed in the former coach house would be retained and served by six parking spaces, and the adjacent stables would be converted for residential use. The remaining agricultural-type buildings would be demolished. Access to the site would be via the existing driveway off Wroslyn Road, with improved visibility splays and a new secondary access for pedestrian, cycle and emergency use.
12. The development plan includes the West Oxfordshire Local Plan (2011 – 2031), adopted September 2018 (the LP)<sup>6</sup>, which sets out an overall strategy for accommodating future growth including the most suitable locations for development in the District. Table 4b lists Freeland under the category of **'villages'**<sup>7</sup>, which LP Policy OS2 identifies as being suitable for 'limited development' that, amongst other things, respects village character, local distinctiveness, and maintains community vitality. The same policy also lists **'general principles'** for all development, including that it is of proportionate and appropriate scale to its context; forms a logical complement to the character of the area; and conserves and enhances the natural, historic, and built environments. LP Policy H2 indicates new dwellings will be permitted in villages in certain circumstances, whilst also requiring accordance with the Policy OS2 general principles.
13. LP Policy OS4 relates to high quality design and establishes that new development should respect the historic, architectural and landscape character of the locality, and contribute to local distinctiveness including through conserving or enhancing areas, buildings, and features of historic, architectural, and environmental significance. The site also falls within the Wychwood Project Area (WPA), to which LP Policy EH2 requires special attention and protection be given to the landscape and biodiversity. LP Policy EH9 requires all development proposals conserve and/or enhance the special character, appearance and **distinctiveness of West Oxfordshire's historic environment, including the significance of the District's heritage assets.**
14. LP Policy T1 gives priority to locating new development in areas with convenient access to a good range of services and facilities and where the need to travel by private car can be minimised, due to opportunities for walking, cycling and the use of public transport. LP Policy T3 establishes that all new development will be located and designed to maximise opportunities for walking, cycling and the use of public transport and where such opportunities are more limited, other measures will be sought to help reduce car use as appropriate.

*Character, local distinctiveness, landscape and heritage assets*

15. Freeland is a modestly sized, traditional rural village, identified in the West Oxfordshire Design Guide<sup>8</sup> as having a **'Linear'** and **'Dispersed'** settlement

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<sup>6</sup> The West Oxfordshire Local Plan (2011 – 2031), adopted September 2018 (the LP) CD C1

<sup>7</sup> CD C1

<sup>8</sup> CD C2

pattern. I observed Freeland to be comprised of two distinct portions. The area known as The Green unfolds where the open countryside that characterises the route along Wroslyn Road from the south meets a loose-knit collection of detached properties in generous plots that are principally grouped around a small triangular green. Moving northwards along Wroslyn Road away from The Green there is a verdant punctuation where the instances of built form decrease, and the route is framed by the tree and hedgerow boundaries of undeveloped fields either side. Just past the driveway to Freeland House and north of Pigeon House Lane there is a transition to the main body of the settlement, distinguished by a more regular concentration of built form and a ribbon-like development pattern.

16. The discernible separation between the two distinct portions of Freeland is aided by undeveloped areas, numerous impressive trees, intermittent views towards the wider undeveloped countryside. The notable absence of street lighting at night reinforces a sense of tranquillity and rurality, which, together with an overall sense of spaciousness, underpins the form and local character of Freeland as a modestly-sized, distinctively rural village.
17. Typical of many traditional settlements, the built form in Freeland has evolved incrementally and is reflected in the mix of older vernacular buildings, small pockets of infill, and later housing-estate type developments at its edges. Yet, while noting some range in the age and architectural styles in Freeland, the majority of domestic buildings are one-and-a-half to two storeys, of stone or masonry construction, with slate or tile pitched roofs, some featuring dormers or gables. Notwithstanding occasional short terraces, dwellings also tend to be detached, or semi-detached, standing in good-sized gardens, many with independent driveway forecourts and pedestrian gateways. The overall consistency of scale and form of domestic buildings offers a sense of spaciousness, which contributes positively to the character and local distinctiveness of the settlement.
18. Against the prevailing backcloth of domestic buildings are occasional larger structures, atypical in terms of their use, height, footprint and architectural detailing. Rather than being representative of the dominant local character of the settlement, such buildings convey a sense of its historic, religious or community status and evolution, and play a defining role in establishing the unique character and distinctiveness of Freeland.
19. One such structure is Freeland House, an imposing late Victorian building, conspicuous for its scale, footprint and ornate detailing. In addition to the principal building are its historic estate grounds. Whether or not in the same use, today the various components including ornamental gardens, parkland, tree-lined avenues, productive gardens and plantations, farmland, and 19<sup>th</sup>-century ancillary estate buildings, collectively reveal the origins and functioning of Freeland House and its grounds as a consciously and holistically planned mid-to-high-status country house estate. Thus, they are all elements that contribute to the significance of Freeland House as a NDHA. The cluster of agricultural-type ancillary estate buildings are ostensibly contemporary with Freeland House and exhibit a similarity in material treatment and historic authenticity in their use and features, which underpins their significance as NDHAs of local importance.
20. Whether or not it satisfies the criteria for statutory listing, Freeland House and its wider estate contribute greatly to the local distinctiveness of Freeland and to

the historic, architectural and landscape character of the locality. There are designed landscape elements within the appeal site itself, including avenues, and undulating designed parkland, containing distinctive **'isolated parkland trees'**<sup>9</sup>, which form a part of the historic estate and setting for Freeland House NDHA and the other NDHA estate buildings.

21. The presence of new buildings, timber fencing, and a lit horse menage do not diminish from either the estate parkland qualities of the appeal site nor from the overall intactness of the wider Freeland House estate landscape, which are **consistent with the 'Parkland landscapes' type and Eynsham Vale character** area described in the West Oxfordshire Landscape Assessment (WOLA)<sup>10</sup>. There is also a correlation between the estate parkland characteristics of the appeal site and the Wooded Estatelands landscape type and landscape character of Freeland described in the Oxfordshire Wildlife & Landscape Study (OWLS)<sup>11</sup>.
22. The local topography and dense bands of established woodland provide relative containment to the appeal site. Yet, despite the natural screening, the appeal site provides a discernible degree of separation between Freeland House and the settlement; its undeveloped nature enabling legibility of Freeland House as a salient and historically high-status structure within the local context. The appeal site encompasses elements that are integral to the designed landscape character of a seemingly authentic and intact historic country estate. Of note are the mature trees creating an avenue along the driveway and significant mature trees within the open grassland portion of the site. The undeveloped paddocks reflect a functional link with the stables that has endured to this day, while the non-native trees, such as the central Corsican pine denote a **planned and imposed 'picturesque-style' landscape design, consistent with** historic country house estates.
23. The same family responsible for the late 19<sup>th</sup> century development of the Freeland House also owned the Eynsham Hall estate further west, employing the same architect for some of its outbuildings<sup>12</sup>. Today, an avenue of Lime trees links Freeland House with the Eynsham Hall estate RPG although woodlands prevent intervisibility between it and appeal site. Even so, the historic associations and the physical landscape links with the adjacent RPG denote that Freeland House estate is part of the RPG setting and contributes, in a modest but meaningful way, to its significance as a designated heritage asset.
24. Although the appeal site and wider Freeland House estate landscape are not covered by any national or local designation, this does not negate landscape value. Rather, I consider the characteristics of the appeal site and wider Freeland House estate landscape to exemplify aesthetic attraction, visual interest, historic authenticity, and strong sense of place. The opportunities to experience the landscape are offered by a permissive route along the driveway, which is well used by walkers, horse riders and cyclists, conveying a recreational value.
25. The contention that the historic grounds of Freeland House should be **considered a 'valued landscape'**<sup>13</sup> **was first advanced in the Council's PoE**<sup>14</sup>.

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<sup>9</sup> As referred to in the Appellant's Design and Access Statement (DAS) CD SD6 Site Context p. 7

<sup>10</sup> CD C6 p. 12

<sup>11</sup> ID 9 pdf p. 9 and p.12

<sup>12</sup> ID 13 para. 35

<sup>13</sup> For the purposes of paragraph 174a) of the Framework

<sup>14</sup> CD E41 p.54 para 5.33

Nevertheless, a full discussion on this took place during the Inquiry, including in reference to the GLVIA3 guidelines and **Landscape Institute's recent technical guidance note**<sup>15</sup>. On this basis of the evidence I have seen, heard, and read, I judge the Freeland House estate landscape to embody attributes that elevate it beyond that of generic or ordinary countryside. It follows that the appeal site comprises a part of a valued landscape for the purposes of para 170a) of the Framework. Furthermore, my observations bear out the landscape as having a particularly strong unspoilt character which intensifies its sensitivity to development; warranting its '**conserve**' categorisation in the WOLA<sup>16</sup>; and the aim to realise the safeguarding and enhancement of landscape character of parklands set out in the OWLS<sup>17</sup>.

*The effect of the proposals on character and local distinctiveness, local landscape and heritage assets*

26. The site layout and key masterplan principles established within the DAS denote that the Village Centre building would be positioned at the heart of the development, with other buildings located away from the surrounding residential properties, with limitation of development to the southern area of the site<sup>18</sup>. Bearing in mind the constraints identified in the DAS and the minimum quantum of development required to realise a viable scheme and the consequential amount and concentration of built form across the site, there would unquestionably be a significant urban intrusion onto it.
27. Even if vegetal boundaries and additional planting would succeed in partially screening the development from some vantages along Wroslyn Road, I consider there would be a serious undermining of the distinctive local settlement pattern of Freeland. Indeed, the characteristically green and undeveloped nature of the appeal site and the intrinsic verdant punctuation it provides between The Green and the main body of the settlement would be virtually eradicated. Thus, the scheme would advance the coalescence of the distinctively disparate portions that make up the local settlement pattern, harming local character and distinctiveness.
28. Although the precise nature of the layout, scale, appearance and landscaping are all reserved matters, the illustrative Regulating Plan<sup>19</sup> provides an indication of how the proposal could be accommodated on the site. This shows the Village Centre would occupy a footprint compatible with that of Freeland House, with the other seven apartment occupying smaller but nonetheless very large footprints. In between buildings would be a series of parking areas and landscaped courtyards. Collectively, there would be inevitable density of development would be wholly out of keeping with the spacious and more loose-knit characteristics that define the existing local context.
29. Matters of design and scale were discussed in detail during the Inquiry. Usually, a half-storey in building height would be indicative of restricted head room within roof-level accommodation. The indicative typology sections<sup>20</sup>, however, show the proposed 2.5 storey village apartments and Village Centre building as having a 2.4 metre floor-to-ceiling height on the top floor, the same as the two floors below. Irrespective of whether the proposed apartments would constitute

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<sup>15</sup> CD H33 and CD H32 Table 1

<sup>16</sup> CD C6 p. 15

<sup>17</sup> ID 9 pdf p. 17 and p. 18

<sup>18</sup> CD SD6 pp. 16 - 17

<sup>19</sup> ID 10

<sup>20</sup> CD E25 p. 20

2.5 or 3-storey buildings, and allowing for the indicative nature of the proposals, apartment blocks reaching over 11.5 metres to the roof, the apartments would be of much greater height than the prevailing buildings that characterise the Freeland context. **Rather than being of 'domestic scale and appearance'**, I consider the proposed blocks would be wholly out of keeping with the typical domestic buildings found in Freeland.

30. The only buildings of similar scale in the locality are Freeland House and **St Mary's Church**. To meet the ambitions of this outline scheme the introduction of numerous blocks over 11 metres high occupying extremely large footprints would, in my judgement, severely diminish legibility of these as important salient structures, to the detriment of the character and local distinctiveness of the settlement. The blocks may not exceed the height of Freeland House but through sheer bulk and number, visual subservience would not be achieved. While the blocks located close to the Wroslyn Road boundary would be lower than those further into the site, there would be a tiering of built form that would be atypical of the domestic built form in Freeland, even where it has developed in depth. To my mind, no matter the details submitted in reserved matters, the necessary scale and form of the buildings across the site would dominate and be wholly uncharacteristic of the local context.
31. I take further issue with the indicative roof design of the proposed blocks, which the same typology section reveal would essentially comprise an expanse **of flat roofs concealed by 'dummy' frontage pitches**. Detailed design elements could provide some degree of articulation and material variation to the apartment blocks, with the effect of breaking the visual impact of their bulk and mass, yet proportionally, the proposed apartment blocks and Village Centre building would, in reality, be of a height, bulk and form that would be wholly disproportionate and of a scale inappropriate to its context.
32. The constituent parts that make up the Freeland House estate are integral to its overall landscape value and its sensitivity to change. The appeal scheme would severely erode a significant portion of the open undulating parkland area that separates Freeland House from Wroslyn Road. While the central Corsican pine would be retained and a channelled view between it and the spire of **St Mary's Church** created, the proximity of development would eclipse it as a characteristic feature tree within the site and component of the parkland. **The DAS refers to the scheme 'allowing the return of a large proportion of the site to a parkland landscape' and 'setting a balance between the built form and green open space'. By contrast, I consider the urbanising impact of the proposals would be overwhelming and particularly noticeable from the permissive path access driveway. Not only would intactness and historic authenticity of the Freeland House landscape be compromised, but the landscape qualities particular to the appeal site also severely eroded.**
33. The settings of Freeland House and of the ancillary estate buildings as NDHAs would be compromised, weakening their significance. Not least two NDHAs would be demolished wholly, while residential conversion of the former stables NDHA would bring about the loss of their intact stalls and internal features, causing complete loss of or serious harm to their significance respectively. The Council has not identified any harm to the significance of the Eynsham Hall RPG<sup>21</sup>. Nevertheless, irrespective of a lack of intervisibility, I judge the appeal scheme would have an adverse impact on lands that are intrinsically linked and

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<sup>21</sup> ID13 para. 38

- thereby form part of the setting of this designated heritage asset, resulting in some small residual harm to its significance. I deal with the degree of harm and public benefits later in the final heritage and planning balance.
34. Concerns in respect of light-spill and the implications for bat foraging corridors **are not shared by the Council's officers and there is nothing substantive to** cause me to deviate from their professional judgement. Nonetheless, even if lighting could be carefully designed, at low level to ensure no upward light spill, it seems inevitable that the proposal would create at least some lit intrusion, to **the detriment of Freeland's** dark skies and tranquil character at night.
35. **The Appellant's** willingness to work constructively with the Council on the production of a Design Code is laudable. At a more detailed level, the elevation treatments to the buildings, as well as hard and soft landscaping, might offer a sense of material quality to the scheme. Additionally, boundary planting could limit views into the site especially along Wroslyn Road and create attractive external spaces for future occupiers. However, the fundamental objectives of good design go beyond what the scheme may look like on the surface or whether views to it are restricted. Although conditions could ensure certain controls such as natural screening and a production of a design code, the fundamental issues relating to the bulk, massing and sheer size of the development would remain.
36. I am also mindful of the comments made at the Inquiry. On the one hand, that reducing building heights or the quantum of available accommodation at roof level would cause a reduction in unit numbers. Secondly, that the precise nature of the retirement village offer requires a certain level of development. This causes me to doubt there is scope for a material reduction in the scale, layout or quantum of development that could meaningfully come forward at the reserved matters stage. Rather, I judge the proposal has intrinsic and fundamental issues inherent to the need to balance the specific offer with commercial viability and affordable service charges.
37. The Appellant contends that a population increase of around 13% to the **settlement would be 'limited'**<sup>22</sup>. I cannot agree. While there is no definition of **'limited development' in the LP**, in my judgement, a population increase of 13% seen in the context of up to 160 units plus a fully equipped leisure facility with swimming pool, spa, gym and treatment room, restaurant, café, shop and community spaces; around 150 car parking spaces distributed across the site; and 500 or so daily traffic movements generated, and landscaped attenuation pond, **cannot sensibly be considered 'limited'**.
38. The proposal would not fit with the overall form and layout of its surroundings but cause serious harm to the intrinsic character and quality of the appeal site, as well as wider harm the historic, architectural and landscape character of the locality. Such harms, though localised, would be both severe and permanent. **The proposal would not realise 'limited development'** in a village, nor would it respect village character or local distinctiveness.
39. Whilst community vitality would be maintained, overall, conflict arises with the strategic element of LP Policy OS2 as well as with its general principles, notably those that require development conserves and enhances the natural, historic and built environment; avoids the loss of an area of open space which makes an important contribution to the character or appearance of the area; protects

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<sup>22</sup> CD E30 para 8.6 p. 16



or enhances of the local landscape and the setting of the settlement; complements the existing pattern of development and/or the character of the area; and be of a proportionate and appropriate scale to its context. The conflict with the Policy OS2 general principles generates conflict with Policy H2 and the circumstances under which development in villages is supported.

**Conflict also arises with LP Policies EH2 and OS4. Notwithstanding the Council's case does not advance an objection in respect of heritage asset, my findings in respect of the harm to the significance of NDHA's indicates conflict with LP Policy EH9 would also arise, given that it seeks to conserve and/or enhance the special character, appearance, and distinctiveness of West Oxfordshire's historic environment.**

### *Locational sustainability*

40. **In the context of the District's settlement sustainability, Freeland ranks at 28<sup>th</sup> or 29<sup>th</sup> out of the 41 settlements considered for their key services. Indeed, the services and facilities in Freeland include a horticultural nursery, public house, church, village hall, and chapel. While the range is limited, and a primary school might have little bearing for a retirement village community, these facilities are a short, level distance from the appeal site. Opportunities for using public transport to access a wider range of services further afield are offered by a limited local bus service, with additional stops proposed close to the appeal site's entrance.**
41. In a usual housing development, it would be reasonable to expect that the day-to-day needs of future residents would have to be met by travel to larger settlements by private car. But the appeal scheme retirement village offer provides a range of additional communal and wellbeing facilities<sup>23</sup>. Even noting some restrictions to access to general public membership, the range of facilities on offer would reduce the necessity to undertake certain journeys by car.
42. The scheme would also provide a Village Transport Service (VTS), consisting of at least one vehicle with at least six seats to facilitate social outings, shopping trips and access to hospital appointments, with priority given to residents of the development and any nominated family member acting as carer<sup>24</sup>. Pragmatically, the VTS would not feasibly offer the type of transport option that could replace private car journeys for staff, visitors or indeed the majority of future occupiers. The quantum of indicative parking provision and anticipated additional trips are testament to this. That said, the LP gives endorsement to **'other measures' to help reduce car use as appropriate where opportunities to use public transport are more limited, such as in Freeland. Furthermore, there is recognition under paragraph 105 of the Framework that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.**
43. It would not be reasonable to expect the same level of bus service in a settlement the size of Freeland as in a larger urban area and the frequency of the bus services might suggest its use for occasional leisure trips. The proximity of the site to the facilities in Freeland along with the offer that some of the on-site facilities would be open to the extant community to access, leads me to the view that the proposal would not advance a wholly self-contained,

<sup>23</sup> Those parts of the development comprising the café and shop, restaurant, treatment room, hair salon and open space PID2 p. 3; the swimming pool, gym and fitness studio to be provided within the village Centre Building PID2 p. 9

<sup>24</sup> PID2 p. 8

**'inward-looking' development**, nor would it disrupt community vitality in Freeland. On balance, I consider the specific nature of the proposal would ensure use of the private car can be minimised, and offer convenient access to a good range of services and facilities. Therefore, I find no conflict arises with LP Policies T1 and T3.

## Other Considerations

### *Need*

44. The PPG recognises there are different types of specialist housing designed to meet the diverse needs of older people, and that there is a significant amount of variability in the types of specialist housing available<sup>25</sup>. The level of need and supply for specialist housing for older people within the District was discussed, including in relation to whether specific developments satisfy that of Extra Care. So too, the most appropriate methodology for measuring the need for specialist accommodation within the District. Considering the scope of the definition of Extra Care housing, including in the PPG and Housing LIN<sup>26</sup>, the shortfall may not be as acute as suggested by the Appellant.
45. **Yet, even if the Council's provision of Extra Care housing may be improving and** the LP policies performing in securing its provision, there remains compelling evidence of a growing population of older persons in the District, and that the proportion of older people in the Eynsham-Woodstock Sub-Area is even greater, and expected to increase substantially over the plan period and beyond<sup>27</sup>. It is also acknowledged that West Oxfordshire has higher than average rates of owner occupancy and there is an undersupply of provision for older persons within the Eynsham-Woodstock Sub-Area and a lack of future supply in the pipeline<sup>28</sup>.
46. The Framework recognises the importance that a sufficient amount and variety of land comes forward where it is needed, and that the needs of groups with specific housing requirements are addressed. I understand that there are challenges in competing for sites with a traditional volume housebuilder, especially bearing in mind the significant up-front costs involved with this type of development and the provision of facilities it offers. However, other developments providing Extra Care units in the District do appear to be in the existing supply and of a similar overall offer, even if the nature of the facilities may differ.
47. The challenges facing adult health and social care and the need to provide housing for older and disabled people are not to be underestimated. The Council contends the need for extra care housing is lower than suggested by the Appellant. Even if it were, the need for more extra care units, including private ones is clear given the pressures of the local demographic trends in West Oxfordshire that has a higher-than-average proportion of older people, and the Eynsham sub-area greater still. There is also recognition that the health and lifestyles of older people will differ greatly, along with their housing needs, which can range from accessible and adaptable general needs housing to specialist housing with high level care and support<sup>29</sup>.

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<sup>25</sup> PPG Paragraph: 010 Reference ID: 63-010-20190626

<sup>26</sup> CD H27

<sup>27</sup> CD E18 para 5.1 p. 3

<sup>28</sup> CD AD17 para 5.15

<sup>29</sup> PPG Paragraph: 003 Reference ID: 63-003-20190626

48. The retirement village offer that the appeal scheme proposes would add choice to the provision of specialist accommodation available in the District. The Framework recognises the need for specialist accommodation for the elderly, and the extra care accommodation proposed would help to meet the need to provide housing for older people, which the PPG identifies as critical<sup>30</sup>. While I recognise that there may be a relatively small shortfall, if not a surplus, in the current supply I nonetheless see a significant benefit in meeting the need for **older persons' accommodation and broadening the choice of such accommodation** on offer in the District.

#### *Housing Land Supply (HLS)*

49. LP Policy H1 relates to the amount and distribution of housing in the District, making provision for at least 15,950 homes over the plan period. It is not in dispute that the Council cannot demonstrate a five-year HLS and that the shortfall against the requirement is 'significant'. Although there are a number of points of agreement between the parties on HLS<sup>31</sup>, they disagree significantly on the extent of the shortfall. **The Council's latest position is that it can demonstrate a supply of 4,400 dwellings, equating to 4.1 years; the Appellant considers the supply to be 2,709 dwellings and just 2.5 years<sup>32</sup>. The difference in the parties' positions stems from nine disputed sites.**

50. The Council counts 298 dwellings for site Ref CA1, where detailed planning permission was granted for 200 dwellings in 2013 and 23 dwellings are under construction. While a scheme for 275 dwellings is now being pursued, the 200 consented should be considered deliverable unless there is clear evidence that they will not be delivered within five years. The Appellant raises the matter of funding difficulties, **and that the Council's 2021** position statement indicates there is potentially no longer an intention to implement the original consent<sup>33</sup>. However, I have seen no clear evidence that the 200 dwellings would not be viable nor anything confirming that if permission for the 275 dwelling scheme is not forthcoming, the 200 homes that have planning permission will not be delivered within five years. Therefore, I consider these 200 dwellings should be counted.

51. For **sites to be 'deliverable' as per paragraph 74 of the Framework, there must be clear evidence** that housing completions will begin on site within five years<sup>34</sup>. That said, in respect of the larger 275 dwelling scheme at site CA1, a planning application has not yet been submitted, consultations on the uplift undertaken, or timescales for resolution of '**other issues**' provided. **The evidence available does not in my judgement qualify as 'clear evidence' and cannot yet be considered deliverable.** Those anticipated 275 dwellings should not be counted.

52. An application for outline planning permission for 200 dwellings at site WIT 2 was submitted in 2014 and is still pending determination. In 2019, an additional full planning application for 110 dwellings was submitted and is also

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<sup>30</sup> Planning Practice Guidance (PPG) Paragraphs: 001 Reference ID: 63-001-20190626 and 016 Reference ID 63-016-20190626

<sup>31</sup> Including that the base date is 31 March 2022 and 5yr period is to 31 March 2027; the HLS should be measured **against the "stepped" housing requirement; there is no past shortfall to address; the 5% buffer applies ID23** (paras 1.1 – 1.5)

<sup>32</sup> ID23 (Table 2)

<sup>33</sup> CDE15 para 11.34

<sup>34</sup> To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years (Framework Glossary)

still to be determined. The Council explained that a masterplan is expected in the next three months and an active developer with a proven track record is now involved. The prospects for progress on submission of reserved matters, resolutions on land ownership, and advancement of a masterplan may well seem encouraging to the Council. As it currently stands, I consider the evidence provided relies on speculation and hope, which falls short of what might constitute **'clear evidence'**. **Therefore, I agree with the Appellant that the 306 dwellings included in the Council's HLS PS should not be counted.**

53. For site CN1, evidence provided by the Council is an email from a planning consultant, the anticipated development trajectories and timescales within which indicate the site will not be sold until January 2024 and reserved matters submitted the following month<sup>35</sup>. **At the Inquiry, the Council's witness accepted there was a 'broad brush aspect' to the evidence** and speculated that a **reserved matters application would be 'ready to go' to inform the process of buying the land.** While the site may be unconstrained, the purported timescales appear optimistic and lacking robust evidence such as clear progress being made towards approving reserved matters. Consequently, I consider that **235 dwellings at site CN1 cannot be considered 'deliverable' and should be discounted.**
54. At site EW1, 50 dwellings of a site with a net capacity of 2,200 are in dispute. While progress on a masterplan may be advancing, it remains outstanding; and while the Council anticipates a hybrid application being forthcoming, it has not been submitted and its precise nature is not yet known. Therefore, while 50 dwellings may seem a conservative figure for such a large, allocated site, there is no **'clear evidence' of their deliverability within 5 years and so they should not currently be counted.**
55. The Council identifies 377 dwellings at site EW2, of which 300 are in dispute. The **LPA's evidence** is an email from Blenheim Strategic Partners<sup>36</sup>, which includes a trajectory up to 2027, accounting for only 70 dwellings at site EW2. **Even accepting the Council's evidence relating to these 70 dwellings,** the evidence for the other 230 dwellings is lacking and should not be considered deliverable. These 230 dwellings should therefore be discounted.
56. Applications were submitted in January 2021 for sites EW4 and EW5. The same email referred to above refers to consent being granted at the October planning committee, which, when HLS discussions were had at the Inquiry at the end of November, had not happened. I understand that officer illness has caused delays in progressing the applications to committee. However, without an officer report, a recommendation, or even a confirmed committee date, there is currently no clear evidence to indicate that the dwellings at sites EW4 and EW5 **included in the Council's PS should be considered** deliverable in 5 years. The 156 and 120 dwellings should not, as yet, be included in HLS figures.
57. There remains a dispute over the outline elements at sites 12/0084/P/OP and 14/0091/P/OP. There may be longstanding relationships between the developers and planning officers. However, as no reserved matters applications have been submitted, nor any written agreements or build rates provided, it is doubtful whether there is a realistic prospect that housing will be delivered on the site within five years. On this basis, I agree with the Appellant that 85 and 164 dwellings from these two sites be removed from the HLS figures.

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<sup>35</sup> CDE43 p. 90

<sup>36</sup> CDE43 pp. 69-70

58. The agreed existence of an undersupply triggers paragraph 11d) of the Framework, and I am not required to identify a precise HLS figure. It was put to me that **adopting a 'purist approach' would remove all the units from site, and even if there is some slippage in timescales it doesn't necessarily follow** that no housing will come forward within 5 years. However, while there is no **express definition of 'clear evidence'**, the PPG gives examples of far more robust and convincing evidence than that offered by the Council for some of the sites in this case.
59. Pragmatically, some, if not all the housing may be delivered on the discounted sites but the evidence available to me suggests the HLS figure to be worse than suggested by the Council. On my reading of the HLS evidence, and while the actual HLS figure may not be quite as low as purported by the Appellant, the figure is closer to the lower end figure of 2.5 years rather than the **Council's upper end figure of 4.1 years.**

#### The Heritage and Planning Balance

60. The absence of a five-year supply of deliverable housing sites triggers application of paragraph 11 d) of the Framework. Firstly, the Framework requires an assessment of whether the application of policies within it that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>37</sup>. Of particular relevance are the policies relating to designated heritage assets.
61. Bearing in mind the scale and nature of the proposals, the degree of harm to the significance of the RPG as a designated heritage asset would be less than substantial, and at the lower end of that scale. In these circumstances, paragraph 202 of the Framework requires the harm be weighed against the public benefits of the proposal. The public benefits the proposal include the provision of Extra Care housing and economic benefits associated with job creation and the construction phases. In my judgement, these would be sufficient to outweigh the scale of harm identified to the significance Eynsham Hall RPG as a designated heritage asset.
62. On this basis, the application of policies in the Framework that protect assets of particular importance does not provide a clear reason for refusing the development. Thus, the proposal benefits from the presumption in favour of sustainable development, indicating permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. An important material consideration.
63. A development of the size and use proposed would realise economic benefits associated with the construction phase and proposed use, realising in the region of 30 jobs and ongoing employment, potentially within Freeland. I consider there would be clear economic benefits that carry significant weight.
64. I have born in mind the arguments that no feasible alternative sites exist and the consequences of my dismissing the appeal. Even if the apparent shortfall in Extra Care accommodation is not to the degree claimed by the Appellant, the provision of Extra Care housing carries social benefits associated with enabling older people to live more independently, while also saving on health and social costs in the future and potentially freeing up family homes. **Up to 160 extra care units would count against the LPA's housing requirement and against a**

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<sup>37</sup> Framework paragraph 11 d i. as defined in footnote 7

backdrop of a clear and pressing need. It is accepted that there is a HLS shortfall and one more severe than set out by the Council in their evidence. In accordance with the Framework, this leads to a conclusion that the policies which are most important for determining the application area out-of-date. These are material considerations that carry significant weight in favour of the proposal.

65. The proposal would provide the VTS and financial contributions towards provision of bus stops and the existing village bus service. However, these would be of benefit to a very small proportion of the future residents of the proposal, and less so to the wider community. As it would largely be in mitigation of **the site's rural location**, I attribute very little weight to the benefits associated with the VTS. Some of the proposed facilities would be available for use by local community, albeit some on an age-restricted basis. While Freeland does not benefit from a shop, the size, range and offer of the proposed shop is not yet known. I consider the provision of access to the **scheme's facilities would be of** moderate benefit to the wider Freeland community, which carries moderate weight in its favour.
66. Healthcare contributions secured under the s106 Agreement for enhancing and improving capacity and facilities at Eynsham Medical Centre would also be as mitigation, which is neutral in the overall planning balance. The proposals would accord with LP policies relating to locational sustainability, highway safety, biodiversity net gains, drainage, affordable housing, flood risk and ecology; therefore, these are also neutral factors. The other environmental credentials mooted, such as the delivery of net zero carbon, are not guaranteed or secured and so I attribute them very little weight.
67. The out-of-datedness of the most important policies, however, does not alter the statutory primacy of the development plan nor indicate they carry no weight. The policies that seek to ensure development protect character and local distinctiveness are central to this decision. I attribute substantial weight to the degree to which the development conflicts with LP policies OS2, H2, EH2, OS4 and H9, which insofar as they are pursuing good design and development that respects the intrinsic character, quality of an area, including local landscape and historic environment, hold a considerable degree of **conformity with the Framework's policies**.
68. Crucially, the Framework seeks to achieve well-designed and beautiful places as part of the overarching social and environmental objectives of the planning system. Notably, paragraph 130 of the Framework establishes that planning decisions should ensure that developments will add to the overall quality of the area; are sympathetic to local character and history including the surrounding built environment and landscape setting.
69. Other than the low-level of less than substantial harm I have identified to the RPG as a designated heritage asset, which would be outweighed by public benefits, there would be no other harm to nearby listed buildings or their settings (see Other Matters). Yet, in respect of NDHAs on the appeal site, I have identified serious harm would be caused by demolishing the ancillary outbuildings, resulting in a total loss of their significance. There would be also considerable harm to the significance of the stables through their conversion. There would also be harm to the ability to appreciate Freeland House and the complex of estate buildings through development within their settings, causing harm to their significance. Paragraph 203 of the Framework requires the effect

on the significance of a NDHA be taken into account and a balance judgement be required having regard to the scale and harm or loss and the significance of the asset. The NDHAs in this case are of local significance, and the harm and loss of them would add emphasis to the detrimental impact of the proposals on the unique character and local distinctiveness of Freeland.

70. The site is not constrained by designations such as being in a conservation area, the AONB, Green Built or a flood plain. The absence of such constraints does not diminish the particular sensitivities of the site, nor absolve the severe, irreparable, and permanent impact the proposals would have on the character and local distinctiveness of Freeland. While putting development in the right places can help to reduce development pressures on sensitive locations, I consider that the appeal site is not the right place for the proposed development.
71. The **Government's objective to significantly boost the supply of homes** and to create high quality, well-located development are not mutually exclusive. Indeed, balancing the need for homes without compromising the safeguarding and improving of the environment is fundamental to what the planning and development process hope to achieve. Embedded within the Framework and the achievement of sustainable development are social objectives that, amongst other things, foster well-designed, beautiful places and environmental objectives that protect and enhance our natural, built, and historic environment. Paragraph 134 of the Framework is also clear that development that is not well designed should be refused, especially where, such as in this case, it fails to reflect local design policies and government guidance on design.
72. There is a serious HLS shortfall and demonstrable need for extra care housing in the District. I see no reason to doubt that the proposal would not be deliverable, nor any reason to question the security of its funding moving forward. Even in the face of this, and the suite of benefits that weigh in favour the proposal, **and even were I to take the Appellant's full assessment of the scale of that shortfall**, it is my judgement that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

#### Other Matters

73. The appeal site is located proximate to two listed buildings, the Grade II\* listed Church of St Mary (List Entry Number: 1367941) and the Grade II listed Chapel, Wroslyn Road (List Entry Number: 1053018). Mindful of the statutory duty set out in s66(1) of the Planning (Listed Building and Conservation Areas) Act, 1990 (the Act), I have had special regard to the desirability of preserving their settings. The immediate yard confines, historic built backdrop along Wroslyn Road and wider verdant surroundings of these buildings form part of their settings. These settings, along with the historic, physical, and functional relationship with the settlement of Freeland contribute to the significance and special interest of these listed buildings. Nevertheless, given the location and extent of the proposed development, it would still be possible to appreciate the **building's special interest**. Therefore, the appeal scheme would preserve the settings and special interest, causing no harm to their significance. I note the Council had no concerns in this regard either<sup>38</sup>.

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<sup>38</sup> ID13 paras. 43 and 49

74. Interested parties have raised additional concerns with the proposals that sit outside the main issues. I do not wish to diminish the importance of matters relating to highway safety, sewerage in the surrounding river network, ecology and biodiversity. However, these matters have been subject to assessment by independent professionals, none of whom has raised objection (subject to conditions) and I have no compelling evidence to warrant doubting or deviating from their professional judgement. In any event, as I am dismissing the appeal for other reasons, these other potential harms associated with the proposals will not materialise.
75. The Appellant chose to field witnesses who offer extensive professional experience on individual topic areas. I have taken note of the arguments in respect of the absence of comparative professional qualifications from certain witnesses, and the impartiality of others. Where elements of the evidence were evidently speculative, including in respect of testimonies from residents of other Inspired villages, in error, or unsubstantiated, I either reduced or attributed it no weight. However, I found the crux of the arguments and evidence being put, both by the Council and the Rule 6, to be capable of substantiating their respective standpoints on the principal issues at play. Nothing causes me to doubt the particular influence or any professional competence of any witness that would cause me to disregard their evidence wholesale.

#### Conclusion

76. I consider that the proposal conflicts with the development plan as a whole, taking in account policies that both oppose and support the proposed development. As required by s38(6) of the Planning and Compulsory Purchase Act 2004, determination of this appeal must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework, including its presumption in favour of sustainable development, is an important material consideration. However, I have judged the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits assessed against the policies in the Framework taken as a whole. In the circumstances in this case, I do not find material considerations indicate that my decision should be taken otherwise than in accordance with the development plan.
77. For the reasons given above, I conclude that the appeal should be dismissed.

*H Porter*

INSPECTOR





## INQUIRY DOCUMENTS

- ID1 **Appellant's** list of appearances
- ID2 **Appellant's Opening** Submissions
- ID3 Draft S106 Agreement
- ID4 **Council's Opening Submissions**
- ID5 FPC & FF (Rule 6 Party) Opening Submissions and appearances
- ID6 **"It's Not in the Local Plan"** written copy of poem by Fiona Lehane
- ID7 Windrush Against Sewage Pollution (WASP) written copy of oral submissions
- ID8 Mr Robert Crocker written copy of oral submissions '**State of Nature**'
- ID9 Extract from Oxfordshire Wildlife and Landscape Study
- ID10 Amended Regulating Plan
- ID11 Rule 6 response to **Inspector's** heritage questions
- ID12 **Council's** revised HLS position statement
- ID13 **Council's** response to **Inspector's** heritage questions
- ID14 Appellant's response to **Inspector's** heritage questions
- ID15 Draft Schedule of suggested conditions V7
- ID16 Draft S106 Agreement, 24 November 2022
- ID17 Estimated Need for CT Extra Care Housing Tables
- ID18 **Council's** Regulation 122 Statement
- ID19 **Council's** Regulation 122 Statement Appendices
- ID20 FPC & FF (Rule 6 Party) Closings
- ID21 Closing submissions on behalf of the Council
- ID22 Closing submissions on behalf of the Appellant (and appendices)
- ID23 Draft HLS SoCG Addendum, 24 November 2022

## DOCUMENTS SUBMITTED BY AGREEMENT AFTER THE INQUIRY

- PID1 Final schedule of suggested conditions, 2 December 2022
- PID2 Scanned copy of completed S106 Agreement, 9 December 2022

EP9

## Planning and Strategic Housing

Reply to : Chris Hargraves

Tel : [REDACTED]

Email : [REDACTED]

## Elmfield

New Yatt Road,

WITNEY,

Oxfordshire,

OX28 1PB,

Tel: 01993 861000

[www.westoxon.gov.uk](http://www.westoxon.gov.uk)



Your Ref :

Our Ref :

Date : 31 August 2022

Dear Andrew

### **West Oxfordshire District Council Housing Land Supply Position Update (2022 – 2027) - Information required in relation to land east of Monahan Way, Carterton**

I am writing to inform you that the District Council is in the process of updating its Housing Land Supply (HLS) Position Statement for the period 1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2027.

The update will take account of housing completions from 1<sup>st</sup> April 2011 – 31<sup>st</sup> March 2022 and extant planning permissions and other commitments as of 1<sup>st</sup> April 2022.

As such, I would be grateful if you could complete the pro-forma overleaf, taking into account the current stage which your site has reached in the planning process and the anticipated build trajectory.

As you will see, the pro-forma extends beyond the 5-year period 2022 – 2027 reflecting the fact that for a number of sites, completions are likely to extend beyond 2027.

If you are able to complete the trajectory for the entire build out of your site that would be helpful, not least because this information will also help to inform our forthcoming Local Plan review.

If you are able to provide any additional information in support of your anticipated trajectory (including assumed timings around grant of outline planning permission, Section 106 discussions, reserved matters, discharge of conditions etc.) that would be helpful.

I look forward to hearing from you at your earliest convenience. I appreciate it is holiday season and that you may be unable to respond immediately but if you could provide the requested information no later than Friday 9 September or sooner if possible, I would be grateful.

Thank you in advance for your assistance with this important matter. If you wish to discuss or require any further information or clarification, please let me know as soon as possible.

Yours sincerely



**Chris Hargraves**  
**Planning Policy Manager**

Anticipated development trajectory – Land East of Monahan Way, Carterton

	1 <sup>st</sup> April 2022 – 31 <sup>st</sup> March 2023	1 <sup>st</sup> April 2023 – 31 <sup>st</sup> March 2024	1 <sup>st</sup> April 2024 – 31 <sup>st</sup> March 2025	1 <sup>st</sup> April 2025 – 31 <sup>st</sup> March 2026	1 <sup>st</sup> April 2026 – 31 <sup>st</sup> March 2027	1 <sup>st</sup> April 2027 – 31 <sup>st</sup> March 2028	1 <sup>st</sup> April 2028 – 31 <sup>st</sup> March 2029	1 <sup>st</sup> April 2029 – 31 <sup>st</sup> March 2030	1 <sup>st</sup> April 2030 – 31 <sup>st</sup> March 2031	1 <sup>st</sup> April 2031 – 31 <sup>st</sup> March 2032	1 <sup>st</sup> April 2032 – 31 <sup>st</sup> March 2033	1 <sup>st</sup> April 2033 – 31 <sup>st</sup> March 2034	1 <sup>st</sup> April 2034 – 31 <sup>st</sup> March 2035	1 <sup>st</sup> April 2035 – 31 <sup>st</sup> March 2036	1 <sup>st</sup> April 2036 – 31 <sup>st</sup> March 2037
Number of anticipated housing completions (per annum)	119	103	103	103	103	0	0	0	0	0	0	0	0	0	0

Bloor Commentary:

Our current delivery rate to date has been approximately 100 dwellings per annum.

Our forecast completions for 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 total 119 dwellings.

The current outline planning permission for the site is for 700 dwellings. Bloor will shortly be submitting a planning application for a further 100 dwellings approximately.

Whilst inevitably there will be some uncertainty as to economic and market conditions going forwards, currently, and assuming we obtain planning permission for the additional 100 dwellings, it is reasonable to forecast the delivery of a further 100 (approx.) dwellings per annum over the four years from 1<sup>st</sup> April 2023, with site completion by mid-2027.

Chris Wood

---

**From:** Wooden, Jonathan Mr (DIO Estates-AOT DH) [REDACTED]  
**Sent:** 07 September 2022 19:40  
**To:** Chris Hargraves  
**Subject:** RE: Letter to MOD re REEMA North

Chris,

In response to your email and letter, our anticipated programme for the development of Service Families Accommodation and private housing on the REEMA North site generates the numbers set out in the table below, although as you recognise these numbers are subject to planning (and other issues):

Anticipated development trajectory – REEMA North, Carterton

	1 <sup>st</sup> April 2022 – 31 <sup>st</sup> March 2023	1 <sup>st</sup> April 2023 – 31 <sup>st</sup> March 2024	1 <sup>st</sup> April 2024 – 31 <sup>st</sup> March 2025	1 <sup>st</sup> April 2025 – 31 <sup>st</sup> March 2026	1 <sup>st</sup> April 2026 – 31 <sup>st</sup> March 2027	1 <sup>st</sup> April 2027 – 31 <sup>st</sup> March 2028	1 <sup>st</sup> April 2028 – 31 <sup>st</sup> March 2029	1 <sup>st</sup> April 2029 – 31 <sup>st</sup> March 2030	1 <sup>st</sup> April 2030 – 31 <sup>st</sup> March 2031	1 <sup>st</sup> April 2031 – 31 <sup>st</sup> March 2032	1 <sup>st</sup> April 2032 – 31 <sup>st</sup> March 2033
Number of anticipated housing completions (per annum)				100	175						

I hope that helps,

**Jon Wooden** BSc MBA MCMi MAPM MRICS

Deputy Head Estates (Accommodation Optimisation), Defence Infrastructure Organisation

Army Headquarters | IDL 412 | 2nd Floor | Ramillies Building | Marlborough Lines | Monxton Road | Andover | Hants | SP11 8HJ

Mobile: [REDACTED] | MOD telephone: [REDACTED] | Telephone: [REDACTED] | Email: Role Mailbox: [DIOEstates-AODH@mod.gov.uk](mailto:DIOEstates-AODH@mod.gov.uk) | Personal Mailbox: [REDACTED]

---

**From:** Chris Hargraves [REDACTED]  
**Sent:** 31 August 2022 12:24  
**To:** Wooden, Jonathan Mr (DIO Estates-AOT DH) [REDACTED]  
**Subject:** Letter to MOD re REEMA North

Dear Jonathan

I hope you are well. Please find attached a letter in relation to the REEMA North site at Carterton in the context of anticipated housing land supply.

Whilst I appreciate that the information being sought is to a large extent dependent on the passage of the site through the planning process, I am hopeful that you will be able to give us a realistic picture of anticipated delivery timescales from your perspective.

I look forward to hearing from you at your earliest convenience. Do let me know if you need any further information or clarification.

Kind regards

Chris Hargraves  
Planning Policy Manager  
West Oxfordshire District Council

Chris Hargraves  
Planning Policy Manager - West Oxfordshire District Council

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## Chris Wood

---

**From:** Annette Simpkins <[REDACTED]>  
**Sent:** 02 September 2022 12:33  
**To:** Chris Hargraves  
**Subject:** Re: Land at Myrtle Farm, Long Hanborough

Dear Mr Hargraves

Thank you for your email. We have considered the options and would like to retain the land as an allocated housing site, please, as we may want to bring it forward for development sometime in the future.

Many thanks.

Yours sincerely,

Annette Simpkins

Sent from my iPad

On 1 Sep 2022, at 17:56, Chris Hargraves <[REDACTED]>

Dear Ms Simpkins

Many thanks for your email. It is very helpful to understand your position. We are about to review our local plan and I wonder if we should look at 'de-allocating' the site if you have no interest in bringing it forward for development.

Perhaps you could let me know if this is something you would like us to further consider or whether you would like to retain it as an allocated housing site to provide some more flexibility in the longer term should your position change?

Kind regards

Chris

**From:** Annette Simpkins <[REDACTED]>  
**Sent:** 31 August 2022 16:54  
**To:** Chris Hargraves <[REDACTED]>  
**Subject:** Re: Land at Myrtle Farm, Long Hanborough

Dear Mr Hargraves

Thank you for your email. Our position hasn't changed since last September. We will not be considering the land for development before 2027.

To be honest, Long Hanborough has had 3 developments to absorb in very quick succession, together with the small development currently under construction on the old Oliver's Garage site - another 24 homes. Our local infrastructure is at breaking point and we strongly feel that, in all fairness, we cannot be responsible for further development in the village.

We hope you understand our position.

Yours sincerely

Annette Simpkins

Sent from my iPad

On 31 Aug 2022, at 13:16, Chris Hargraves  
[REDACTED] wrote:

Dear Ms Simpkins

I write by way of follow up to my previous email of September last year. I appreciate that you said you would get in touch with us should your position change, but as we are about to update our housing land supply position statement, I thought it would be sensible just to quickly contact you to see if there was any movement regarding the potential release of this site for development.

Our new position statement will cover the 5-year period 2022 – 2027 and will essentially set out how many new homes we anticipate being delivered for particular sites over that timescale.

As such, if you could just provide a further brief update that would be very helpful.

Kind regards

Chris Hargraves

Planning Policy Manager

---

**From:** Annette Simpkins <[REDACTED]>

**Sent:** 24 September 2021 08:01

**To:** Chris Hargraves <[REDACTED]>

**Subject:** Re: Land at Myrtle Farm, Long Hanborough

Dear Mr Hargraves

Thank you for your email. The field in question is currently being farmed by a neighbouring farmer, and we intend that this will continue for the foreseeable future.

Thank you for your interest - we will contact you if our position changes.

Yours sincerely

Annette Simpkins

Sent from my iPad

On 23 Sep 2021, at 14:04, Chris Hargraves  
[REDACTED] wrote:

Dear Ms Simpkins

I hope this email finds you well. You will recall from previous correspondence (below) that my colleague Deborah Wyatt contacted you last year regarding land at Myrtle Farm and whether there was any interest in bringing the site forward for development.

As it has been some time since this last exchange, I thought I would seek a further update from you to see if the position remains the same.

As part of its commitment to tackling the climate emergency, the District Council is looking for flagship schemes to demonstrate best practice in terms of building fabric efficiency and the use of renewable energy and I thought this site could be a potential candidate.

We are also about to embark on a review of our local plan and as part of that process will need to consider those sites which are already allocated for development and whether they are realistically likely to come forward or not.

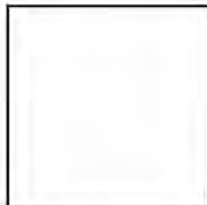
As such, if you do have time to give me a very brief update on your thoughts regarding the site, it would be very much appreciated.

Many thanks in anticipation.

Kind regards

Chris Hargraves  
Planning Policy Manager  
West Oxfordshire District Council

Chris Hargraves  
Planning Policy Manager - West Oxfordshire District Council



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-----Original Message-----

From: Annette Simpkins

[REDACTED]

Sent: 23 June 2020 15:43

To: Deborah Wyatt

Subject: Land at Myrtle Farm, Long Hanborough

Thank you for your letter of 18th June regarding the development of land at Myrtle Farm, Long Hanborough.

My brother and I have also had numerous requests from private developers to sell the land, but we have decided, for the foreseeable future, to leave it as an agricultural field.

As you will know, our village has had to absorb three large housing estates along with smaller developments, and the amenities in the village are already heavily overburdened. (We have a brand new larger doctors' surgery being built but with no guarantee of additional doctors.) We cannot, in good conscience, add to this state of affairs.

If we have a change of mind in the future, and land is still required for housing, we will get back in touch with you.

Yours sincerely

Annette Simpkins

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## Chris Wood

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**From:** Jeremy Flawn [REDACTED]  
**Sent:** 07 October 2022 15:28  
**To:** Chris Hargraves  
**Cc:** Charles Maxlow-Tomlinson  
**Subject:** West Oxfordshire District Council Housing Land Supply Position Update (2022 – 2027) - Information required in relation to the East Chipping Norton SDA  
**Attachments:** Land E Chipping Norton Trajectory October 22.doc

Dear Chris,

Please find attached trajectory information for the land to the north of London Road Chipping Norton as requested. This concerns the OCC land north of London Road only.



Please do not hesitate to contact me if you have any questions concerning the attached or the assumptions behind the figures.

Best regards,

Jeremy

Jeremy Flawn  
Partner – Bluestone Planning

M: [REDACTED]

BP  
Bluestone Planning  

Phone 01235 766825

Address 13 The Black Barn, Manor Farm, Manor Road, Wantage, OX12 8NE

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 Think of the environment. Please avoid printing this e-mail

Anticipated development trajectory – East Chipping Norton SDA – LAND NORTH OF LONDON ROAD ONLY

	1 <sup>st</sup> April 2022 – 31 <sup>st</sup> March 2023	1 <sup>st</sup> April 2023 – 31 <sup>st</sup> March 2024	1 <sup>st</sup> April 2024 – 31 <sup>st</sup> March 2025	1 <sup>st</sup> April 2025 – 31 <sup>st</sup> March 2026	1 <sup>st</sup> April 2026 – 31 <sup>st</sup> March 2027	1 <sup>st</sup> April 2027 – 31 <sup>st</sup> March 2028	1 <sup>st</sup> April 2028 – 31 <sup>st</sup> March 2029	1 <sup>st</sup> April 2029 – 31 <sup>st</sup> March 2030	1 <sup>st</sup> April 2030 – 31 <sup>st</sup> March 2031	1 <sup>st</sup> April 2031 – 31 <sup>st</sup> March 2032	1 <sup>st</sup> April 2032 – 31 <sup>st</sup> March 2033	1 <sup>st</sup> April 2033 – 31 <sup>st</sup> March 2034	1 <sup>st</sup> April 2034 – 31 <sup>st</sup> March 2035	1 <sup>st</sup> April 2035 – 31 <sup>st</sup> March 2036	1 <sup>st</sup> April 2036 – 31 <sup>st</sup> March 2037
Number of anticipated housing completions (per annum)			70	100	65										

Additional notes (please set out here any further information in support of the above assumptions)

A. Timescales:

- |   |                |
|---|----------------|
| 1. Updates to surveys                           | Oct – Dec 2022 |
| 2. Pre-application engagement and consultations | Nov – Jan 2023 |
| 3. Submission of application                    | Mar 2023       |
| 4. Resolution to grant outline pp               | Jul 2023       |
| 5. S106 / 30 / 278 negotiations                 | Jul – Sep 2023 |
| 6. Decision issued                              | Sep 2023       |
| 7. Sale of site                                 | Jan 2024       |
| 8. Reserved matters submissions                 | Feb 2024       |
| 9. Conditions discharged                        | Jun 2024       |
| 10. Start on site                               | Jul 2024       |

B. Assumes 2 outlets operating at max 50 completions / yr / outlet. If affordable units are delivered separately by a RP then the overall rate of completions / yr may increase.

C. Based on 235 units capacity.

# **Appendix 3**

## **Information from Developers/Landowners relating to Expected Delivery of Housing from Disputed Large Sites within the District**

**Chris Wood**

---

**From:** Thomas Corbin <[REDACTED]>  
**Sent:** 12 September 2022 17:28  
**To:** Chris Hargraves  
**Cc:** Paul Comerford  
**Subject:** RE: Letter to Prior and Partners re Salt Cross Garden Village  
**Attachments:** Salt Cross Garden Village (September 2022 housing trajectory).doc

Hi Chris,

Sorry slightly behind Friday’s deadline but please see attached updated housing trajectory for the Salt Cross Garden Village. You will note this is behind the 150 homes previously assumed in the Council’s 5yhls paper but consistent with the latest AAP phasing and reinforced by the fact that the Applicant and Landowners are committed to delivering homes on this site as soon as the submitted OPA is determined. We have included some key assumptions in the attached regarding targeting milestones. In all honesty, we believe this could be expedited through the renewed focus on the OPA’s determination and on-going Section 106 negotiations but have updated to attached to represent current likelihoods.

The estimate for resolution to grant (RTG) in the Salt Cross phasing report (EV36, March 2022) aimed for an August 2022 RTG (extract below) resulting in completions in the second half of 2026. Despite currently assuming a delayed RTG (which is now targeted for the end of this year) is achieved, we would hope we could retain a mid-2023 section 106 agreement through collaborative working over the next few months.

Kind regards,

Tom

**Table 1: Assumed lead-in period to first completions**

Item	Description	Potential timing
1.	WODC resolution to grant outline planning permission.	June - August 2022
2.	Completion of section 106 agreement(s).	June - August 2023
3.	Grant of outline planning permission.	June - August 2023
4.	Discharge pre-commencement conditions.	October - December 2023
5.	Initial infrastructure works; i.e. to open up the site (see Note 1).	January - June 2024
6.	Pre-planning and marketing of first sub-phase.	January - June 2024
7.	Conditional contract with first housebuilder.	June - December 2024
8.	Phase 1a - pre-application design and consultation work.	January - March 2025
9.	Submission of first sub-phase reserved matters application ("RMA").	May - July 2025
10.	Determination of first sub-phase RMA.	August - October 2025
11.	Discharge pre-commencement conditions.	October - December 2025
12.	Mobilization.	January - March 2026
13.	Commencement on site.	April - June 2026
14.	First completions.	Second half of 2026

**Notes:**

1. The overall timeline may need to be extended to allow more time for design work on and subsequent approval of enabling infrastructure RMAs; e.g. the first sections of the spine road.

**Thomas Corbin**  
Associate

t: [REDACTED]  
m: [REDACTED]



w: [priorandpartners.com](http://priorandpartners.com)

a: 70 Cowcross Street, London, EC1M 6EJ



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---

**From:** Chris Hargraves [REDACTED]  
**Sent:** 31 August 2022 13:03  
**To:** Paul Comerford [REDACTED]  
**Cc:** Thomas Corbin [REDACTED]  
**Subject:** Letter to Prior and Partners re Salt Cross Garden Village

Dear Paul

I hope you are well. Please find attached a letter in relation to Salt Cross Garden Village in the context of anticipated housing land supply.

Whilst I appreciate that the information being sought is to a large extent dependent on the passage of the site through the planning process, I am hopeful that you will be able to give us a realistic picture of anticipated delivery timescales from your perspective.

I look forward to hearing from you at your earliest convenience. Do let me know if you need any further information or clarification.

Kind regards

Chris Hargraves  
Planning Policy Manager  
West Oxfordshire District Council

Chris Hargraves  
Planning Policy Manager - West Oxfordshire District Council



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**Planning and Strategic Housing**

Reply to : Chris Hargraves

Tel : [REDACTED]

Email : [REDACTED]

**Elmfield**

New Yatt Road,

WITNEY,

Oxfordshire,

OX28 1PB,

Tel: 01993 861000

[www.westoxon.gov.uk](http://www.westoxon.gov.uk)



Your Ref :  
Our Ref :  
Date : 31 August 2022

Dear Paul

**West Oxfordshire District Council Housing Land Supply Position Update (2022 – 2027) - Information required in relation to Salt Cross Garden Village**

I am writing to inform you that the District Council is in the process of updating its Housing Land Supply (HLS) Position Statement for the period 1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2027.

The update will take account of housing completions from 1<sup>st</sup> April 2011 – 31<sup>st</sup> March 2022 and extant planning permissions and other commitments as of 1<sup>st</sup> April 2022.

As you will be aware, where sites have outline planning permission only or are allocated in a development plan, to be considered deliverable, the Council must have clear evidence that housing completions will begin on site within five years.

As such, I would be grateful if you could complete the pro-forma overleaf, taking into account the current stage which Salt Cross Garden Village has reached in the planning process and the anticipated build trajectory.

As you will see, the pro-forma extends beyond the 5-year period 2022 – 2027 reflecting the fact that for a number of sites, completions are likely to extend beyond 2027.

If you are able to complete the trajectory for the entire build out of your site that would be helpful, not least because this information will also help to inform our forthcoming Local Plan review.

If you are able to provide any additional information in support of your anticipated trajectory (including assumed timings around grant of outline planning permission, Section 106 discussions, reserved matters, discharge of conditions etc.) that would be helpful.

I look forward to hearing from you at your earliest convenience. I appreciate it is holiday season and that you may be unable to respond immediately but if you could provide the requested information no later than Friday 9 September or sooner if possible, I would be grateful.

Thank you in advance for your assistance with this important matter. If you wish to discuss or require any further information or clarification, please let me know as soon as possible.  
Yours sincerely



**Chris Hargraves**  
**Planning Policy Manager**

Anticipated development trajectory – Salt Cross Garden Village

	<sup>1st</sup> April 2022 – 31 <sup>st</sup> March 2023	<sup>1st</sup> April 2023 – 31 <sup>st</sup> March 2024	<sup>1st</sup> April 2024 – 31 <sup>st</sup> March 2025	<sup>1st</sup> April 2025 – 31 <sup>st</sup> March 2026	<sup>1st</sup> April 2026 – 31 <sup>st</sup> March 2027	<sup>1st</sup> April 2027 – 31 <sup>st</sup> March 2028	<sup>1st</sup> April 2028 – 31 <sup>st</sup> March 2029	<sup>1st</sup> April 2029 – 31 <sup>st</sup> March 2030	<sup>1st</sup> April 2030 – 31 <sup>st</sup> March 2031	<sup>1st</sup> April 2031 – 31 <sup>st</sup> March 2032	<sup>1st</sup> April 2032 – 31 <sup>st</sup> March 2033	<sup>1st</sup> April 2033 – 31 <sup>st</sup> March 2034	<sup>1st</sup> April 2034 – 31 <sup>st</sup> March 2035	<sup>1st</sup> April 2035 – 31 <sup>st</sup> March 2036	<sup>1st</sup> April 2036 – 31 <sup>st</sup> March 2037
Number of anticipated housing completions (per annum)					50	70	135	160	180	195	195	210	210	210	195
Cumulative completions for reference					50	120	255	415	595	790	985	1,195	1,405	1,645	1,810

Additional notes (please set out here any further information in support of the above assumptions)

- Grosvenor’s outline planning application (20/01734/OUT) was submitted in July 2020. Although the Salt Cross AAP is yet to be formally adopted, we believe the Inspector finding the AAP sound subject to main modifications provides weight to the AAP as a material consideration in the determination of the OPA a strong indicator of the deliverability of the OPA. Grosvenor remain committed to the delivery of the Garden Village and eagerly await the positive determination of the submitted planning application.
- The above housing trajectory is based on the below estimated milestones and the trajectory within the Salt Cross Phasing report (March 2022):
  - December 2022 - Salt Cross AAP adopted
  - December 2022 / January 2023 - Resolution to grant
  - August 2023 – Section 106 signed
  - 2024/25: Early phase RMA(s) produced, submitted and approved
  - 2025/26: Construction starts on site
  - Late 2026: First completions

## Chris Wood

---

**From:** Ashley Maltman [REDACTED]  
**Sent:** 11 September 2022 23:28  
**To:** Chris Hargraves  
**Cc:** Roger File; Nigel McGurk  
**Subject:** FW: Letter to Blenheim re Land at Hill Rise and Land North of Banbury Road  
**Attachments:** Letter to Blenheim re Land at Hill Rise and Land North of Banbury Road (003).doc

Hi Chris,

Thanks for your e-mail in relation to our proposals at Hill Rise and Banbury Road, for completeness I have also sought to provide delivery rates on our sites at Eynsham and Park View, Woodstock.

### Hill Rise and Banbury Road

See attached completed trajectory for both sites. As you know these are 2 allocated sites and two planning applications are with WODC planning officers for consideration, both originally submitted January 2021. We sent back to officers last week what we hope are final responses that address any concerns they previously had. We are hoping that they will both go to and receive approval at the October Uplands Committee meeting, however, we are yet to hear confirmation of this from Officers.

Hill Rise is a hybrid application, and our current plan is to be on site Q2 2023 - 1<sup>st</sup> completion Q1 2024 - if a consent is granted at the October planning committee and any s106 concluded rapidly, any reserved matters application will follow for the remainder of the site to allow continuity of delivery on site.

Banbury Road is an outline application, and we would immediately follow with preparing a Reserved Matters application but would not expect to be on site for 12-18 months following grant of outline permission to allow for reserved matters approval and discharge of conditions

Both planning applications have been with officers for a considerable amount of time and hopefully we are in a position where positive recommendations will be forthcoming in October/November 2022. We have invested considerable time and money into these applications and if consents are not forthcoming, for reasons discussed with my colleagues, we will need to review our position and no realistic timeline can be predicted. In such a scenario, we must consider proceeding to appeal as our view is that the determination timescales for both planning applications - which are ambitious proposals for exemplar schemes on 2 allocated sites - have taken far too long.

### Eynsham

See below our proposed trajectory, however, in similar vein to Hill Rise and Banbury Road, this is dependent upon the timely determination of the planning application (full planning application) which is to be submitted in Q4 2022:

- 2022-2023
- 2023-2024
- 2024-2025 - 18 dwellings
- 2025-2026 - 35 dwellings
- 2026-2027 – 17 dwellings

### Park View, Woodstock

See below our completions expected over the corresponding period.

- 2022-2023 – 70 dwellings
- 2023-2024 - 70 dwellings
- 2024-2025 – 53 dwellings

- 2025-2026 – 42 dwellings

You will also note we now have an interest in North Witney site allocation; however, the consortium's position and trajectory will be conveyed through Tim Burden at Turleys for this site.

If you have any further questions, please don't hesitate to contact me.

Kind regards

Ash

**Ashley Maltman**  
Head of Planning



T: [REDACTED] M: [REDACTED]

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**From:** Chris Hargraves <[REDACTED]>  
**Sent:** 31 August 2022 13:23  
**To:** Roger File <[REDACTED]>  
**Subject:** Letter to Blenheim re Land at Hill Rise and Land North of Banbury Road

**CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Dear Roger

I hope you are well. Please find attached a letter in relation to land at Hill Rise and land north of Banbury Road, Woodstock in the context of anticipated housing land supply.

Whilst I appreciate that the information being sought is to a large extent dependent on the passage of the sites through the planning process, I am hopeful that you will be able to give us a realistic picture of anticipated delivery timescales from your perspective.

I look forward to hearing from you at your earliest convenience. Do let me know if you need any further information or clarification.

Kind regards

Chris Hargraves  
Planning Policy Manager  
West Oxfordshire District Council  
Chris Hargraves  
Planning Policy Manager - West Oxfordshire District Council



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**Planning and Strategic Housing**

Reply to : Chris Hargraves

Tel : [REDACTED]

Email : [REDACTED]

**Elmfield**

New Yatt Road,

WITNEY,

Oxfordshire,

OX28 1PB,

Tel: 01993 861000

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Your Ref :  
Our Ref :  
Date : 31 August 2022

Dear Roger

**West Oxfordshire District Council Housing Land Supply Position Update (2022 – 2027) - Information required in relation to land at Hill Rise and land north of Banbury Road, Woodstock**

I am writing to inform you that the District Council is in the process of updating its Housing Land Supply (HLS) Position Statement for the period 1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2027.

The update will take account of housing completions from 1<sup>st</sup> April 2011 – 31<sup>st</sup> March 2022 and extant planning permissions and other commitments as of 1<sup>st</sup> April 2022.

As you will be aware, where sites have outline planning permission only or are allocated in a development plan, to be considered deliverable, the Council must have clear evidence that housing completions will begin on site within five years.

As such, I would be grateful if you could complete the pro-forma overleaf, taking into account the current stage which the sites at Hill Rise and to the north of Banbury Road have reached in the planning process and their anticipated build trajectory.

As you will see, the pro-forma extends beyond the 5-year period 2022 – 2027 reflecting the fact that for a number of sites, completions are likely to extend beyond 2027.

If you are able to complete the trajectory for the entire build out of your sites that would be helpful, not least because this information will also help to inform our forthcoming Local Plan review.

If you are able to provide any additional information in support of your anticipated trajectory (including assumed timings around grant of outline planning permission, Section 106 discussions, reserved matters, discharge of conditions etc.) that would be helpful.

I look forward to hearing from you at your earliest convenience. I appreciate it is holiday season and that you may be unable to respond immediately but if you could provide the requested information no later than Friday 9 September or sooner if possible, I would be grateful.



Thank you in advance for your assistance with this important matter. If you wish to discuss or require any further information or clarification, please let me know as soon as possible.

Yours sincerely



**Chris Hargreaves**  
**Planning Policy Manager**

Anticipated development trajectory – Land at Hill Rise, Woodstock

	<sup>1st</sup> April 2022 – 31 <sup>st</sup> March 2023	<sup>1st</sup> April 2023 – 31 <sup>st</sup> March 2024	<sup>1st</sup> April 2024 – 31 <sup>st</sup> March 2025	<sup>1st</sup> April 2025 – 31 <sup>st</sup> March 2026	<sup>1st</sup> April 2026 – 31 <sup>st</sup> March 2027	<sup>1st</sup> April 2027 – 31 <sup>st</sup> March 2028	<sup>1st</sup> April 2028 – 31 <sup>st</sup> March 2029	<sup>1st</sup> April 2029 – 31 <sup>st</sup> March 2030	<sup>1st</sup> April 2030 – 31 <sup>st</sup> March 2031	<sup>1st</sup> April 2031 – 31 <sup>st</sup> March 2032	<sup>1st</sup> April 2032 – 31 <sup>st</sup> March 2033	<sup>1st</sup> April 2033 – 31 <sup>st</sup> March 2034	<sup>1st</sup> April 2034 – 31 <sup>st</sup> March 2035	<sup>1st</sup> April 2035 – 31 <sup>st</sup> March 2036	<sup>1st</sup> April 2036 – 31 <sup>st</sup> March 2037
Number of anticipated housing completions (per annum)		12	48	48	48	24									

Additional notes (please set out here any further information in support of the above assumptions)

Anticipated development trajectory – Land north of Banbury Road, Woodstock

	<sup>1</sup> <sup>st</sup> April 2022 – 31 <sup>st</sup> March 2023	<sup>1</sup> <sup>st</sup> April 2023 – 31 <sup>st</sup> March 2024	<sup>1</sup> <sup>st</sup> April 2024 – 31 <sup>st</sup> March 2025	<sup>1</sup> <sup>st</sup> April 2025 – 31 <sup>st</sup> March 2026	<sup>1</sup> <sup>st</sup> April 2026 – 31 <sup>st</sup> March 2027	<sup>1</sup> <sup>st</sup> April 2027 – 31 <sup>st</sup> March 2028	<sup>1</sup> <sup>st</sup> April 2028 – 31 <sup>st</sup> March 2029	<sup>1</sup> <sup>st</sup> April 2029 – 31 <sup>st</sup> March 2030	<sup>1</sup> <sup>st</sup> April 2030 – 31 <sup>st</sup> March 2031	<sup>1</sup> <sup>st</sup> April 2031 – 31 <sup>st</sup> March 2032	<sup>1</sup> <sup>st</sup> April 2032 – 31 <sup>st</sup> March 2033	<sup>1</sup> <sup>st</sup> April 2033 – 31 <sup>st</sup> March 2034	<sup>1</sup> <sup>st</sup> April 2034 – 31 <sup>st</sup> March 2035	<sup>1</sup> <sup>st</sup> April 2035 – 31 <sup>st</sup> March 2036	<sup>1</sup> <sup>st</sup> April 2036 – 31 <sup>st</sup> March 2037
Number of anticipated housing completions (per annum)			24	48	48	48	48	19							

Additional notes (please set out here any further information in support of the above assumptions)

**Planning and Strategic Housing**

Reply to : Chris Hargraves

Tel : [REDACTED]

Email : [REDACTED]

**Elmfield**

New Yatt Road,

WITNEY,

Oxfordshire,

OX28 1PB,

Tel: 01993 861000

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Your Ref :  
Our Ref :  
Date : 31 August 2022

Dear Tim

**West Oxfordshire District Council Housing Land Supply Position Update (2022 – 2027) - Information required in relation to the North Witney Strategic Development Area (SDA)**

I am writing to inform you that the District Council is in the process of updating its Housing Land Supply (HLS) Position Statement for the period 1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2027.

The update will take account of housing completions from 1<sup>st</sup> April 2011 – 31<sup>st</sup> March 2022 and extant planning permissions and other commitments as of 1<sup>st</sup> April 2022.

As you will be aware, where sites have outline planning permission only or are allocated in a development plan, to be considered deliverable, the Council must have clear evidence that housing completions will begin on site within five years.

As such, I would be grateful if you could complete the pro-forma overleaf, taking into account the current stage which the North Witney SDA has reached in the planning process and the anticipated build trajectory.

As you will see, the pro-forma extends beyond the 5-year period 2022 – 2027 reflecting the fact that for a number of sites, completions are likely to extend beyond 2027.

If you are able to complete the trajectory for the entire build out of your site that would be helpful, not least because this information will also help to inform our forthcoming Local Plan review.

If you are able to provide any additional information in support of your anticipated trajectory (including assumed timings around grant of outline planning permission, Section 106 discussions, reserved matters, discharge of conditions etc.) that would be helpful.

I look forward to hearing from you at your earliest convenience. I appreciate it is holiday season and that you may be unable to respond immediately but if you could provide the requested information no later than Friday 9 September or sooner if possible, I would be grateful.

Thank you in advance for your assistance with this important matter. If you wish to discuss or require any further information or clarification, please let me know as soon as possible.

Yours sincerely



**Chris Hargraves**  
**Planning Policy Manager**

Anticipated development trajectory – North Witney SDA

	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>	<sup>1</sup> <sup>st</sup>
	April 2022 – 31 <sup>st</sup>	April 2023 – 31 <sup>st</sup>	April 2024 – 31 <sup>st</sup>	April 2025 – 31 <sup>st</sup>	April 2026 – 31 <sup>st</sup>	April 2027 – 31 <sup>st</sup>	April 2028 – 31 <sup>st</sup>	April 2029 – 31 <sup>st</sup>	April 2030 – 31 <sup>st</sup>	April 2031 – 31 <sup>st</sup>	April 2032 – 31 <sup>st</sup>	April 2033 – 31 <sup>st</sup>	April 2034 – 31 <sup>st</sup>	April 2035 – 31 <sup>st</sup>	April 2036 – 31 <sup>st</sup>	April 2037 – 31 <sup>st</sup>
	March 2023	March 2024	March 2025	March 2026	March 2027	March 2028	March 2029	March 2030	March 2031	March 2032	March 2033	March 2034	March 2035	March 2036	March 2037	
Number of anticipated housing completions (per annum)		25	75	100	150	200	200	200	200	175	75					

Additional notes (please set out here any further information in support of the above assumptions)

## Chris Wood

---

**From:** Andrew Winstone <[REDACTED]>  
**Sent:** 16 September 2022 12:26  
**To:** Chris Hargraves  
**Cc:** Abby Fettes  
**Subject:** RE: Letter to Bloor Homes re land east of Monahan Way, Carterton  
**Attachments:** Letter to Bloor Homes re land east of Monahan Way, Carterton.doc; Letter to Bloor Homes re land east of Monahan Way, Carterton.pdf

Dear Chris,  
Thank you for your e-mail, and apologies for the delay in providing the requested information. Please see attached in Word and pdf formats.  
Kind regards,  
**Andrew Winstone**  
Planning Manager

**Bloor Homes Western**  
Western House, Furrowfield Park, Tewkesbury, Gloucestershire, GL20 8UR

Tel: [REDACTED]  
Em: [REDACTED]



---

**From:** Chris Hargraves <[REDACTED]>  
**Sent:** 31 August 2022 13:11  
**To:** Andrew Winstone <[REDACTED]>  
**Subject:** Letter to Bloor Homes re land east of Monahan Way, Carterton

Dear Andrew  
I hope you are well. Abby Fettes kindly provided your contact details and I attach a letter in relation to land east of Monahan Way, Carterton in the context of anticipated housing land supply.  
Essentially we would be grateful for an update on your expected timescales for taking the site through to completion. I am aware from Abby that you are looking for some additional numbers on the site so please feel free to reflect that possibility when providing your response.  
I look forward to hearing from you at your earliest convenience. Do let me know if you need any further information or clarification.  
Kind regards  
Chris Hargraves  
Planning Policy Manager  
West Oxfordshire District Council  
Chris Hargraves  
Planning Policy Manager - West Oxfordshire District Council



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EP10

**South Kesteven District Council Housing Deliverability Form**

**April 2022**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b><i>Council’s Projected Completions</i></b>														
<b><i>Site Reference</i></b>		<b><i>S19/0338 Bridge End Road, Grantham, NG31 7TS (205)</i></b>												
<b><i>Completions to 31<sup>st</sup> March 2022: 0</i></b>														
<i>22/23</i>	<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
0	0	40	40	40	40	45	0	0	0	0	0	0	0	0
<i>Explanation: Site projections based on site of similar size and location.</i>														

<b>Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?</b>	<input checked="" type="radio"/> Yes	<input type="radio"/> No
---	--------------------------------------	--------------------------

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>														
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
<b>Comments</b>														

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	S19/0338
Site Address	Bridge End Road, Somerby Hill, Grantham, NG13 7TS
Agent/Landowner	Cerda Planning Ltd /Balderson Brothers

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	✓

### Section 2 – Deliverability

Landownership		
1	Do all landowners with an interest in the site support the development of the site?	<u>Yes</u>
2	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	<u>Yes</u>  <u>Not aware of</u>
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site	<u>Not available</u>
Timescales		
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	<u>24/25</u>

<b>5</b>	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	<u>N/A</u>	
<b>6</b>	If the site is not expected to be built within the next five years (i.e. by 2026/27) what are the reasons for this?	<u>N/A</u>	
<b>Site Delivery</b>			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline	✓	S19/0338 – 29 Nov 2021
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	<u>2022 – Q3</u>	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	<u>N/A</u>	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	<u>No</u>	
<b>10</b>	When do you think that the affordable housing element will be delivered?	<u>25/26</u>	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	<u>Not aware</u>	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	<u>3 months</u>	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	<u>24/25 – Q3</u>	

### Section 3 – Infrastructure

<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	<b>None</b>
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	<b>24/25</b>
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure? If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	<b>No</b>

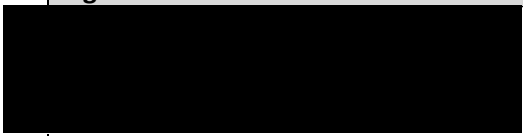
### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	<b>S19/0338</b>
<b>Site Address</b>	<b>Bridge End Road Grantham Lincolnshire NG31 7TS</b>

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

Landowner(s)	
Signature(s)	
Date	
Developer (where an option agreement is in place)	

Signature	Date
 <b>DEBBIE FARRINGTON DipTP MRTPI</b> On behalf of Balderson Brothers	25/04/2022

**South Kesteven District Council Housing Deliverability Form**

**April 2022**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b><i>Council’s Projected Completions</i></b>														
<b><i>Site Reference</i></b>		<b><i>S18/1557 The Grantham Church High School, Queensway, Grantham, NG31 9RA (40)</i></b>												
		<b><i>Completions to 31<sup>st</sup> March 2022: 0</i></b>												
<i>22/23</i>	<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
0	0	0	40	0	0	0	0	0	0	0	0	0	0	0
<i>Explanation: Council’s projections based on site of similar site and location.</i>														

<b>Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?</b>	Yes		No	
---	-----	--	----	--

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>														
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
<b>Comments</b>														

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	
Site Address	
Agent/Landowner	

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	

### Section 2 – Deliverability

Landownership		
1	Do all landowners with an interest in the site support the development of the site?	
2	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site	
Timescales		
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	

<b>5</b>	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)		
<b>6</b>	If the site is not expected to be built within the next five years (i.e. by 2026/27) what are the reasons for this?		
<b>Site Delivery</b>			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline		
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?		
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?		
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?		
<b>10</b>	When do you think that the affordable housing element will be delivered?		
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?		
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?		
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?		



### Section 3 – Infrastructure

<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure? If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	

### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	
<b>Site Address</b>	

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

Landowner(s)	
Signature(s)	
Date	
Developer (where an option agreement is in place)	

<b>Signature</b>	<b>Date</b>

## Amy Bonfield

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**From:** Amy Bonfield  
**Sent:** 17 May 2021 11:37  
**To:** Amy Bonfield  
**Subject:** FW: South Kesteven District Council Annual Position Statement Housing Deliverability Request Form APS041

---

**From:** Angela Rennie [REDACTED]  
**Sent:** 04 May 2021 17:59  
**To:** Jessica Dewar [REDACTED]  
**Subject:** RE: South Kesteven District Council Annual Position Statement Housing Deliverability Request Form APS041

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Jessica  
Thank you for your email.  
We are content for the delivery rates to be based on the Council's own assumptions and expect the site to be brought forward for development once a decision has been issued but we are unable to put a timeframe on this.  
Hope this helps.  
Kind regards

Angela Rennie  
Office Manager

Tel : [REDACTED]  
[REDACTED]



[REDACTED]

*This communication and any attachments may contain confidential and privileged information. If this has been sent to you in error you may not disclose its contents to anyone or forward it in any form. Please telephone this office to inform the sender of this error. You should carry out your own virus check before opening any attachments. We accept no responsibility for any loss or damage which may be caused by software viruses or interception/interruption of this email.*

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**From:** Jessica Dewar [REDACTED]  
**Sent:** 04 May 2021 12:01  
**To:** Angela Rennie [REDACTED]  
**Cc:** Amy Bonfield [REDACTED]  
**Subject:** South Kesteven District Council Annual Position Statement Housing Deliverability Request Form APS041

Dear Angela,

Thank you for your email. The request for a submission on delivery rates is to inform the Council's APS and the anticipated delivery of housing on all sites across the District. The site LV-H7 Main Road (South), Long Bennington is allocated for housing within the Local Plan and the principle of development for housing is accepted by the Local Plan. Should you wish to continue to not submit a response, the site is considered to be deliverable and delivery rates will be based on the Council's own assumptions.

I would be grateful if you could confirm that once a decision has been issued the site will be brought forward for development?

Kind regards,

Jessica.

---

**From:** Angela Rennie [REDACTED]  
**Sent:** 28 April 2021 17:20  
**To:** Amy Bonfield [REDACTED]  
**Cc:** PLANNING POLICY <[PLANNINGPOLICY@southkesteven.gov.uk](mailto:PLANNINGPOLICY@southkesteven.gov.uk)>  
**Subject:** FW: South Kesteven District Council Annual Position Statement Housing Deliverability Request Form APS041

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Amy

Thank you for your email below, requesting information on **Local Plan Allocation LV-H7 Main Road (South), Long Bennington.**

This site refers to application ref : S20/0775, which is still undetermined; we are waiting for a date when the application will be heard at committee.

Until a decision has been issued unfortunately we are not able to complete the information you are requesting.

Kind regards

Angela Rennie  
Office Manager

Tel : [REDACTED]  
[REDACTED]



**Part A: Projected Completions**

The table below contains data from the Council's previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council's Projected Completions</b>														
<b>Site Reference</b>		<b>Local Plan Allocation LV-H10 Thistleton Lane and Mill Lane (34)</b>												
		<b>Completions to 31<sup>st</sup> March 2022: 0</b>												
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	0	0	8	9	9	8	0	0	0	0	0	0	0
<i>Explanation: Council's projections based on previous APS submission (site was removed from supply in accordance with Inspectors report). Site has two landowners, part of site temporary occupation of a poultry farm. Planning application expected within 1 year for Bullimores Sand and Gravel parcel.</i>														

<b>Do you agree that the information provided in the above Council's Projected Completions table is correct?</b>	Yes		No	<input checked="" type="checkbox"/>
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>														
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	6	8	10	10	0	0	0	0	0	0	0	0	0
<b>Comments</b>														
we are moving towards the submission of an outline planning permission application in 2022 which, once approved, should accelerate the future development of the site														

**Part B: Deliverability**

**Section 1 – About the Site**

Site Reference	ALLOCATION LV - H10
Site Address	THISTLETON LANE + MILL LANE
Agent/Landowner	BULLIMORES

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	<input checked="" type="checkbox"/>
Not Aware	<input type="checkbox"/>

POTENTIAL ECOLOGICAL ISSUES

**Section 2 – Deliverability**

Landownership		
1	Do all landowners with an interest in the site support the development of the site?	YES
2	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	YES  NO AGREEMENT AS YET
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site	
Timescales		
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	2024 ONWARDS

5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	OPP TO BE APPLIED FOR IN SUMMER 2022	
6	If the site is not expected to be built within the next five years (i.e. by 2026/27) what are the reasons for this?	N/A	
<b>Site Delivery</b>			
7	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	NO	
	Outline	NO	
	Reserved Matters	NO	
7a	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	N/A	
8	If you do not have planning permission, when do you intend to submit a planning application?	OPP TO BE APPLIED FOR IN SUMMER 2022	
9	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	POSSIBLE ECOLOGY ISSUES	
10	When do you think that the affordable housing element will be delivered?	NOT KNOWN	
11	What is the planned phasing of delivery and are there any specific reasons for this?	SEE PART A	
12	If site is not under construction what time has been allowed for site preparation works?	18 + MONTHS	
13	If site is not under construction when do you expect to complete the first dwelling?	2024?	

### Section 3 – Infrastructure


14	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	NEW ACCESS TO MILL LANE AND FOOTPATH LINK VIA HAROLD ROAD
15	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	NO
16	Is the site dependent upon the provision of off-site infrastructure? If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	NO


### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

Site Reference	ALLOCATION LV - H10
Site Address	TRISTLETON LANE + MILL LANE, SOUTH WITHAM

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

Landowner(s)	BULLIMORES
Signature(s)	
Date	12.4.2022
Developer (where an option agreement is in place)	N/A

Signature	Date
	12 APRIL 2022

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>														
<b>Site Reference</b>		<b>Local Plan Allocation LV-H10 Thistleton Lane and Mill Lane (34)</b>												
<i>Completions to 31<sup>st</sup> March 2022: 0</i>														
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	0	0	8	9	9	8	0	0	0	0	0	0	0
<i>Explanation: Council’s projections based on previous APS submission (site was removed from supply in accordance with Inspectors report). Site has two landowners, part of site temporary occupation of a poultry farm. Planning application expected within 1 year for Bullimores Sand and Gravel parcel.</i>														

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	No
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>														
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
	8	9	9	8										
<b>Comments</b>														
This is due to the short term extension to the life of the poultry farm at South Witham.														



## Part B: Deliverability

### Section 1 – About the Site

<b>Site Reference</b>	LV-H10
<b>Site Address</b>	Land to the west of Thistleton lane, South Witham, NG33 5QE
<b>Agent/Landowner</b>	Landowner

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

<b>Aware</b>	
<b>Not Aware</b>	Yes

### Section 2 – Deliverability

<b>Landownership</b>		
<b>1</b>	Do all landowners with an interest in the site support the development of the site?	Yes, the shareholders of GW Padley Holdings Limited support the development of this site.
<b>2</b>	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	Yes and the developer not identified as yet.  No.
<b>3</b>	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site	Yes, please find attached.
<b>Timescales</b>		
<b>4</b>	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	Within the plan period.

<b>5</b>	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	We are currently discussing the site with our planning consultant.	
<b>6</b>	If the site is not expected to be built within the next five years (i.e. by 2026/27) what are the reasons for this?	<u>N/A.</u>	
<b>Site Delivery</b>			
<b>7</b>	<b>Has the site got planning permission</b>	<b>Yes/No</b>	<b>Application number and date of decision</b>
	Full	No	
	Outline	No	
	Reserved Matters	No	
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	N/A.	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	Within the plan period.	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	Market trends/demand.	
<b>10</b>	When do you think that the affordable housing element will be delivered?	To be agreed with the LPA and subject to viability.	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	To be agreed with the LPA.	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	3-6 months.	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	Within the first 12-18 months.	

### Section 3 – Infrastructure


<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	None to our knowledge, local services are available.
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	N/A.
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure? If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	No.

### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	LV-H10
<b>Site Address</b>	Land to the west of Thistleton Lane, South Witham, NG33 5QE

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	Richard G Padley
<b>Signature(s)</b>	
<b>Date</b>	05/04/2022
<b>Developer (where an option agreement is in place)</b>	N/A

<b>Signature</b>	<b>Date</b>
N/A	N/A

**South Kesteven District Council Housing Deliverability Form**

**April 2022**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b><i>Council’s Projected Completions</i></b>														
<b><i>Site Reference</i></b>		<b><i>Local Plan Allocation DEP1-H1 Towngate West, Market Deeping (75)</i></b>												
		<b><i>Completions to 31<sup>st</sup> March 2022: 0</i></b>												
<i>22/23</i>	<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
0	0	0	0	23	50	0	0	0	0	0	0	0	0	0
<i>Explanation: Council’s projections based on previous APS submission.</i>														

<b>Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?</b>	Yes		No	✓
---	-----	--	----	---

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>														
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
			23	50										
<b>Comments</b>														

## Part B: Deliverability

### Section 1 – About the Site

<b>Site Reference</b>	DEP1-H1
<b>Site Address</b>	Land West of Peterborough Road (Towngate West), Market Deeping
<b>Agent/Landowner</b>	The Rathbone Trust, c/o Mr Robert Love, Principal Planner, Bidwells, John Ormond House, 899 Silbury Boulevard, Milton Keynes, MK9 3XJ

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

<b>Aware</b>	
<b>Not Aware</b>	✓

### Section 2 – Deliverability

Landownership		
<b>1</b>	Do all landowners with an interest in the site support the development of the site?	Yes.
<b>2</b>	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	Yes.
<b>3</b>	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site	Confirmed.
Timescales		
<b>4</b>	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	Approximately 2025/26.

<b>5</b>	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	The intention is to prepare and submit an outline planning application by the end of 2022.	
<b>6</b>	If the site is not expected to be built within the next five years (i.e. by 2026/27) what are the reasons for this?	N/A	
<b>Site Delivery</b>			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	No	
	Outline	No	
	Reserved Matters	No	
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	N/A	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	The intention is to prepare and submit an outline planning application by the end of 2022.	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	Unknown.	
<b>10</b>	When do you think that the affordable housing element will be delivered?	Delivery of affordable housing to be confirmed.	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	Planned phasing of delivery to be confirmed.	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	To be confirmed.	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	Approximately 2025/26.	

### Section 3 – Infrastructure

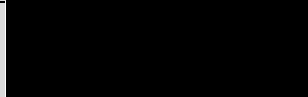
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	To be confirmed.
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	To be confirmed.
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure? If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	To be confirmed.


### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	DEP1-H1
<b>Site Address</b>	Land West of Peterborough Road (Towngate West), Market Deeping

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

Landowner(s)	The Rathbone Trust, c/o Mr Robert Love, Principal Planner, Bidwells, John Ormond House, 899 Silbury Boulevard, Milton Keynes, MK9 3XJ
Signature(s)	
Date	12 <sup>th</sup> April 2022
Developer (where an option agreement is in place)	N/A

<b>Signature</b>	<b>Date</b>
	12 <sup>th</sup> April 2022

**South Kesteven District Council Housing Deliverability Form**

**April 2022**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b><i>Council’s Projected Completions</i></b>														
<b><i>Site Reference</i></b>		<b><i>SKDC Council Capital Programme –Brittain Drive (16)</i></b>												
		<b><i>Completions to 31<sup>st</sup> March 2022: 0</i></b>												
<i>22/23</i>	<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
0	0	16	0	0	0	0	0	0	0	0	0	0	0	0
<i>Explanation: Site in Council’s Capital Programme and Housing Revenue Account. Submission of planning application anticipated late 2022.</i>														

<b>Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?</b>	Yes	x	No	
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>														
22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
<b>Comments</b>														



## Part B: Deliverability

### Section 1 – About the Site

Site Reference	Brittain Drive
Site Address	Land to rear of 63-89 Brittain Drive, Grantham
Agent/Landowner	SKDC

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	x
Not Aware	

### Section 2 – Deliverability

Landownership		
1	Do all landowners with an interest in the site support the development of the site?	<u>Yes</u>
2	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	<u>NA</u>
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site	
Timescales		
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	22/23

5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	<b><u>Pre-app submitted 22/12/21</u></b>	
6	If the site is not expected to be built within the next five years (i.e. by 2026/27) what are the reasons for this?		
<b>Site Delivery</b>			
7	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	NO	
	Outline	NO	
	Reserved Matters	NO	
7a	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	<b><u>NA</u></b>	
8	If you do not have planning permission, when do you intend to submit a planning application?	<b><u>22/23</u></b>	
9	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	<b><u>Possibility of other sites being prioritised</u></b>  <b><u>Some technical constraints with pylon and unregistered ransom strip on access</u></b>	
10	When do you think that the affordable housing element will be delivered?	<b><u>All affordable</u></b>	
11	What is the planned phasing of delivery and are there any specific reasons for this?	<b><u>One phase</u></b>	
12	If site is not under construction what time has been allowed for site preparation works?	<b><u>tbc</u></b>	
13	If site is not under construction when do you expect to complete the first dwelling?	<b><u>23/24</u></b>	

EP11



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# Report to South Kesteven District Council

by Christina Downes BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Date 28 September 2023

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## Report on the **Council's 5 Year Housing** Land Supply Annual Position Statement 2023

The Annual Position Statement was submitted by the Council on 31 July 2023

## RECOMMENDATION TO THE SOUTH KESTEVEN DISTRICT (the Council)

1. The Council's draft Annual Position Statement (APS) dated July 2023 can demonstrate a 5 year supply of deliverable housing sites, subject to the removal of 866 dwellings as follows:
  - a. APS 017: Land north of Barnack Road, Stamford (110 dwellings to be removed from the supply)
  - b. APS 023: Land north of Towngate East and south of Northfield Road, Market Deeping (120 dwellings to be removed from the supply)
  - c. APS 041: Main Road (South), Long Bennington (39 dwellings to be removed from the supply)
  - d. APS 043: Thistleton Lane and Mill Lane, South Witham (28 dwellings to be removed from the supply)
  - e. APS 045: Towngate West, Market Deeping (73 dwellings to be removed from the supply)
  - f. APS 048: Rectory Farm (Phase 2 North West Quadrant), Grantham (100 dwellings to be removed from the supply)
  - g. APS 049: Prince William of Gloucester Barracks, Grantham (175 dwellings to be removed from the supply)
  - h. APS 054: Folkingham Road, Morton (71 dwellings to be removed from the supply)
  - i. APS 058: Stamford North (150 dwellings to be removed from the supply)
2. The total deliverable supply is 3,950 dwellings against a requirement (plus 10% buffer) of 3,942 dwellings. This results in a housing land supply of 5.01 years.
3. The Council is now entitled to rely on the supply as shown in the draft APS and subject to the above revisions, until 31 October 2024.

## CONTEXT TO THE RECOMMENDATION

4. Paragraph 75 of the National Planning Policy Statement (the Framework) allows a Council to establish that it has a 5 year supply of deliverable housing sites through an APS. The procedures to be followed are set out in the Planning Practice Guidance (the PPG)<sup>1</sup>. The Council advised the Planning Inspectorate of its intention to do so by 1 April 2022 as required.

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<sup>1</sup> PPG paragraphs ID: 68-004-20190722- ID: 68-018-20190722 (revision 22 July 2019).

5. The PPG says that the Planning Inspectorate will carry out a two-stage assessment when considering the draft APS. The first stage considers whether the correct process has been followed and the second stage considers whether the supporting evidence is sufficient.
6. The draft APS has been considered solely on the written evidence that has been submitted by the Council.

#### THE STAGE 1 ASSESSMENT

Whether the circumstances permit the APS procedure to be followed

7. The PPG indicates that the Council can seek to confirm their land supply through an APS where they are able to renew a previously confirmed APS. In this case, **APS's** have been submitted for the previous 3 years. In each case PINS has confirmed that a 5 year supply of deliverable housing sites can be demonstrated. The 2022 APS remains valid until 31 October 2023. The Council is therefore eligible to renew its land supply for the period commencing 1 April 2023.
8. The 5 years in the draft APS covers the period 1 April 2023 to 31 March 2028. It therefore follows on from the 2022 APS, which was confirmed on 5 October 2022. The circumstances permitting the APS procedure to be followed are therefore met.

Whether engagement with stakeholders has been satisfactory

9. The PPG indicates that the Council needs to engage with stakeholders who have an impact on the delivery of sites. This is so that delivery assumptions can be robustly challenged, and consensus reached where possible. The Council has followed a similar deliverability and stakeholder consultation format **to its previous APS's**. It has produced a Statement of Engagement (July 2023), which explains the engagement process.
10. Deliverability Information Request (DIR) forms were sent out to developers, agents and landowners of sites with an extant planning permission of 10 or more dwellings, allocations in the South Kesteven District Local Plan (the LP) and the Council's Capital Programmes. The intention was to gain an up-to-date picture of how the delivery on the sites in question was progressing. This exercise was undertaken in April 2023 for a period of 3 weeks and reminders were sent out towards the end of that period. Responses were received for 68% of the sites and there was a 74% response for Local Plan sites.
11. The information that was obtained from the above exercise informed the draft APS which was published for consultation over 4 weeks in May and June 2023. Consultees included large and small developers, private and public landowners, land promoters as well as infrastructure providers, Lincolnshire County Council and neighbouring local authorities. The stakeholders broadly covered those referred to in the PPG. A higher

proportion of those invited to comment were from the development industry to meet a criticism made by my colleague in his 2022 Report.

12. Stakeholders were contacted directly about the consultation but also the documents were placed on a dedicated webpage as well as the main **webpage for consultations within the Council's website**. It therefore seems to me that those who wished to comment on the draft APS will have had ample opportunity to do so. The range of stakeholders and the consultation process was thorough and robust, and I consider that the engagement process has been undertaken satisfactorily.

## THE STAGE 2 ASSESSMENT

### The housing requirement

13. The housing requirement for 650 dwellings per year is set out in policy SP1 of the LP, which was adopted in January 2020.
14. The LP Inspector agreed that the circumstances in South Kesteven District **justified the use of the "Liverpool" method** to address past under supply. This essentially spreads the shortfall over the whole LP period rather than seeking to address it over a 5 year period **as in the "Sedgefield" method**. The approach has been considered in the previous **APS's** and in each case the continuance of the Liverpool method was endorsed. Since the 2022 APS Report there has been no objection on the grounds that a change to the Sedgefield approach would be more appropriate. Accordingly, there is no evidence to justify applying a different approach and I consider that the use of the Liverpool method is acceptable in this case.
15. The requirement over the 5 year period (2023-2028) is therefore 3,583 dwellings, taking account of the shortfall.

### The appropriate buffer

16. The buffer is not part of the housing requirement. It is brought forward from later in the trajectory to increase choice and competition in the market for land. Paragraph 74 in the Framework confirms that the minimum buffer for the purposes of an APS is 10%. However, the PPG indicates that the buffer should be appropriate and can be higher in the event of under delivery over the past 3 years. Unfortunately, the 2022 Housing Delivery Test (HDT) result has not yet been published. However, the 2021 HDT result was 110% and the 2020 HDT result was 99%, so well above the 85% threshold. I have no evidence to indicate that delivery has declined to the extent that a higher buffer would be justified or appropriate.
17. The requirement plus buffer is 3,942 dwellings over the 5 year period.

### The housing supply

18. The Council considers it has a supply of deliverable housing sites for 4,816 dwellings. Based on the above, this would be a supply of 6.1 years. The

Framework **includes a definition of “deliverable” in the Glossary**. The overall requirement is that the housing site should be suitable, available and have a realistic prospect of delivery on the site within 5 years. The Framework identifies two main categories of site:

- a. Category A: Small sites with planning permission and all sites with detailed planning permission are considered deliverable unless there is clear evidence that homes will not be delivered within the 5 year period.
- b. Category B: Major developments<sup>2</sup> with outline planning permission, allocations in a development plan, grants of a permission in principle or developments identified on a Brownfield Register are considered deliverable where there is clear evidence that there will be housing completions on site within 5 years.

Whether a 5 year supply of deliverable housing sites has been demonstrated

19. The draft APS divides the supply into a number of categories, and I consider these below. It is noted that there was no specific objection relating to the deliverability of any of the sites forming the 5 year housing supply in the engagement to the draft APS. However, in the initial engagement some respondents suggested alternative delivery rates. In most cases the Council adjusted its trajectories to take account of these suggestions, which did not alter the overall delivery over the 5 year period. I have considered each of the sites on the basis of the written evidence. Following that exercise, I have looked more closely at 15 of the major sites as set out below.

#### *Small sites with planning permission*

20. These include 275 dwellings that are under construction and 468 dwellings that have planning permission, but construction has not started. Of the latter, the vast majority have full planning permission and involve under 5 dwellings. A 10% lapse rate has been applied as recommended by the LP Inspector **and endorsed by my colleagues in previous APS's**. I note however that this does not seem to be backed up by monitoring and that in previous years respondents have commented that it should have been set significantly higher. Whilst there was no such criticism this time, the Council would be well advised to consider addressing this matter when it considers its supply in 2024.

21. In the circumstances, I agree that 669 dwellings from this source is a reasonable assessment.

#### *The windfall allowance*

22. The windfall allowance is 30 dwellings per year, applied to the last 3 years of the trajectory. I appreciate that it has been accepted by my colleagues in the

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<sup>2</sup> The Framework defines major housing development as that with 10 or more dwellings.



previous **APS's** and I have no reason to doubt the 30 dwelling per year allowance. However, great care needs to be taken to avoid double counting with the permitted small sites. Windfalls are unexpected but, in many cases, so are small sites and there can be an overlap between the two. Of the sites where construction has not commenced, there is no information about when the planning permission was granted, and it is reasonable to assume that some permissions could still be extant into year 3. Whilst I will not make an adjustment this time, the Council needs to consider in its assessment next year whether it would be more prudent to apply windfall allowances only to the last 2 years of the trajectory.

*Large sites with planning permission not under construction*

*APS 006: 1 Station Approach, Ancaster (30 deliverable dwellings)*

23. This site was not part of the supply in the 2022 APS. Full planning permission was granted in October 2022 for 30 dwellings, which includes the conversion and extension of the former railway warehouse to form 20 apartments. Although the site falls within Category A, the information indicates that the site is a bus depot. There is no evidence as to whether the use is currently operational and, if so, when the site will be available for redevelopment. No response had been made by the landowner or land agent and the draft APS and Statement of Engagement provides very little information.
24. The trajectory shows delivery in the last 2 years. Furthermore, the new build element is not anticipated until year 5. This is a relatively small development, and on balance I am inclined to agree that the site will be delivered within the 5 year period.

*Large sites under construction*

*APS 002: The Old Quarry, Station Road, Castle Bytham (81 deliverable dwellings)*

25. The site has full planning permission for 87 dwellings, including 6 self-build plots which are under construction. These have been included as a small site and so have been removed from the large sites supply leaving 81 dwellings. The information indicates that there are no infrastructure constraints, and the landowner seems **to concur with the Council's trajectory of** all dwellings being built out in years 2 to 4. This though is subject to the sale of the land.
26. The evidence suggests that progress with this site has not been straightforward. Outline planning permission was granted some years ago and the site was divided into 3 plots. Plot A was to be 18 self-build dwellings but the Inspector's 2020 APS Report records that there was little interest, probably due to the economic situation and the Covid-19 pandemic. The Report anticipated that reserved matters for Plots B and C would be approved by September 2020. Although the Inspector considered the trajectory optimistic, he did think that the site was deliverable.

27. The next reference to the site is in the 2022 APS Report. By this time there were 6 self-build plots under construction. The Inspector thought there were clear signs of progress and agreed to all 81 dwellings being included in years 3, 4 and 5. The situation today has not changed significantly and the 6 self-build plots are still said to be under construction. The issue seems to be moving from the permission stage to the construction stage.
28. There is no information as to what efforts have been made in this respect, whether active marketing has been started or whether there is any interest, formal or informal, in constructing the site. The site is capable of being developed but the question is one of timing. On balance I consider that it should stay in the trajectory but that it should be moved back to years 3, 4 and 5. This means that the 81 dwellings would still be delivered within the 5 year period. However, if progress is not made within the next year the Council should seriously consider the extent to which the site should continue to be included in its 5 year supply.

*APS 017: Land north of Barnack Road, Stamford (110 deliverable dwellings)*

29. This site is partly owned by the Council. In the 2022 APS Report the Inspector indicated that outline planning permission had been granted, some conditions had been discharged and demolition of the factory was underway. He agreed that 80 dwellings would be delivered in years 4 and 5. The landowner appears confident that completions will come forward in what is now year 3 but suggests a lower build rate of 18 rather than 40 dwellings, albeit that this would rise to 46 dwellings in years 4 and 5.
30. This is a complex mixed-use scheme and although site preparation works are said to be underway, it is not clear what needs to be done before the dwellings are built or how the development and its commercial elements are to be phased. The landowner engagement indicated that there is site wide infrastructure to be provided and more worryingly that off-site infrastructure is to be provided to accord with triggers within the Section 106 Agreement. The effect of this on delivery and thus whether the optimism that homes will be completed in 2025/6 is justified is not explained. Finally, there is no indication as to when reserved matters are to be approved or whether one or more housebuilders are on board to deliver the housing part of the scheme.
31. The 2022 APS Inspector found the lack of fuller information about this site, which is partly owned by the Council, **"somewhat surprising" and so do I.** This is a Category B site where there should be clear evidence of deliverability within 5 years. Unfortunately, there are too many unknowns to be satisfied that this will be the case. In the circumstances, 110 dwellings should be removed from the supply.

*APS 023: Land north of Towngate East and south of Northfield Road, Market Deeping (120 deliverable dwellings)*

32. The site has planning permission for 240 dwellings and 117 have already been completed. Phases B and C appear to remain, but the housebuilder has

indicated that it is not in a contractual position to build out these parts of the site. Whilst it has indicated a trajectory that would complete the remaining 123 dwellings from year 2, this is dependent on the situation being resolved. In the absence of any further information about what the difficulties actually are, there is insufficient clear evidence that the remainder of this Category A site will be delivered within the time period. For some reason the trajectory in the draft APS includes 120 dwellings. In the circumstances 120 dwellings should be removed from the supply.

#### Sustainable Urban Extensions with planning permission

##### *APS 031: Poplar Farm, Grantham (77 deliverable dwellings)*

33. This is part of the Grantham North-West Quadrant Sustainable Urban Extension (SUE). Outline planning permission was granted for 1,800 dwellings. 673 dwellings have been completed and so 1,127 remain. However, delivery is capped at 750 before the Pennine Way Link Road has been delivered and it seems at the present time that no further building is taking place. The landowners have responded to the engagement by indicating that the remaining land can be sold to housebuilders if the cap is removed. They argue that the Link Road and new railway bridge is no longer necessary because of the Grantham Southern Relief Road, which is expected to be completed in 2025. The landowners have therefore proposed an alternative trajectory whereby 350 dwellings would be built within the 5 year period starting in year 2. They say that pre-application discussions have been carried out with the District and County Councils and that a formal application to vary the requirement is to be submitted in 2023.
34. It seems clear that the landowners are keen to get on with the development and that there have been approaches from several interested housebuilders. It is unclear whether reserved matters beyond the 673 dwellings have been submitted or approved but, in any event, the main constraint is the Pennine Way Link Road and railway bridge and whether it will go ahead or not. The Council has objected to any change based on the assumption that the 750 dwelling cap will be lifted and this seems a reasonable position.
35. There would be scope for the outstanding 77 to be built out. The landowners may or may not choose to do that, but it is reasonable at the present time to retain the 77 dwellings in the supply. This has been put in year 5 of the trajectory when it is reasonable to surmise that a decision will have been made on the matter.

#### Allocations in the LP

##### *APS 039: Swinstead Road/ Bourne Road, Corby Glen (250 deliverable dwellings)*

36. This is a site that was allocated in the LP and has full planning permission for 265 dwellings. There are two outlets, which are both under construction with 66 dwellings being built by Allison Homes and 199 dwellings by David Wilson Homes. Information was provided by both housebuilders that indicated that

Allison Homes has 47 dwellings left to complete and David Wilson Homes has all 199 dwellings left to complete. **The Council's information is that** 15 of the Allison Homes dwellings have been completed, which would mean that there are actually 51 dwellings outstanding. This discrepancy has probably arisen through a difference in the way that completions are recorded. This needs to **be consistent and so I have relied on the Council's** record rather than that of the developer.

37. From the evidence I am satisfied that the 250 remaining dwellings can be delivered within the 5 year period.

*APS 041: Main Road (South), Long Bennington (39 deliverable dwellings)*

38. The site is a LP allocation with outline planning permission granted in May 2022. The 2022 APS Inspector deleted the 10 dwellings shown in year 5 on the grounds of a lack of information. This time the landowner has returned a DIR form anticipating 39 dwellings being delivered in years 3 to 5. There is little other information provided other than that the site is to be re-marketed in 2023. This implies that marketing has been unsuccessful thus far. The landowner indicates that reserved matters are likely to follow the sale but that the delivery schedule will depend on the economic outlook.

39. The Council say that there are no infrastructure constraints but nonetheless there is insufficient clear evidence that this category B site is deliverable. In the circumstance, 39 dwellings should be removed from the supply.

*APS 043: Thistleton Lane and Mill Lane, South Witham (28 deliverable dwellings)*

40. This site was allocated in the LP for an indicative number of 34 dwellings. There are 2 landowners, and the 2022 APS Inspector did not consider that there was sufficient information or signs of progress in bringing the site forward to retain it in the supply. Both landowners have provided information this time and it seems that the landholdings are intended to be brought forward separately. The Council has accepted the trajectories that indicate 28 of the 34 dwellings being brought forward in the 5 year period.

41. However, the Council has provided very little justification for why it considers that this site should be put back into the supply. My colleague expressed a number of concerns about whether the subdivision of the allocated site would be acceptable and constraints such as the existing poultry farm, ecology issues and an off-site footpath. These points have not been addressed at all in the Statement of Engagement or draft APS. One of the criteria in LP policy LV-H10 is that a comprehensive Masterplan is required for the whole site. There is no information about whether this has been provided or how it would be accommodated with two separate proposals.

42. I acknowledge that an outline application has been submitted for 18 dwellings on the northern part of the site and that the landowner of the southern part is in discussion with a planning consultant. I also appreciate that the allocation is for a relatively small number of dwellings. However,

clear evidence has not been provided for this category B site to be considered deliverable. In the circumstances, 28 dwellings should be removed from the supply.

*APS 045: Towngate West, Market Deeping (73 deliverable dwellings)*

43. This site was allocated in the LP for an indicative number of 73 dwellings. The 2022 APS Inspector did not consider that this site was deliverable. The DIR form had indicated that an outline application would be submitted in 2022 and the land marketed for development. However, there was no indication that any preparatory work or site assessment had been undertaken and the answers relating to infrastructure was non-committal.
44. The DIR form proposes 80 dwellings for delivery in years 4 and 5 and it is said that an outline application will be submitted by mid-2023. There is no evidence that this has happened yet. The answers regarding infrastructure are non-committal as before. I find it surprising that the site has reappeared in the supply despite the circumstances remaining unchanged from when my colleague considered the site in 2022. There is no clear evidence of delivery so 73 dwellings should be removed from the supply.

*APS 047: Spitalgate Heath – Garden Village (Southern Quadrant), Grantham (50 deliverable dwellings)*

45. This site is part of the Grantham Southern Quadrant SUE, which is allocated for 7,700 dwellings. The Garden Village is a large mixed-use development, including 3,700 dwellings. An outline application was submitted in 2014 but remains undetermined and the landowner indicates that there is no date for it to be considered in 2023. The 2022 APS Inspector has included considerable detail in his Report about the various issues and constraints, including that relating to foul drainage and electricity supply. However, he also points out that there is a commitment by the Council and the other parties to deliver the scheme. One positive new element is that the Council has now appointed a Case Officer specifically to progress the application. This hopefully will help speed things up and provide more consistency in terms of what is being expected prior to permission being granted.
46. The landowners envisage that once planning permission is granted and the Section 106 Agreement completed, a development partner will be selected. There is clearly interest from major developers to be involved in the delivery of the scheme. The DIR form from the landowners indicates there is still a considerable amount of work to be done and issues to resolve. However, it seems to me, on balance, that there is sufficient clear evidence to be satisfied that 50 dwellings will be delivered in year 5.

*APS 048: Rectory Farm (Phase 2 North-West Quadrant), Grantham (428 deliverable dwellings)*

47. The site is adjacent to the Poplar Farm site and also comprises part of the Grantham North-West Quadrant SUE. In Phase 2, the LP shows an indicative

allocation of 1,150 dwellings. This site has featured in all 3 of the APS Reports both in term of the timing of delivery and its rate. The 2022 APS Inspector did not consider that there would be any housing completions before year 3 and he considered that the build rate would not exceed 90 dwellings per year.

48. Since my colleague considered the matter progress has been made. Full planning permission was granted for 220 and 228 dwellings in January 2023. **However, I consider that the Council's** trajectory is overly optimistic. This indicates that there will be 28 completions in year 1. There was no reported response to the engagement process from the two housebuilders concerned. Whilst a response was received from the landowner of the northern parcel, as I understand it this land has no planning permission at the moment and its delivery appears to be linked to progress on the adjoining Poplar Farm site. This has issues as I have already reported.
49. There is no information about progress with the discharge of pre-commencement conditions or site preparation. In the circumstances I consider that it would be more realistic for delivery to start in year 2. The rates of delivery start relatively low and then increase to 110. On the assumption that there would be 2 outlets this does not seem unreasonable. Nonetheless, with only 4 years of delivery, 100 dwellings should be removed from the supply.

*APS 049: Prince William of Gloucester Barracks, Grantham (175 deliverable dwellings)*

50. This site forms part of the Grantham Southern Quadrant SUE and has an indicative allocation in the LP for 3,500 to 4,000 dwellings. The site is owned by the Ministry of Defence and has featured in all 3 **APS's**. The main issue is one of timing in view of the considerable constraints that affect the site. The 2022 APS Inspector raised the issue that military use would remain operational until 2028 and that it was unclear how this would relate to the early phases of the development. There is also the question of delays to the completion of the Grantham South Relief Road and how that will affect the site. Furthermore, the site depends on the new electricity and sewage infrastructure for the Southern Quadrant and how the site will contribute to their funding. The Inspector therefore pushed back the delivery programme to year 5.
51. The Statement of Engagement shows that the Council is working closely with the Defence Infrastructure Organisation on behalf of the Ministry of Defence. The DIF form indicates that survey work is being undertaken in connection with the outline planning application. In terms of when this will be submitted it is said to be subject to review but potentially in 2023. Delivery is expected in 2026 but this appears to depend on utility provision and environmental considerations. The former airfield is indicated as the first phase with 2 years anticipated for site preparation. There is also a rider at the end of the response that the commitment to the development is subject to viability, environmental considerations and Government sign off.

52. There seems to be a bit of a disconnect between the Statement of Engagement and the response from the Ministry of Defence. The latter is quite cautious and raises a few red flags, which do not seem to have been taken into account. The Grantham Southern Relief Road is expected to be fully open in 2025 and therefore does not appear to be a constraint. Furthermore, the liaison between the Council and the Defence Infrastructure Organisation seems to be positive. Nevertheless, I have particular concerns about the reference to viability and seemingly the need for the Government to approve the project. In the absence of any information on these matters I do not consider that there is clear evidence that this Category B site will deliver in the 5 year period. In the circumstances 175 dwellings should be removed from the supply.

*APS 052: Low Road, Barrowby (171 deliverable dwellings)*

53. This is a site allocated in the LP for up to 270 dwellings. Policy LV-H3 in the LP requires a Masterplan for the whole site and for detailed proposals to be in accordance with it. The Council has indicated that a decision on the Masterplan is expected in September 2023. Notwithstanding this, 49 dwellings have already been completed. There are two housebuilders involved with the remainder of the site.

54. Persimmon Homes has submitted a planning application for 67 dwellings, which is under consideration, although the Council say it will not be determined until the Masterplan has been approved. Persimmon anticipate that the development will be built out in years 2 and 3. Even if there is a delay there seems no reason why the 67 dwellings would not be completed well within the 5 year period.

55. Allison Homes proposes 175 dwellings and from its response said it anticipated submitting a planning application in July 2023. To my knowledge this remains outstanding. Work is anticipated to start on site in December 2024 with completions from July 2025. Apart from the approval of the Masterplan there do not seem to be any other constraints. Allison Homes appears to be an active housebuilder in the locality and its delivery programme, which would commence in year 3 and extend beyond the 5 year period seems to me reasonable and achievable.

*APS 054: Folkingham Road, Morton (71 deliverable dwellings)*

56. This is a LP allocation with outline planning permission for 71 dwellings granted in July 2021. The site is owned by Lincolnshire County Council. In the 2022 APS Report the Inspector agreed that 50 dwellings should remain in the trajectory as negotiations were underway for the sale of the land to a developer who would submit the reserved matters application. This sale now appears to have fallen through and the site is to be remarketed.

57. The County Council has suggested 30 dwellings would be completed in year 5. It is indicated that Phase II ground investigation works have now been completed, which should speed up delivery once the site is sold. There is no

information about whether there are any infrastructure constraints. The Council anticipate that a reserved matters application is likely in the next 12-24 months, although the grounds for such optimism are unclear.

58. Although in the Statement of Engagement, the Council has agreed with the **landowner's** trajectory, its supply in the draft APS anticipates 71 dwellings starting in year 3. There is no explanation for this discrepancy, which I assume is a rather unfortunate error. In the circumstances 41 dwellings need to be removed from the supply. I have carefully considered whether there is sufficient evidence to be confident that the remaining 30 dwellings will start in year 5. The County Council is clearly keen to sell the site and has undertaken preparation works. On the other hand, there is no information about why the sale, which had reached contract stage, fell through. It is relevant to know whether it was related to the site or for some other reason. There is not sufficient clear evidence that this Category B site will deliver within the period in question. In the circumstances 71 dwellings should be removed from the supply.

*APS 058: Stamford North (320 deliverable dwellings)*

59. This is part of a larger SUE which includes Quarry Farm in Rutland County Council's **area**. The South Kesteven part has an indicative allocation in the LP for 1,300 dwellings. The developer of the Rutland part of the SUE is Allison Homes and an outline application has been submitted for up to 650 dwellings. The South Kesteven part of the SUE is owned by Burghley House Preservation Trust (BHPT) and is to be developed by GummerLeathes, a **"Master Developer"** who will co-ordinate the development process. An outline application has been submitted for up to 1,350 dwellings. Both applications are said to be working towards a September 2023 Committee date with completion of the legal agreements, including a joint infrastructure planning agreement, by December 2023. A Masterplan has been produced to accompany the planning applications.
60. The developers on the two sites are clearly working collaboratively together to drive the process forward. Information provided in response to the engagement indicated that the aim is to start work on both sites in 2024/5. Based on this start date, the east to west link road between Old Great North Road and Ryhall Road is anticipated for completion between 2028/2029. However, it also appears that further traffic modelling has now agreed to be undertaken based on the new Stamford Transport Model.
61. The housing supply does not take account of any delivery from the Rutland part of the site, not least because its Local Plan has now been withdrawn. Progress is clearly being made but this is a complex site, and the further traffic modelling could cause delay. It seems to me that the GummerLeathes trajectory, which anticipates completions from 2024/5 is overly optimistic, especially given the current position with the planning application and legal agreements. The Allison Homes trajectory suggests completions from year 3 and this seems more realistic.



62. The trajectory in the draft APS does not seem to reflect that put forward by BHPT/ GummerLeathes on the DIR form, despite indicating in the Statement of Engagement that the Council has accepted it. In the absence of any explanation for this discrepancy I have followed the trajectory of the developer but moved it back a year. The overall contribution would be 170 dwellings. This means that 150 dwellings should be removed from the supply.

#### Conclusions on supply

63. For all of the reasons I have given I consider that the Council can demonstrate a deliverable supply of 3,950 dwellings. This is against a requirement (plus buffer) of 3,942 dwellings, which results in a housing land supply of 5.01 years.

#### OVERALL CONCLUSIONS

64. The circumstances in this case permit the APS procedure to be followed.

65. The engagement process followed by the Council was satisfactory.

66. The Council's draft APS dated July 2023 has succeeded in demonstrating that a 5 year supply of deliverable sites can be achieved.

*Christina Downes*

INSPECTOR

EP12



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

# South Kesteven District Council

Annual Position Statement 2023  
Statement of Engagement

Appendix 3: Site Deliverability Information



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>													
<b>Site Reference</b>		<b>S20/2056 Land North of Barnack Road, Stamford (190)</b>											
		<i>Completions to 31<sup>st</sup> March 2023: 0</i>											
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	40	40	40	40	30	0	0	0	0	0	0	0
<i>Explanation: Site has Outline planning permission approved February 2022 for mixed use including c190 dwellings. Demolition of the former Cummings factory building completed December 2022. Council’s projections based on 2022 APS.</i>													

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	X
--	-----	--	----	---

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
		18	46	46	36	36	8						
<b>Comments</b>													
A reduced number in year 1 to reflect site preparation works and delivery of joint infrastructure. Figures derived from developer input.													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	APS017
Site Address	Land at Barnack Road, Stamford
Agent/Landowner	Burghley Land Ltd/South Kesteven DC

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	x

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	x	No	
2	Have the landowners agreed to sell the land for development?	Yes	x	No	
	If so, are there any restrictions included in the option /developer agreement	<u>None</u>			
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	2025/26			
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	N/A			
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?	N/A			

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline	Yes	S20/2056
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	2023	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	N/A	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	N/A	
<b>10</b>	When do you think that the affordable housing element will be delivered?	Phased throughout the development in accordance with s106	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	Phasing plan to be submitted under condition of the outline permission.	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	Site preparation works already under way.	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	2025/26	

### Section 3 – Infrastructure

Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	Roads, utilities etc
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	Site-wide infrastructure to be provided in accordance with phasing plan
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	Yes, but the timing of the provision is phased within the s106 with trigger points during development.

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	APS017
<b>Site Address</b>	Land at Barnack Road, Stamford

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	Burghley Land Ltd and South Kesteven DC
<b>Signature(s)</b>	M Flood  (on behalf of the landowners)
<b>Date</b>	28 April 2023
<b>Developer (where an option agreement is in place)</b>	-

**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>													
<b>Site Reference</b>		<b>S10/1204 Fossitt &amp; Thorne, Eastgate, Bourne, PE10 9LB (11)</b>											
<i>Completions to 31<sup>st</sup> March 2023: 0 Completions to be confirmed mid-April.</i>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
11	0	0	0	0	0	0	0	0	0	0	0	0	0
<i>Explanation: Council’s projections based on previous 2022 APS submission. Site under construction and near completion. Completions to be confirmed mid-April 2023.</i>													

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	
	X			

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
<b>Comments</b>													



**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>													
<b>Site Reference</b>		<b>S16/0112 Land North of Towngate East and South of Northfield Road, Market Deeping (300)</b>											
		<i>Completions to 31<sup>st</sup> March 2023: 117 units completed as at February – to be confirmed mid-April.</i>											
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
40	40	40	40	23	0	0	0	0	0	0	0	0	0
<i>Explanation: Site under construction. 117 units completed (to be confirmed mid-April). Phase D completed. Phase A under construction. Council’s projections based on completed units and previous 2022 APS trajectory.</i>													

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	X
--	-----	--	----	---

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
	30	40	40	13									
<b>Comments</b>													
The site has planning permission for 240 units, rather than the 300 (including the 117 already completed) in the projected completions. We are unsure where the council has got the extra 60 units from.													
Allison Homes are also in no contractual position to build out the site. The projected completions are if Allison Homes were to agree terms with the landowner and build out phases B and C.													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	APS023
Site Address	Land North of Towngate East and South of Northfield Road, Market Deeping
Agent/Landowner	Allison Homes

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	X

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	X	No	
2	Have the landowners agreed to sell the land for development?	Yes	X	No	
	If so, are there any restrictions included in the option /developer agreement				
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	Commencement in 2018 and total units completed 117.			
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)				
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?				

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	X	S16/0112- Dec 2017
	Outline		
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?		
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?		
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?		
<b>10</b>	When do you think that the affordable housing element will be delivered?		
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	Phases A and D are completed to build the spine road connecting Northfield Road and Towngate East.	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?		
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?		

### Section 3 – Infrastructure


Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	APS023
<b>Site Address</b>	<b>Land North of Towngate East and South of Northfield Road, Market Deeping</b>

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	Not yet in a contractual position.
<b>Signature(s)</b>	
<b>Date</b>	72/04/23
<b>Developer (where an option agreement is in place)</b>	Allison Homes- not yet in a contractual position

**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>													
<b>Site Reference</b>		<b>LV-H7 Main Road, Long Bennington (South) (50)</b>											
<i>Completions to 31<sup>st</sup> March 2023: 0</i>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	0	0	0	10	10	19	11	0	0	0	0	0
<i>Explanation: Local Plan allocation. Site has outline planning permission for 50 dwellings (S20/0775). S106 agreement was complete 13 May 2022. The site has no fundamental infrastructure constraints to be resolved. Site was removed from the supply in accordance with the Inspector’s report.</i>													

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	X
--	-----	--	----	---

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
		10	10	19	11								
<b>Comments</b>													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	LV – H7 Main Road, Long Bennington (South) 50
Site Address	Main Road, Long Bennington
Agent/Landowner	

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	X

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	X	No	
2	Have the landowners agreed to sell the land for development?	Yes		No	X
	If so, are there any restrictions included in the option /developer agreement	Site to be re-marketed summer 2023			
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	Not known			
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	To be re-marketed			
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?				

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline	Yes	S20/0775 - 13/05/2023
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	Following sale 2024?	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	-	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	Economic outlook	
<b>10</b>	When do you think that the affordable housing element will be delivered?	-	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	-	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	-	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	-	

### Section 3 – Infrastructure


Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	-
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	-
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	-

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	LV-H7 (50)
<b>Site Address</b>	Main Road Long Bennington

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	W H Ablewhite
<b>Signature(s)</b>	
<b>Date</b>	27 April 2023
<b>Developer (where an option agreement is in place)</b>	



**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>													
<b>Site Reference</b>		<b>LV-H10 Thistleton Lane and Mill Lane, South Witham (34)</b>											
<i>Completions to 31<sup>st</sup> March 2023: 0</i>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	0	0	18	10	6	0	0	0	0	0	0	0
<i>Explanation: Local Plan allocation. Site was previously removed from the supply by the inspector (2022 APS). Part of site pending consideration for 18 dwellings – outline planning permission (S22/1241).</i>													

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	<input checked="" type="checkbox"/>
--	-----	--	----	-------------------------------------

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	0	18	10	6								
<b>Comments</b>													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	LV-H10
Site Address	Land to the west of Thistleton lane, South Witham, NG33 5QE
Agent/Landowner	Landowner

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	Yes

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	<input checked="" type="checkbox"/>	No	
2	Have the landowners agreed to sell the land for development?	Yes		No	<input checked="" type="checkbox"/>
	If so, are there any restrictions included in the option /developer agreement				
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	Within the plan period.			
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	We are currently discussing the site with our planning consultant.			
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?	<u>N/A.</u>			

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	N/A.	
	Outline	N/A.	
	Reserved Matters	N/A.	
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	N/A.	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	Within the plan period.	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	<u>N/A</u>	
<b>10</b>	When do you think that the affordable housing element will be delivered?	To be agreed with the LPA and subject to viability.	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	To be agreed with the LPA	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	3-6 months.	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	Within the first 12-18 months.	

### Section 3 – Infrastructure


Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	None to our knowledge, local services are available.
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	N/A.
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	No.

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	LV-H10
<b>Site Address</b>	Land to the wet of Thistleton Lane, South Witham, NG33 5QE

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	Richard G Padley
<b>Signature(s)</b>	
<b>Date</b>	05/04/2022
<b>Developer (where an option agreement is in place)</b>	N/A

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council's Projected Completions</b>													
<b>Site Reference</b>		<b>LV-H10 Thistleton Lane and Mill Lane, South Witham (34)</b>											
<i>Completions to 31<sup>st</sup> March 2023: 0</i>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	0	0	18	10	6	0	0	0	0	0	0	0
<i>Explanation: Local Plan allocation. Site was previously removed from the supply by the inspector (2022 APS). Part of site pending consideration for 18 dwellings – outline planning permission (S22/1241).</i>													

Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?	Yes		No	✓
--	-----	--	----	---

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
	4	7	7										
<b>Comments</b>													
We would only be looking to develop the northern part of the allocated site, which would contain approximately 18 houses. The land to the south is not within our ownership.													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	LV-H10
Site Address	Land off Mill Lane, South Witham, Lincolnshire
Agent/Landowner	Bullimores

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	✓

### Section 2 – Deliverability

Landownership			
1	Do all landowners with an interest in the site support the development of the site?	Yes	✓ No
2	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	Yes	No  Not yet determined.
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.		
Timescales			
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	If OPP is granted in 2023 and a subsequent reserved matters approval is granted within the first half of 2024, then it is possible that the development could commence towards the very end of 2024.	
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	OPP Ref: S22/1241 is being considered currently.	
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?	n/a	

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	X	
	Outline	X	See S22/1241 (ongoing)
	Reserved Matters	X	
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	<b>We cannot determine this until the OPP is granted</b>	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	<b>n/a</b>	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	<b>No</b>	
<b>10</b>	When do you think that the affordable housing element will be delivered?	<b>Not known at this stage.</b>	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	<b>See part A of this form</b>	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	<b>6-8 months</b>	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	<b>December 2025</b>	

### Section 3 – Infrastructure


Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	<b>An adoptable road with suitable turning facility. Pedestrian access into the village via Harold Road</b>
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	<b>Not at this stage</b>
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	<b>No</b>

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

Site Reference	LV-H10
Site Address	Land off Mill Lane, South Witham, Lincolnshire

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

Landowner(s)	BULLIMORES
Signature(s)	
Date	21 . 4 . 2023
Developer (where an option agreement is in place)	



**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>													
<b>Site Reference</b>		<b>DEP1-H1 Towngate West, Market Deeping (73)</b>											
		<i>Completions to 31<sup>st</sup> March 2023: 0</i>											
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
0	0	0	0	0	23	50	0	0	0	0	0	0	0
<i>Explanation: Local Plan allocation. No planning permission has been submitted on site. Outline planning permission was expected to be submitted by the end of 2022. Council’s projections based on previous 2022 APS.</i>													

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	✓
--	-----	--	----	---

If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
			30	50									
<b>Comments</b>													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	DEP1-H1	
Site Address	Land West of Peterborough Road (Towngate West), Market Deeping	
Agent/Landowner	The Rathbone Trust, c/o Mr Robert Love, Associate, Bidwells, [REDACTED]	

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	✓

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	✓	No	
2	Have the landowners agreed to sell the land for development?	Yes	✓	No	
	If so, are there any restrictions included in the option /developer agreement	No.			
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	Approximately 2026/27.			
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	The intention is to prepare and submit an outline planning application by mid-2023.			
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?	N/A			

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	No	
	Outline	No	
	Reserved Matters	No	
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	N/A	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	The intention is to prepare and submit an outline planning application by mid-2023.	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	Unknown.	
<b>10</b>	When do you think that the affordable housing element will be delivered?	Delivery of affordable housing to be confirmed.	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	No phasing.	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	To be confirmed.	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	Approximately 2026/27.	

### Section 3 – Infrastructure

Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	To be confirmed.
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	To be confirmed.
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	To be confirmed.

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	DEP1-H1
<b>Site Address</b>	Land West of Peterborough Road (Towngate West), Market Deeping

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	The Rathbone Trust, c/o Mr Robert Love, Associate, Bidwells, [REDACTED]
<b>Signature(s)</b>	[REDACTED]
<b>Date</b>	4 <sup>th</sup> May 2023
<b>Developer (where an option agreement is in place)</b>	N/A

**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council's previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

Council's Projected Completions													
Site Reference		GR3-H2 Rectory Farm (Phase 2 North West Quadrant) (1150)											
		Completions to 31 <sup>st</sup> March 2023: 0											
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
28	80	110	110	100	120	120	120	120	105	85	52	0	0
Explanation: Full Planning permission for 428 units approved on site. Planning reference S16/2816 approved for 228 units. Planning reference S16/2819 approved for 220 units. A supplementary planning document (SPD) for the site was adopted at Full Council in October 2021.													

Do you agree that the information provided in the above Council's Projected Completions table is correct?	Yes	X	No	
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

Projected Completions													
23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
Comments													

**Part B: Deliverability**

**Section 1 – About the Site**

Site Reference	Local Plan Allocation GR3-H2
Site Address	Rectory Farm (Phase 2 North West Quadrant), Grantham.
Agent/Landowner	Landowner – The Jenkinson Family Agent Escritt Barrell Golding, [REDACTED] Contact Stephen G J Short – [REDACTED] [REDACTED]

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	x

**Section 2 – Deliverability**

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	x	No	
2	Have the landowners agreed to sell the land for development?  If so, are there any restrictions included in the option /developer agreement	Yes		No	
		There is ongoing dialogue with David Wilson Homes, developers of Poplar Farm. The landowner would dispose of the site on receipt of a satisfactory detailed planning consent. The land would be sold based on commercial considerations including obligations contained within the planning approval.			
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site. – Included				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	Within the next 2/3 years			
5	If you do not have planning permission but completions are expected on site within 5 years,	The anticipated time scale is linked to the progression of development on			

	please provide evidence (e.g. progress towards detailed permission)	the adjoining Popular Farm development.	
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?		
<b>Site Delivery</b>			
7	Has the site got planning permission	Yes/No	Application number and date of decision
	Full	No	
	Outline	No	
	Reserved Matters	No	
	<b>Part of GR3-H2 Rectory Farm Site has full planning permission. An application on the Jenkinson land will be submitted in due course</b>		
7a	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	N/A	
8	If you do not have planning permission, when do you intend to submit a planning application?	Within the next 12 to 18 months	
9	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	Not as far as our client is concerned.	
10	When do you think that the affordable housing element will be delivered?	Subject to planning permission it is anticipated that the affordable housing provision would be delivered on a proportionate basis alongside the delivery of market housing on the site.	
11	What is the planned phasing of delivery and are there any specific reasons for this?	Subject to planning permission and market requirements.	
12	If site is not under construction what time has been allowed for site preparation works?	A development timescale will be prepared on receipt of planning permission.	
13	If site is not under construction when do you expect to complete the first dwelling?	Subject to planning permission.	

### Section 3 – Infrastructure

#### Infrastructure Provision

14	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	The site is well located with access to local services, schools, employment and a good road network. Integration of the site with the current Poplar Farm development is important to ensure the delivery of a comprehensive scheme in this location, making the development attractive to future purchasers. The intention will be to deliver a scheme in general accordance with the Rectory Farm Planning Brief. This will help ensure that the Poplar Farm and Rectory Farm developments are effectively integrated.
15	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	No, this will be dependent on planning permission.
16	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	We are not aware of unsurmountable infrastructure matters that would delay development of the site.

**Section 4 – Signed Statement**

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

Site Reference	GR3:H2 Rectory Farm (Phase2 North West Quadrant). (SKLP134).
Site Address	Part of North West Quadrant – Rectory Farm, Barrowby Road, Grantham

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

Landowner(s)	The Jenkinson Family	
Signature(s)	[Redacted]	S.G.J. SHORT AGENT FOR THE JENKINSON FAMILY
Date	27 APRIL 2023	
Potential Developer	Barratt David Wilson Homes - subject to contract.  Stephen Ward – Development Director [Redacted]	



**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b><i>Council’s Projected Completions</i></b>													
<b><i>Site Reference</i></b>		<b>GR3-H3 Prince William of Gloucester Barracks (4000)</b>											
		<i>Completions to 31<sup>st</sup> March 2023: 0</i>											
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
0	0	0	50	125	125	135	135	135	135	135	135	135	2755
<i>Explanation: Local Plan allocation for 4000 dwellings. Council’s projections based on previous 2022 APS.</i>													

<b>Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?</b>	Yes	X	No	
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
			50	125	125	135	135	135	135	135	135	135	2355 - 2755
<b>Comments</b>													
Build out rate currently under review and will be informed by Masterplanning exercise, drawing upon constraints of the site and discussions with relevant stakeholders.													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	APS049
Site Address	Prince William of Gloucester Barracks Grantham
Agent/Landowner	Secretary of State for Defence

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	X utility provision and environmental considerations are being reviewed
Not Aware	

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	X	No	
2	Have the landowners agreed to sell the land for development?	Yes	X	No	
	If so, are there any restrictions included in the option /developer agreement				
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site. <b><u>One owner SoSD</u></b>				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	<b><u>2026 for first Phase</u></b>			
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	<b><u>Yes planning allocation. Survey work for Outline Planning being undertaken.</u></b>			

<b>6</b>	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?	<b><u>Phased development over long period</u></b>	
<b>Site Delivery</b>			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline		
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?		
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	<b><u>Subject to review but potentially 2023</u></b>	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	<b><u>Utility provision and environmental considerations</u></b>	
<b>10</b>	When do you think that the affordable housing element will be delivered?		
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	<b><u>Several phases commencing with former airfield. Tech site vacation will follow first phases.</u></b>	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	<b><u>2 years</u></b>	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	<b><u>2026</u></b>	

### Section 3 – Infrastructure

<b>Infrastructure Provision</b>			
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	<b><u>Utilities - Road access and sub-station</u></b>  <b><u>Infrastructure: New Schools; Employment Land at approx. 8ha; Neighbourhood Centre; and green infrastructure.</u></b>	
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	<b><u>This is currently being look at by the Development Team</u></b>	

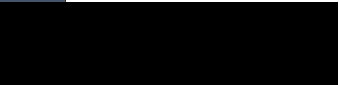
<b>16</b>	<p>Is the site dependent upon the provision of off-site infrastructure?</p> <p>If so, is delivery of this infrastructure likely to affect the delivery of development on your site?</p>	<b><u>Yes – see point 14 above</u></b>
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#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	<b><u>APS049</u></b>
<b>Site Address</b>	<b><u>Prince William of Gloucester Barracks Grantham</u></b>

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development. **Subject to viability, environmental considerations and Government sign off.**

<b>Landowner(s)</b>	James Ryley on behalf of SOS for Defence
<b>Signature(s)</b>	
<b>Date</b>	14/04/2023
<b>Developer (where an option agreement is in place)</b>	N/A

**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b>Council’s Projected Completions</b>													
<b>Site Reference</b>		<b>LV-H9 Folkingham Road, Morton (71)</b>											
		<i>Completions to 31<sup>st</sup> March 2023: 0</i>											
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
0	0	30	20	21	0	0	0	0	0	0	0	0	0
<i>Explanation: Site has outline planning permission – approved 2<sup>nd</sup> July 2021. No reserved matters have been submitted – landowner indicated that reserved matters application is being prepared and anticipated 12-24 months in previous 2022 APS. Council’s projections as set out in previous 2022 APS submission.</i>													

<b>Do you agree that the information provided in the above Council’s Projected Completions table is correct?</b>	Yes		No	X
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
				30	20	21							
<b>Comments</b>													
The site was previously sold subject to contract, however, the sale is not proceeding, therefore there will be a delay whilst the site is being remarketed.													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	APS054
Site Address	Land at Folkingham Road, Morton
Agent/Landowner	Kier Business Services Ltd (Agent) / Lincolnshire County Council (Owner)

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	Not aware

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes	X	No	
2	Have the landowners agreed to sell the land for development?	Yes		No	X
	If so, are there any restrictions included in the option /developer agreement	N/A			
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>	It is unknown when development will commence. The site was previously sold subject to contract, however the sale is not proceeding at present and it is anticipated that the site will be remarketed in the near future.			
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)	Phase II Ground Investigation surveys were completed on the site in December 2022 which will assist in the progress towards completions within the estimated time frames once the site is sold.			

<b>6</b>	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?	N/A	
<b>Site Delivery</b>			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline	Yes	<b>S19/1784. Decision date 2nd July 2021</b>
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?	<b>As stated above, we are currently seeking to dispose of the land. We do not have a date for the proposed submission of a reserved matters application, however, it is anticipated that this will be within the next 12 to 24 months.</b>	
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?	N/A	
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?	<b>None that we are aware of.</b>	
<b>10</b>	When do you think that the affordable housing element will be delivered?	<b>Unknown at present.</b>	
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?	<b>Unknown at present.</b>	
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?	<b>Unknown at present.</b>	
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?	<b>Unknown at present.</b>	

### Section 3 – Infrastructure

<b>Infrastructure Provision</b>		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	<b>Unknown at present.</b>
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	<b>Unknown at present.</b>


<b>16</b>	<p>Is the site dependent upon the provision of off-site infrastructure?</p> <p>If so, is delivery of this infrastructure likely to affect the delivery of development on your site?</p>	<b>Unknown at present.</b>
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#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	<b>APS054</b>
<b>Site Address</b>	<b>Land east of Folkingham Road, Morton</b>

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	<b>Lincolnshire County Council</b>
<b>Signature(s)</b>	
<b>Date</b>	<b>On behalf of Lincolnshire County Council</b>
<b>Date</b>	28.04.2023
<b>Developer (where an option agreement is in place)</b>	N/A



**South Kesteven District Council Housing Deliverability Form**

**April 2023**

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b><i>Council’s Projected Completions</i></b>													
<b><i>Site Reference</i></b>		<b>STM1-H1 Stamford North, Stamford (1300)</b>											
		<i>Completions to 31<sup>st</sup> March 2023: 0</i>											
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
<i>0</i>	<i>0</i>	<i>40</i>	<i>60</i>	<i>70</i>	<i>85</i>	<i>125</i>	<i>130</i>	<i>130</i>	<i>130</i>	<i>130</i>	<i>130</i>	<i>120</i>	<i>150</i>
<i>Explanation: Outline planning permission for up to 1,350 residential units has been submitted (S23/0055). Planning application has been submitted for Quarry Farm development for site in Rutland County Council. Council’s projections as set out in the previous 2022 APS.</i>													

<b>Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?</b>	Yes		No	
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
<b>Comments</b>													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	
Site Address	
Agent/Landowner	

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes		No	
2	Have the landowners agreed to sell the land for development?	Yes		No	
	If so, are there any restrictions included in the option /developer agreement				
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>				
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)				
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?				

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline		
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?		
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?		
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?		
<b>10</b>	When do you think that the affordable housing element will be delivered?		
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?		
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?		
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?		

### Section 3 – Infrastructure

Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	
<b>Site Address</b>	

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	
<b>Signature(s)</b>	
<b>Date</b>	
<b>Developer (where an option agreement is in place)</b>	

**Part A: Projected Completions**

The table below contains data from the Council’s previous trajectories for the below site, where data is not available best estimates have been used from a site of similar size and location.

<b><i>Council’s Projected Completions</i></b>													
<b><i>Site Reference</i></b>		<b>Quarry Farm, Rutland County Council (650)</b>											
		<i>Completions to 31<sup>st</sup> March 2023: 0</i>											
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
0	0	0	0	0	30	30	30	30	30	30	30	30	410
<i>Explanation: Site located in Rutland County Council (RCC) as part of wider Local Plan allocation – Stamford North. Outline planning permission has been submitted to RCC. Council’s projections based on previous 2022 APS.</i>													

<b>Do you agree that the information provided in the above <i>Council’s Projected Completions</i> table is correct?</b>	Yes		No	
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If no, then please complete the table below with any changes and write your reasons in the comments below. If the projected build out rate is not known, then please show build out rates based on the nature of the site using best possible estimates.

<b>Projected Completions</b>													
<i>23/24</i>	<i>24/25</i>	<i>25/26</i>	<i>26/27</i>	<i>27/28</i>	<i>28/29</i>	<i>29/30</i>	<i>30/31</i>	<i>31/32</i>	<i>32/33</i>	<i>33/34</i>	<i>34/35</i>	<i>35/36</i>	<i>2036 and beyond</i>
<b>Comments</b>													

## Part B: Deliverability

### Section 1 – About the Site

Site Reference	
Site Address	
Agent/Landowner	

Please can you confirm that you are not aware of any technical constraints which would limit development or affect the viability of development?

Aware	
Not Aware	

### Section 2 – Deliverability

Landownership					
1	Do all landowners with an interest in the site support the development of the site?	Yes		No	
2	Have the landowners agreed to sell the land for development?	Yes		No	
	If so, are there any restrictions included in the option /developer agreement				
3	Please provide a signed statement (as attached – section 4) to demonstrate the commitment of all landowners and developers to the development of this site.				
Timescales					
4	When do you expect development of the site to commence (subject to assumptions relating to the planning process)? If commencement is delayed, please explain why.  <i>If site is under construction, please state commencement date and total of units completed so far. If delivery has exceeded or not progressed as expected, please explain why.</i>				
5	If you do not have planning permission but completions are expected on site within 5 years, please provide evidence (e.g. progress towards detailed permission)				
6	If the site is not expected to be built within the next five years (i.e., by 2027/28) what are the reasons for this?				

Site Delivery			
<b>7</b>	Has the site got planning permission	Yes/No	Application number and date of decision
	Full		
	Outline		
	Reserved Matters		
<b>7a</b>	If you answered Outline to question 7 and no reserved matters have been submitted when do you intend to submit a reserved matters application?		
<b>8</b>	If you do not have planning permission, when do you intend to submit a planning application?		
<b>9</b>	Are there any events that may change the delivery schedule (such as other sites being prioritised elsewhere)?		
<b>10</b>	When do you think that the affordable housing element will be delivered?		
<b>11</b>	What is the planned phasing of delivery and are there any specific reasons for this?		
<b>12</b>	If site is not under construction what time has been allowed for site preparation works?		
<b>13</b>	If site is not under construction when do you expect to complete the first dwelling?		

### Section 3 – Infrastructure

Infrastructure Provision		
<b>14</b>	What new or improved infrastructure is needed within the scheme to ensure the development is deliverable and attractive to the market?	
<b>15</b>	Is an implementation plan in place for the provision of infrastructure and if so, what are the timescales for delivery?	
<b>16</b>	Is the site dependent upon the provision of off-site infrastructure?  If so, is delivery of this infrastructure likely to affect the delivery of development on your site?	

#### Section 4 – Signed Statement

Section 2 question 3 requests a signed statement to demonstrate the commitment of landowners and developers to the development of this site. Please use this page to confirm that all parties involved in the site are committed to its development

<b>Site Reference</b>	
<b>Site Address</b>	

The parties signed below confirm that they are committed to the development of this site for housing/mixed use development.

<b>Landowner(s)</b>	
<b>Signature(s)</b>	
<b>Date</b>	
<b>Developer (where an option agreement is in place)</b>	





## **Stamford North Sustainable Urban Extension**

### **Response to LPAs' 18<sup>th</sup> April 2023 letters**

May 2023

#### The Vision for Stamford North

Stamford North will deliver an innovative, integrated and high-quality addition to the town of Stamford. Acknowledging that Stamford is a special place in which to live, and work, and to visit, Stamford North will be a new chapter in its long history which is well-planned and founded upon strong principles of good quality urban design, environmental sustainability, and the creation of balanced, integrated communities<sup>1</sup>.

The proposed development brings with it the delivery of much needed major infrastructure for Stamford, providing additional route options and resilience on the highway network. The new infrastructure includes the new link road and associated pedestrian/cycle facilities that give east – west connectivity, enables new public transport routes and facilitates sustainable travel use.

In addition to this the development also delivers new infrastructure improvements from the site into Stamford along multiple routes, particularly for provision of active travel facilities (pedestrian & cycle provision), as well as the improvements to existing highways and junctions, that will help existing and new users. Delivery of this infrastructure will also give people better travel choice and help with encouraging people to use more sustainable modes of travel.

All of the objectives set out in the vision above and the specific benefits of the comprehensive development need to shape the delivery and phasing of the development. These specific key deliverables of the scheme also include: a new linear park through the developments linking the Gwash Meadow, Monarch Park Country Park and the Green Wheel; improved facilities and services to serve the needs of both existing and new residents to the area including local centres, health facilities and sports provision; improvements to the entrance to the town along Ryhall Road; wider connectivity improvements; a kick start and long term commitment to

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<sup>1</sup> Quote from the latest draft of the Development Brief prepared by South Kesteven and Rutland Councils along with Burghley House Preservation Trust and Allison Homes

improvements to active travel; and a range of housing types and tenures to help meet the local housing need.

### Primary objectives and required principles to deliver them

Following on from the Vision, the primary objectives of the development and the required principles to deliver them are:

- A coordinated understanding and delivery of transport measures within and off-site, with a focus on the promotion of sustainable, active travel;
- The early delivery of a range of housing types and tenures to help meet the local housing need;
- The comprehensive and timely delivery of facilities to serve the needs of both existing and new residents to the area, including green space and community facilities;
- To ensure that the agreed infrastructure measures and mechanisms enable Allison Homes and GummerLeathes/BHPT to then have control over delivery and roll out on their respective sites, and are not reliant on the actions of others; and
- Continued constructive, collaborative and flexible dialogue with all parties.

### Background – Planning policy, applications, housing supply and delivery

Short summaries of the Local Plans positions in relation to Stamford North, the current planning applications on the site, and housing supply and delivery is attached as Appendix B.

As the Stamford Local Plan Inspector concluded in his January 2020 report “The logical and most sustainable option for Stamford to make a significant and proportional contribution to meeting the District’s housing need would be the proposed urban extension at Stamford North. In combination with proposals on adjoining land at Quarry Farm in Rutland’s administrative area, there would be the capacity to deliver around 2,000 homes. This would create the critical mass and land availability necessary to deliver an east-west access road linking the A6121 Ryhall Road through to the former A1 Old Great North Road as well as other transport infrastructure to provide connectivity into Stamford, a new primary school and expansion at the adjacent secondary school.”

### Collaboration

As part of the GummerLeathes/BHPT application and as part of further information for the Allison Homes application, the parties prepared and submitted a joint Infrastructure Statement in December 2022. This followed previous collaboration, including the Councils, in preparing drafts of a Development Brief for the site from 2018 up to the point of the withdrawal of the Rutland Local Plan in September 2021.

To prepare the Infrastructure Statement, and in more recent months, there has been an increased and constant dialogue between Allison Homes and GummerLeathes/BHPT. This recognises that this is essential to expedite delivery and, critically, ensure that the agreed infrastructure measures and mechanisms can enable Allison Homes and GummerLeathes/BHPT to then have control over delivery and roll out on their respective sites, and are not reliant on the actions of others.

The joint Infrastructure Statement submitted by Allison Homes and GummerLeathes/BHPT – and attached as Appendix C to this response – sets out the infrastructure items considered common to both applications, namely the distributor road, education, junction improvements

and public transport. These and each site's own site specific elements as listed in paragraphs 26 and 27 of the Infrastructure Statement are all important to the success of the place.

The withdrawn Rutland Local Plan identified "In developing new Local Plans for both South Kesteven District Council and Rutland County Council, the two authorities have worked jointly to assess the need for, and suitability of land which spans the county boundary to the north of Stamford. This work has concluded that some land within Rutland will be needed as part of a larger urban extension to support the sustainable growth of the town and to facilitate an appropriate road connection and necessary infrastructure improvements to support the amount of growth proposed."

Continued collaboration to deliver these common items and a comprehensive development is planned, but any forced dependencies on each other or 3<sup>rd</sup> parties greatly enhances risk and could affect delivery rates, funding and therefore viability.

In short, both parts of the wider site need to come forward to make Stamford North the successful place that it needs to and can be. Infrastructure measures and mechanisms need to be agreed with the authorities that then enable Allison Homes and GummerLeathes/BHPT to coordinate delivery and roll out on their respective sites.

### Proposed Phasing

Allison Homes and GummerLeathes/BHPT are both working towards the earliest possible Committee date (with September 2023 continuing to be the target), completion of the S.106 agreements/issuing of the decisions (with December 2023 continuing to be the target), and accelerated scheme design to enable commencement on both sites in 2024/25.

GummerLeathes/BHPT have received comments from LCC Education including a suggestion that S.106 contributions are paid at the point of occupation of 675 units on that site. It will be important to ensure that the delivery of all infrastructure including the serviced land for the new primary school, the payment of education contributions, the provision of health facilities across the whole site (with comments on this still awaited) and transport matters (which may be influenced by the requested updated Transport Assessments) are all considered, discussed and agreed in the round.

To aid those discussions, Appendix A to this response sets out the detailed trajectories for each site expected at this time.

Based on these trajectories, and to relieve congestion at key points in the town at the earliest opportunity, it is anticipated that the section of the distributor road between Old Great North Road and Little Casterton Road will be completed in 2028/29, and the section between Little Casterton Road and Ryhall Road will also be completed in 2028/29. This is based on a physical start on site in 2024/2025. Any delay to commencing works on site will push back delivery of the link road.

### Transport

Both Allison Homes and GummerLeathes/BHPT are prepared to provide an updated transport assessment / interim assessment based on the new Stamford Transport Model as requested. The phasing will need to take account of the outcomes of that work.

We will continue to take actions to ensure we do all we can to ensure the requested 30<sup>th</sup> June deadline is met but, in order for us to do this to, the following is also needed:

- Confirmation of the details of the new model, including base data/traffic surveys used, calibration/validation and any baseline and forecast year assessments undertaken;
- Confirmation that the new model reflects current transport policy, with particular reference to the Government's Transport Decarbonisation Plan and the new DfT Circular 1/22; and
- Priority access to the model via LCC's consultants, in order to commission the relevant model scenario runs promptly.
- Prompt agreement from LCC/NH, RCC and SKDC of the detail of these model runs which we will scope.

Whilst we will undertake this additional work, it was previously agreed with the planning and highway authorities that this was not required. Within the transport assessment scoping stages for both the Stamford North planning applications, it was agreed that the transport modelling and assessment process would use the extant/previous Stamford Transport Model, and for consistency with earlier work undertaken to support the allocation of Stamford North in the South Kesteven Local Plan (and withdrawn Rutland Local Plan).

We understand the role of the new road. A cumulative 600 homes trigger limit (split 300 home on Allison Homes interests and 300 homes on BHPT land ownership) for the completion of the new distributor road was previously agreed. We will need to look at the new Stamford Transport Model and also look at the position in the round.

These transport-related issues are also, as set out above, set within the wider context of scheme delivery on Stamford North as a whole.

**Appendix A – Proposed Completions Trajectory**

Projected Completions – BHPT/GummerLeathes												
24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
40	60	70	85	125	130	130	130	130	130	120	120	80

Projected Completions – Allison Homes												
24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
	30	60	90	90	90	90	90	90	20			

Projected Completions – Combined												
24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	2036 and beyond
40	90	130	175	215	220	220	220	220	150	120	120	80

## **Appendix B – Short summaries of the Local Plans positions in relation to Stamford North, the current planning applications on the site, and housing supply and delivery**

### Local Plans

South Kesteven Local Plan 2019 Policy STM1-H1 allocates land at Stamford North for an indicative 1,300 units, a new primary school, a local centre and open space, and includes as a development principle “An East-West road to be provided through from Old Great North Road to Ryhall Road. This should offer mitigation to the town centre from the traffic generated as a result of this development.” An indicative route of an East-West road was shown on a contextual plan in the Local Plan which it is clear is purely for illustrative purposes. The Stamford Neighbourhood Plan 2022 also includes the allocation of site STM1-H1.

The Rutland Local Plan 2018-2036 included Policy H4 which allocated land at Quarry Farm for a development of no more than 650 homes, a country park and community infrastructure. The policy stated that the planning application was expected to include “a distributor road facilitating the connection of the Old Great North Road, Little Casterton Road and Ryhall Road and any associated junction improvements arising from this new road, including increasing capacity at the A1/A606 junction” and “The portion of land within Rutland is known as Quarry Farm and will only be brought forward for development in conjunction with the land in South Kesteven as part of a comprehensive mixed use scheme known as Stamford North”. At that time, the policy also stated that all of the development (in Rutland and South Kesteven) will contribute to meeting the SKDC housing need. In September 2021, the Council resolved to withdraw the draft Local Plan. Work on the preparation of a new Local Plan has begun with the Local Development Scheme January 2023 envisaging consultation on Preferred Options in August 2023, consultation on the Proposed Submission Local Plan in July 2024 and adoption in February 2026.

### Planning Applications

Allison Homes submitted an outline planning application to RCC for land at Quarry Farm, Old Great North Road Little Casterton Rutland (“The Quarry Farm site”) in February 2022 for the following proposed development: “*residential development (up to 650 dwellings) a local centre (up to 3000m<sup>2</sup> of gross floor space for uses within Class E (a-g) and F.2 (a) and F.2 (b)), open space including a country park, access, drainage and landscaping.*”

In January 2023 GummerLeathes/BHPT submitted an outline planning application with all matters reserved except means of access to SKDC and RCC on land to the north of Stamford for the: *construction of up to 1,350 residential units (use Classes C2 and C3); two form entry primary school (use class F.1); local centre uses (use classes E and F.2, public house, wine bar, or drinking establishment, drinking establishment with expanded food provision, hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises); road between Ryhall Road and Little Casterton Road; removal of existing bund; associated green infrastructure including provision of public open space, landscaping, formal and informal play areas; utilities (including drainage); and associated access, ancillary works and structures.*

### Housing Supply and Delivery

The presumption in favour of sustainable development as set out in the National Planning Policy Framework currently applies in Rutland as the Council’s Local Plan is out-of-date.

South Kesteven's Annual Monitoring Statement 2022 demonstrates that the Council has a 5.2 year housing land supply, including anticipated completions on STM1-H1 from 2025/26.

Early and continuing delivery on both sites will enable more dwellings to meet needs to be delivered early.

## Appendix C – Infrastructure Statement



### **Stamford North Sustainable Urban Extension Infrastructure Statement**

December 2022

1. Stamford North will deliver an innovative, integrated and high-quality addition to the town of Stamford. Acknowledging that Stamford is a special place in which to live, and work, and to visit, Stamford North will be a new chapter in its long history which is well-planned and founded upon strong principles of good quality urban design, environmental sustainability, and the creation of balanced, integrated communities.
2. The landowners and promoters of the land that make up Stamford North Sustainable Urban Extension ("SUE") are committed to working together to ensure that the infrastructure required to support the development is provided in a comprehensive and timely fashion.
3. The purpose of this statement is to detail in summary terms the collaboration between the principal developers of the Stamford North Sustainable Urban Extension ("SUE"), namely Allison Homes, (land within Rutland County Council "RCC") and GummerLeathes ("GL") on behalf of the Burghley House Preservation Trust ("BHPT") (land within South Kesteven District Council "SKDC"). This includes setting out the approach to how the required infrastructure will be delivered across the SUE. This statement has been jointly produced by Freeths LLP and Savills/Farrer & Co on behalf of Allison Homes, GummerLeathes and the BHPT.
4. Allison Homes submitted an outline planning application to RCC for land at Quarry Farm, Old Great North Road Little Casterton Rutland ("The Quarry Farm site") in February 2022 for the following proposed development: *"residential development (up to 650 dwellings) a local centre (up to 3000m<sup>2</sup> of gross floor space for uses within Class E (a-g) and F.2 (a) and F.2 (b)), open space including a country park, access, drainage and landscaping."*
5. GummerLeathes/BHPT are submitting an outline planning application with all matters reserved except means of access to SKDC and RCC on land to the north of Stamford for the following proposed development: *construction of up to 1,350 residential units (use Classes C2 and C3); two form entry primary school (use class F.1); local centre*



*uses (use classes E and F.2, public house, wine bar, or drinking establishment, drinking establishment with expanded food provision, hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises); road between Ryhall Road and Little Casterton Road; removal of existing bund; associated green infrastructure including provision of public open space, landscaping, formal and informal play areas; utilities (including drainage); and associated access, ancillary works and structures.*

## **Background**

6. The collaboration in planning for the Stamford North SUE between landowners and developers began long before the submission of the above planning applications and has taken the following forms;

### Local Plan Promotion

7. Despite the withdrawal of the Rutland Local Plan in September 2021, the planning for this SUE has been 'plan led' through the promotion of the SUE through the Local Plans of SKDC and RCC. Both BHPT/GL and Allison Homes actively and constructively engaged in the promotion of their land through the respective Local Plan stages. However, both also equally engaged in the Local Plans covering the areas outside of their land interest to ensure continuity and comprehensive planning across the whole SUE.
8. Allison Homes (under the name of Larkfleet Homes) submitted representations to the Regulation 19 consultation on the SKDC Plan in July 2018, supporting allocation STM1-H1. Allison Homes also actively participated in the examination of the SKDC Plan, including, amongst others, submitting a hearing statement and participating in the hearing session on Matter 7 – Stamford – Housing Sites and Associated Infrastructure.
9. Similarly, BHPT submitted detailed comments to the RCC Regulation 19 consultation in November 2020 offering strong support for allocation H4 generally, with comments objecting to the inclusion of a requirement for a single application and explaining the commitment to key infrastructure delivery across the site.
10. RCC has undertaken both a 'call for sites' consultation (February 2022 – ongoing) and an Issues and Options consultation (June-September 2022) as part of the initial stages of their new Local Plan preparation, following the withdrawal of the previous Plan in September 2021. Allison Homes made representations to both these consultations, including promoting the Quarry Farm site, which is subject to the current application (2022/0227/MAO) as an allocation for residential development (650 dwellings).

### Development Brief

11. This document has a long history having first been drafted in advance of the SKDC Local Plan examination. Although its progress in the last couple of years has ceased following the withdrawal of the Rutland Local Plan, and the absence of an over-arching policy basis, Allison Homes and representatives of BHPT produced the principal work on the original draft Development Brief in 2018 and several iterations up to January 2020. Although the LPAs were actively involved in the drafting of the Brief during this period, they determined in January 2021 that they required significant changes to the Development Brief and took ownership of future drafting. Although disappointed by this, both Allison Homes and BHPT remained committed to the Brief and continued to

attend meetings with the LPAs on amended drafting up and until the withdrawal of the RCC Local Plan in September 2021. It is acknowledged that the LPAs were in the process of making changes to the Brief and that a working draft version was in circulation in June/July 2021 between the main parties. However, since the withdrawal of the RCC Local Plan dialogue from the LPAs has largely ceased on the Development Brief. The draft Development Brief has no weight in the decision making process. Notwithstanding this, both applications have had significant regard for the work undertaken as part of the drafting of the Development Brief and this is detailed in the individual applications.

### Masterplan

12. As part of the Development Brief, a high-level masterplan for the whole site was produced. This identifies the key principles for development including development areas, access, the green infrastructure network, including the position of the proposed Country Park, and the broad positions of community infrastructure such as the primary school and the two local centres. Although there has been significant discussion on the text of the Development Brief, the principles of the masterplan have been long established and therefore all parties should be able to move forward with confidence that this represents a strong framework for the development of the SUE. The opportunities have been explored and refined further as part of each application, but with the continuing aim to deliver a comprehensive and co-ordinated extension to the town. A masterplan showing the whole site is appended to this Statement and will be submitted as part of each application.

### SUE wide Transport Assessment

13. A joint Transport Assessment was commissioned, which analysed the transport impacts across the whole SUE and was produced on a collaborative basis between BWB (on behalf of Allison Homes) and Stantec (representing the BHPT). The submitted Allison Homes application and the (to be) submitted Stamford North application have holistically assessed traffic impacts of the wider scheme and identified suitable mitigation on this basis. The specific mitigation and how this is proposed to be delivered is set out further below within this statement.

### **Community Infrastructure Levy**

14. RCC is a CIL charging authority and SKDC is not. In their committee report (May 2022), which informed their representations to the Allison Homes planning application, SKDC advised that engagement is required to *“to ensure that an appropriate agreement is reached in relation to the application for relief / exemption of liability from the CIL charging schedule, as part of the current application to enable a SUE-wide Section 106 Agreement to be pursued. Alternatively, formal agreement is required from RCC that funds obtained under the CIL charging schedule will be used to fund infrastructure within South Kesteven, as per regulation 59(3) of the Community Infrastructure Levy Regulations 2010 (as amended).”*
15. The above is a matter for RCC and SKDC to determine. Allison Homes has made representations to RCC previously to consider CIL exemption for this site given the specific circumstances, but no further discussions appear to have taken place between authorities which advance this matter. Given that the proposed development will be CIL liable it is useful to set out the types of infrastructure that CIL would support (ie: the Infrastructure Funding Statement “IFS”) and an estimate of the contribution from

the proposed development. It should be noted that the estimate is indicative based on assumptions regarding housing mix and floor space and is therefore a guide only.

### The Infrastructure Funding Statement

16. RCC's adopted Charging Schedule (January 2016) advises that the Regulation 123 list is set in the Charging Schedule Background Paper. However, from December 2020 there was a requirement to replace regulation 123 lists, with IFS following the amendment to the Community Infrastructure Levy Regulations in 2019. RCC's 2020 IFS included an appendix of the list of infrastructure that was approved on 11 January 2016 under regulation 123 as part of the RCC CIL charging schedule. This largely reflected paragraph 3.3 of the Background Paper but for clarity is copied in full below:

<b>RUTLAND ESTIMATED INFRASTRUCTURE REQUIREMENTS TO 2026</b>				
<b>Infrastructure Element</b>	<b>Required Infrastructure Schemes</b>	<b>Infrastructure Cost (£)</b>	<b>Committed Funding (£)</b>	<b>Funding gap (£)</b>
<b>Highways, Transport and Waste</b>	<ul style="list-style-type: none"> <li>· Oakham Town Centre &amp; other town centre improvements</li> <li>· Car parking</li> <li>· Various public &amp; community transport initiatives</li> <li>· New recycling facility</li> </ul>	7,012,000	2,999,700	4,012,300
<b>Health and Social &amp; Care</b>	<ul style="list-style-type: none"> <li>· Disabled, residential care and youth facilities</li> <li>· New and expanded GP facilities</li> </ul>	971,000	385,800	585,200
<b>Education, Learning and Skills</b>	<ul style="list-style-type: none"> <li>· Additional places for early year/childcare</li> <li>· New build and expansion of existing Primary School facilities</li> <li>· Expansion of existing Secondary School facilities</li> <li>· Building infrastructure for additional post 16 needs</li> </ul>	9,506,100	4,100,000	5,406,100
<b>Emergency Services</b>	<ul style="list-style-type: none"> <li>· Enhanced policing &amp; community safety</li> </ul>	1,077,700	850,000	227,700
<b>Economic Development</b>	<ul style="list-style-type: none"> <li>· Oakham and Uppingham public realm improvements</li> <li>· Improved Broadband Connectivity</li> </ul>	960,000	415,000	545,000
<b>Culture and Leisure</b>	<ul style="list-style-type: none"> <li>· Improvements to library provision outside Oakham</li> <li>· Development of Heritage and Cultural facilities</li> <li>· Indoor and Outdoor Sports and Playing Fields</li> </ul>	5,308,400	4,119,700	1,188,700
<b>Total</b>		<b>24,835,200</b>	<b>12,870,200</b>	<b>11,965,000</b>

17. RCC's 2021 IFS advises "The 2020 IFS included in an appendix the list of infrastructure that was approved on 11 January 2016 by regulation 123 as part of the RCC CIL charging schedule. It was intended that this infrastructure would be reviewed as part of the process for adoption of a new local plan. However, in September 2021 Council determined to withdraw the submitted Local Plan and commence on the preparation of a new Local Plan for Rutland. An updated list of infrastructure projects will be prepared to coincide with the preparation of a new Local Plan...."

## The Projected CIL Contribution

18. For the purpose of this exercise, we have taken the 2022 annual CIL rate, which for residential is £122.06 per sqm. In practice CIL will be applied to the rate at the time of granting of detailed permission and so will vary in accordance with indexation. The table below contains assumptions on housing mix and floor space sizes but is designed to provide a broad estimate. Having regard to RCC's adopted charging schedule, no charge will be levied for any non-residential development.

Dwelling Type	Estimated Size (sq.m)	Number	CIL Contribution
1 bedroom	61	15	£111,685
2 bedroom	81	162	£1,601,671
3 bedroom	96	275	£3,222,384
4 bedroom	110	118	£1,584,268
5 bedroom	130	80	£1,269,360
		<b>Total</b>	<b>Total</b>
		<b>650</b>	<b>£7,789,368</b>

19. The above figure does not account for affordable housing which is exempt and therefore applying the proposed 30% affordable housing, this would provide an indicative CIL figure of **£5,452,558**. Note for the purpose of this exercise we have simply reduced the CIL figure by 30%.

## **Infrastructure for Stamford North SUE**

20. The following infrastructure requirements have either been identified through consultation responses under the Allison Homes application or through discussions with the LPAs as part of the Local Plan/Development Brief and pre-application process. We comment against each requirement as to how the infrastructure will be delivered:

- Distributor Road (Old Great North to Ryhall Road)** - The distributor road will be constructed by the developer for each part of the SUE. Both Allison Homes and BHPT are committed to completing the extent of the distributor road within their sites prior to the completion of 300 dwellings within their respective sites, or an agreed timescale whichever is the sooner. Neither site can be restricted to the completion of dwellings on land outside of their control and therefore commercially are unable to have a limit imposed that relies on the completion of the distributor road within the other part of the SUE.
- Education** – policy STM1-H1 of the SKDC Local Plan requires the provision of a primary school. Through discussion on the Development Brief this has been identified as being located within the BHPT land, close to the boundary with RCC. Discussions for the delivery of the primary school between Allison

Homes/BHPT and the LPAs at that time determined that an appropriate trigger for the transfer of land would be the completion of 100 dwellings, and we have continued to work on that basis. We look forward to receiving confirmation from the relevant authorities on whether this continues to be an appropriate trigger.

21. In respect of contributions towards education, Lincolnshire County Council, has in regard to the Allison Homes application, 2022/0227/MAO, requested contributions of £608,927 for primary school places; nil contribution for secondary places and £405,407 for sixth form places. This is based on capacity in the Stamford 'Planning Area' which is undefined but presumably excludes Rutland schools. It is not clear in these comments whether the projected capacity levels in Primary and Secondary in 2024/25 have all been assumed to be taken up by the Allison Homes application or whether, as is the Allison Homes and GL/BHPT position, this capacity should be assumed to be taken up by the Allison Homes and GL/BHPT applications on a proportionate basis. Notwithstanding this, education is an item covered by the CIL and therefore it is Allison Homes' position that they cannot be asked to pay a separate contribution. S.106 financial contributions towards education could be sought for the GL/BHPT application if they meet the statutory tests.

- **Junction Improvements** – The Allison Homes' Transport Assessment has identified that in isolation the only off-site highway junction improvement required to facilitate the development proposed under 2022/0227/MAO is J10 (as number in the TA) – the A1 northbound off slip/ A606 junction.

22. Looking at matters cumulatively however, when the development proposed on the BHPT land is also taken into account, both the Allison Homes' and Stamford North Transport Assessments conclude that this necessitates further improvements at the following junctions:

- J11 – Sidney Farm Lane/A606 priority-controlled junction.
- J13 – A1 southbound off slip/A6121 priority-controlled junction.
- J18 – Ryhall Road/Uffington Road/St Paul's Street mini roundabout.

23. Allison Homes and BHPT/GL propose, in principle, to contribute to these junction improvements on a proportionate basis. ie: the Allison Homes application proposes 650 out of a total of 1950 dwellings across the SUE (33.3%). Allison Homes will therefore contribute 1/3 of the costs of delivering these junction improvements.

24. The BHPT/GL Transport Assessment indicates triggers for delivery of these improvement across the SUE:

- J18 – Ryhall Road/Uffington Road/St Paul's Street mini roundabout at approximately 300 dwellings.
- J11 – Sidney Farm Lane/A606 priority-controlled junction at approximately 1,000 dwellings.
- J13 – A1 southbound off slip/A6121 priority-controlled junction at approximately 1,000 dwellings.
- J10 A1 northbound off slip/ A606 junction at approximately 1,500 dwellings
- **Public Transport** - Within their consultation response dated 28 April 2022 on The Quarry Farm site, Lincolnshire County Council Highway Authority request a contribution of £108,000 per annum for the first five years of this development to support bus services in RCC and LCC. It is not explained within LCC's comment how the contribution is calculated, but again public transport is within

the IFS infrastructure project list and therefore Allison Homes contribution to this matter will be covered by the CIL payment.

25. A contribution is also expected to be required for the BHPT/GL application which will be secured via a S106 agreement.

26. In addition to the above infrastructure items which are considered common to both elements of the SUE, the following items are specific to Allison Homes planning application.

- **Affordable Housing** – this will be secured via a site specific Section 106 Agreement.
- **Open Space/Country Park** – the actual provision of open space will be considerably more than Local Plan requirements. The management of the Country Park and other open space areas will need to be secured via a S.106 Agreement and Allison Homes is pursuing several interested parties in this respect. This detail will be provided in due course.
- **Health** – The Leicester, Leicestershire and Rutland (“LLR”) Clinical Commissioning Groups (CCGs) have submitted a request to access the CIL contributions to mitigate impact on GP practices. In respect of the Allison Homes application, CIL covers this item and the Local Centre will provide for suitable use classes to host such services, if required.
- **Local Centre** – a limit of 300 occupations is proposed until the local centre has services provided and is marketed for occupation.
- **Biodiversity Net Gain** – any residual contribution towards this, if required.

27. The following items are anticipated to be specific to GummerLeathes/BHPT planning application:

- **Affordable Housing** –this will be secured via a site specific Section 106 Agreement.
- **Community facilities** – to be provided within the Local Centre;
- **Health** – potentially to include land for a temporary and/or permanent facility on the site, and/or a financial contribution towards the delivery of a facility;
- **Library contributions** – if demonstrated to be justified;
- **Open space provision and management;** and
- **Wheeled bin contribution.**

28. The key infrastructure across the SUE will be delivered in a cohesive and collaborative manner. It is evident that each side will deliver their portion of the distributor road and the responsibility for the remaining off-site highway works has been agreed between Allison Homes and GummerLeathes on a proportionate basis. There is a mechanism for bringing forward the land to deliver the primary school and the CIL contribution will cover the infrastructure requests made in respect to application 2022/0227/MAO.

## **Joint Infrastructure Planning Agreement and Individual Site Agreement**

29. It is proposed that a Joint Infrastructure Planning Agreement (JIPA) will cover SUE wide infrastructure that is required to be delivered on a comprehensive basis. This is defined as:
- Distributor Road (Old Great North to Ryhall Road)
  - Education (in respect of transfer of land)
  - Junction Improvements
  - Public Transport (bus service) contributions.
30. This will require landowners from both sites and both LPAs to be parties to the JIPA.
31. All other obligations will be site specific and subject to Section 106 Agreements that relate to the individual applications.
32. It is anticipated that all 3 s106 agreements, namely (1) the Quarry Farm s106 (2) the BHPT/GL s106 and (3) the joint infrastructure s106, will be completed simultaneously.
33. As stated above, the landowners and promoters of the land that make up Stamford North SUE are committed to working together to ensure that the infrastructure required to support the development is provided in a comprehensive and timely fashion. To this end, we look forward to continuing to work with the local authorities and stakeholders to agree the precise terms of the required obligations.





Response ID [REDACTED]

Submitted to Dorset Council draft Annual Position Statement - 5 year housing land supply - stakeholder engagement  
Submitted on 2024-07-03 17:22:22

## Introduction

1 What is your name?

Name:

Ben Pycroft

2 What is your email address?

Email:

[REDACTED]

3 What is your organisation?

Organisation:

Emery Planning

4 What are your client(s) details (if applicable)?

Client(s) details (name, organisation):

Nightingale Land

5 Responses to this consultation will be published during the process of confirming the Annual Position Statement. Please tick this box to declare that you agree to your response being made available for public viewing.

I agree to my response being made available for public viewing:

Yes

## Your response

6 Please enter your response to the draft Annual Position Statement below. Alternatively you may attach a response in the next question. If you have comments regarding specific sections or sites within the Annual Position Statement, please clearly indicate them in your response.

Enter your response here:

Please find attached our response. We have emailed our appendices to you separately as the portal only allows one document to be uploaded

7 Upload a response

File upload:

Representations to Dorset APS - July 2024 - Nightingale Land (1)(1.0).pdf was uploaded

Representations to Dorset's Draft Annual Position Statement  
For Nightingale Land | 24-351

At 1<sup>st</sup> April 2024 - Dorset HLS – Annual Position Statement.

**Project:** 24-351  
**Site Address:** Dorset HLS – Annual Position Statement  
**Client:** Nightingale Land  
**Date:** 03 July 2024  
**Authors:** Tom Smith and Ben Pycroft  
**Approved by:** Ben Pycroft

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# 1. Introduction and summary

- 1.1 Emery Planning is instructed by Nightingale Land to submit representations to Dorset's draft Annual Position Statement (APS), which is being consulted on until midnight on 4<sup>th</sup> July 2024.
- 1.2 From the outset, these representations have been made based on the draft APS and associated evidence base which have been uploaded to the Council's website as part of the consultation. Should the Council produce additional evidence to support its APS following the close of the consultation, then we respectfully request the opportunity to comment on it before the Inspector issues their recommendation.
- 1.3 Should a revised National Planning Policy Framework be published before the Inspector issues their recommendation, we also respectfully request the opportunity to comment on any implications this may have in relation to housing land supply calculations.

## Background

- 1.4 Emery Planning has extensive experience in dealing with housing supply matters and has prepared and presented evidence relating to five year housing land supply calculations at numerous Local Plan examinations and public inquiries and hearings across the country.
- 1.5 Our assessment is based on the latest position set out in the Council's Annual Position Statement – 5 year housing land supply (June 2024) which sets out the five year housing land supply (5YHLS) position at a base date of 1<sup>st</sup> April 2024 and a five year period to 31<sup>st</sup> March 2029.
- 1.6 The Council considers that at 1<sup>st</sup> April 2024 it can demonstrate a deliverable supply of 9,573 dwellings. Against the (capped) local housing need of 1,793 dwellings per annum, this equates to 5.34 years. The APS Inspector would need to find 608 dwellings (6% of the claimed supply) should not be included in the deliverable supply for there to be a shortfall in the Council's 5YHLS. As set out below, we conclude that 2,770 dwellings should be removed from the 5YHLS.
- 1.7 For the avoidance of doubt, Dorset must demonstrate a 5YHLS (rather than a 4YHLS). This has been confirmed by the Council in recent appeals. In a decision relating to an appeal by Paul Crocker against the decision of the Council to refuse to grant outline planning permission for 67 dwellings at land

between Salisbury Street, Tanzey Lane and Sodom lane, Marnhull<sup>1</sup> the Inspector concluded that a 5YHLS needed to be demonstrated for the reasons set out in paragraphs 29-35.

1.8 The Council has since accepted this is the case. For example, the Council confirmed this was the case at a hearing into Gladman’s appeal in relation to land north of Station Road, Stalbridge (PINS ref: 3333249). The hearing took place on 21<sup>st</sup> May 2024. Emery Planning gave the evidence on 5YHLS at that hearing on behalf of the Appellant. The appeal decision has not been issued at the time of writing.

## Summary

1.9 The following matters are agreed:

- In accordance with paragraph 77 of the Framework (20<sup>th</sup> December 2023) Dorset is required to identify a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against the local housing need.
- The base date is 1<sup>st</sup> April 2024. The relevant 5-year period for the determination of the appeal is 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2029.
- In accordance with paragraph 77 and footnote 42 of the Framework, the 5YHLS should be measured against the local housing need as calculated by the standard method set out in paragraph 2a-004 of the PPG. It is agreed that this is capped at 1,793 dwellings per annum.
- The latest HDT result is 97%. Accordingly, the 20% buffer does not apply.

1.10 On the supply side, the Council claims to have a deliverable supply of 9,573 dwellings. We have reviewed the supply and for the reasons set out in sections 9 to 13 of this statement, conclude that 2,556 dwellings should be removed from the Council’s supply.

1.11 Most of the deductions we have made are on sites which fall within category b) of the definition of “deliverable” as set out on page 69 of the Framework. These sites should only be included in the 5YHLS if the Council has provided “clear evidence” of deliverability. Whilst the Council has provided some “correspondence with developers of specific sites” (Appendix H of the draft APS), with reference to the definition of deliverable in the Framework, the associated guidance in chapter 68 of the PPG and the appeal decisions and another APS report we refer to, this is not clear evidence of deliverability. We respectfully invite the Inspector to compare the evidence in Appendix H with the evidence provided by Braintree, South Oxfordshire, West Oxfordshire and South Kesteven Councils which was found not to be clear evidence by the Secretary of State and Inspectors in those cases<sup>2</sup>.

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<sup>1</sup> PINS ref: 3323727 – 8<sup>th</sup> May 2024 (re-issued 2<sup>nd</sup> July 2024) – Appendix **EP1**

<sup>2</sup> Appendices **EP5, EP7, EP9, EP10** and **EP12**

1.12 A list of the sites we dispute is set out in the table below.

**Table 1.1 – Disputed Sites**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites allocated within Local Plans (Appendix B of the draft APS)</b>					
BRID1	Vearse Farm (South East – Douglas Crammond)	80	20	0	-20
BRID3	Land east of Bredy Vets Centre	70	20	0	-20
CHIC2	Chickerell Urban Extension East	579	148	0	-148
CRS1	Land at Crossways	500	99	0	-99
DOR8	Four Paddocks – land south of St Georges Road, Dorchester	108	68	0	-68
LIS_F17	Land at Green Worlds	50	24	0	-24
LYMT3	Blarney's Corner, Lytchett Matravers	25	25	0	-25
LYMT4	East of Flowers Drove, Lytchett Matravers	28	28	0	-28
LYMT2	East of Wareham Road, Lytchett Matravers	95	95	0	-95
CRS2	Redbridge Pit, Moreton Station	490	35	0	-35
No reference	Land at Policemans Lane, Upton (phase 2)	92	92	0	-92
WEY7	Council Offices, North Quay	75	75	0	-75
WOOL1	West of Chalk Pit Lane / Oakdene Road, Wool	320	120	0	-120

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
WOOL3	North of Railway Line, Wool	35	35	0	-35
WOOL1	North East of Burton Cross Roundabout	90	50	0	-50
WOOL1	North West of Burton Cross Roundabout	30	30	0	-30
	<b>Subtotal</b>		<b>964</b>	<b>0</b>	<b>-964</b>
<b>Sites allocated in Neighbourhood Plans (Appendix C of the draft APS)</b>					
NP_PV1	Austral Farm	10	10	0	-10
NP_BR01	Back Lane, Bere Regis	51	51	0	-51
NP_BR02	North Street, Bere Regis	15	15	0	-15
Policy BR7	Former School Site, Bere Regis	21	21	0	-21
Policy BR7	White Lovington, Bere Regis	17	17	0	-17
NP alloc 6	Clarkes Yard, Bath Road	30	30	0	-30
NP alloc 1	North of the Livestock Market	86	86	0	-86
H5	Westminster Road Industrial Estate	30	15	0	-15
	<b>Subtotal</b>		<b>245</b>	<b>0</b>	<b>-245</b>
<b>Specific large sites (these sites are listed in Appendix D of the draft APS)</b>					
6/2019/0639	Land North of West Lane, Stoborough	15	15	0	-15
P/FUL/2024/00233	Brewery site (Lot 2), Blandford St Mary	41	41	0	-41
LA/BLSM/003	Brewery site (Lot 4),	21	21	0	-21



Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	Blandford St Mary				
P/OUT/2021/05309	Land Adjacent Broadmead, Broadmayne	80	80	0	-80
WD/D/17/000800	South of Fullers, Bridport Road, Broadwindsor	22	22	0	-22
WD/D/20/001242	Tennis Courts, Trinity St Carpark	15	15	0	-15
LA/SIXP/004	Land off Dean Lane	55	35	0	-35
LA/SIXP/005	Land off The Orchard	30	30	0	-30
P/FUL/2023/06544	Lakeside Superbowl, St Nicholas Street	65	65	0	-65
LA/COLE/022	Furzehill - Previous Council Offices	35	35	0	-35
	<b>Subtotal</b>		<b>359</b>	<b>0</b>	<b>-359</b>
<b>Rural exception sites (Appendix G of the draft APS)</b>					
No reference	Corfe Caste CLT	22	22	0	-22
	<b>Subtotal</b>		<b>22</b>	<b>0</b>	<b>-22</b>
<b>Sites with outline planning permission (these sites are listed in Appendix A – page 7 of the draft APS)</b>					
WD/D/19/000613	Land to the north and west of Cockroad Lane, Beaminster	58	58	0	-58
2/2017/1919/OUT	Lower Bryanston Farm, BSM	75	75	0	-75
1/D/11/002012	St Michaels Trading Estate	92	60	0	-60
P/RES/2022/04960	Ham Farm - Phase 1b	108	108	0	-108
P/RES/2023/05868	Ham Farm - Phase 3	151	68	0	-68

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
2/2019/0403/OUT	Land south of Milborne Business Centre, Blandford Hill, Milborne St Andrew	58	58	0	-58
WP/17/00270/OUT	Portland Lodge Hotel, Easton Lane	24	24	0	-24
2/2018/1773/OUT	Land south of A30	115	45	0	-45
2/2019/1799/OUT	Land South of Station Road	130	40	0	-40
2/2017/1912/OUT	Land At The Bull, Common Lane	17	17	0	-17
WP/19/00993/OUT	Land at Beverley Road	17	17	0	-17
P/OUT/2022/00852	Land at Newtons Road, Newtons Road, Weymouth (Former QinetiQ Site, Bincelaves)	164	131	0	-131
	<b>Subtotal</b>		<b>701</b>	<b>0</b>	<b>-701</b>
<b>Major sites with planning permission (these sites are listed in Appendix A of the draft APS)</b>					
P/RES/2021/04848	BRID1: Vearse Farm (Hallam Land)	793	420	320	-100
P/RES/2022/03505	Land East of New Road, West Parley (FWP6) - Phase 1	238	238	142	-96
P/RES/2021/01645	West of Frome Valley Road	140	140	100	-40
3/19/0019/RM	Land south of Howe Lane	29	29	0	-29
WP/19/00693/RES	Curtis Fields Phases 2A, 3A, 3B	298	214	0	-214
	<b>Subtotal</b>				<b>-479</b>

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	<b>Total</b>				<b>-2,770</b>

1.13 We therefore conclude that the deliverable supply at 1<sup>st</sup> April 2024 is 6,803 dwellings (i.e. 9,573 – 2,770 = 6,803). This equates to **3.79 years** against the local housing need, as shown in the following table:

**Table 1.2 – Dorset’s 5YHLS at 1<sup>st</sup> April 2024**

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,793	
B	Five year housing requirement (A X 5 years)	8,965	
	<b>Supply</b>		
C	5YHLS at 1 <sup>st</sup> April 2024	9,573	6,803
D	Supply in years (C / A)	<b>5.34</b>	<b>3.79</b>
E	Surplus / shortfall in 5YHLS (C – B)	<b>+608</b>	<b>-2,162</b>

## 2. Planning policy context

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (“the Framework”) is a material consideration, which is discussed below.

### Development Plan Context

#### Adopted development plan

- 2.2 Dorset Council covers the former districts / boroughs of East Dorset, North Dorset, Purbeck, West Dorset and Weymouth and Portland. On 1<sup>st</sup> April 2024, the adopted Local Plans covering these former local authority areas were more than 5 years old.
- 2.3 Of relevance to this statement is the fact that the housing requirement set out in adopted strategic policies is over five years old and therefore in accordance with paragraph 77 and footnote 42 of the Framework, the Council’s 5YHLS should now be measured against the local housing need calculated using the standard method set out in the PPG. At 1<sup>st</sup> April 2024, this is 1,793 dwellings per annum.

#### Emerging development plan

- 2.4 According to the Council’s Local Development Scheme (March 2024), formal work will commence on a Dorset-wide Local Plan in Quarter 3 of 2024, meaning that the emerging development plan is not at Regulation 18 stage.
- 2.5 The Dorset Council Local Plan Options Consultation took place between 18 January and 15 March 2021. Work done on this will carry forward into the plan preparation under the new Local Plan system.

### Other material considerations

#### Dorset Council’s Annual position statement – 5 year housing land supply (June 2024)

- 2.6 The Council’s Draft version Annual position statement (June 2024) states that at 1<sup>st</sup> April 2024, Dorset had a deliverable supply of 9,573 dwellings, which against the local housing need of 1,793 dwellings equates to **5.34 years**.

## National planning policy and guidance

### The National Planning Policy Framework (“the Framework”)

- 2.7 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021, September 2023, and most recently on 20<sup>th</sup> December 2023.
- 2.8 The relevant sections of the revised Framework in relation to this statement are:
- Footnote 8 which explains that the tilted balance to the presumption in favour of sustainable development applies where a) a local planning authority cannot demonstrate a 5YHLS (or 4YHLS if applicable as set out in paragraph 226 or b) where the Housing Delivery Test result is less than 75%;
  - Section 5: Delivering a sufficient supply of homes, including:
    - Paragraph 60, which refers to the Government’s objective of significantly boosting the supply of homes;
    - Paragraph 61, which explains that the minimum number of homes needed should be informed by a local housing need calculated using the standard method set out in the PPG. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area;
    - Paragraph 72, in relation to an allowance for windfall sites;
    - Paragraph 75, which states that strategic policies should include a trajectory illustrating the expected rate of delivery over the plan period. It states that local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies;
    - Paragraph 76, which states that local planning authorities are not required to demonstrate a 5YHLS where a) the adopted plan is less than five years old and the adopted plan identified a 5YHLS of specific, deliverable sites at the time the examination concluded. Transitional arrangements set out in footnotes 40 and 79 explain that this applies for applications made on or after 20<sup>th</sup> December 2023;
    - Paragraph 77, which explains that the requirement to demonstrate a 5YHLS (or in some circumstances a 4YHLS) is a *minimum* requirement and explains that the supply should be measured against either the housing requirement set out in adopted strategic policies, or the local housing need where the strategic policies are more than five years old. Footnote 42 explains that if the adopted housing requirement has been reviewed and found not to require updating, it should still be used. Footnote 42 also explains that where the local housing need is used it should be calculated using the standard method set out in the PPG. Paragraph 77 and footnote 43 also explain that a 20% buffer should apply where the latest HDT result is less than 75%. Finally, paragraph 77 of the Framework states that the PPG provides further information on

calculating housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed;

- Paragraph 78, which explains the circumstances in which a 5YHLS can be confirmed through an annual position statement; and
  - Paragraph 79, in relation to Housing Delivery Test Action Plans and the policy consequences for failing the HDT.
- Annex 1: Implementation, including:
    - Paragraph 226, which explains the circumstances when a local planning authority only has to demonstrate a 4YHLS i.e. where an authority has an emerging local plan that has either been submitted for examination or has reached regulation 18 or 19 stage and includes both a policies map and proposed allocations towards meeting housing need.
  - Annex 2: Glossary, including:
    - The definition of “deliverable” on page 69; and
    - The definition of “windfall sites” on page 76.

### **Planning Practice Guidance (PPG)**

2.9 The PPG was first published in March 2014 and has been updated since. The relevant chapters of the PPG in relation to this statement are:

- Chapter 2a - Housing and economic needs assessment;
- Chapter 3 – Housing and economic land availability assessments; and
- Chapter 68 – Housing supply and delivery.

2.10 Chapter 68 of the PPG was last updated on 5<sup>th</sup> February 2024 to reflect the revised Framework, which was published on 20<sup>th</sup> December 2023.

### 3. Assessment of the Council's housing supply

3.1 Our assessment of the Council's five year housing land supply is based on six key stages:

1. Identifying the base date and five year period;
2. Identifying the housing requirement;
3. Identifying the past shortfall or over-supply;
4. Identifying how the past over-supply should be addressed;
5. Applying the appropriate buffer; and
6. Identifying a Realistic and Deliverable Supply.

3.2 Each stage is addressed below.

## 4. Stage 1: Agreeing the base date and five year period

- 4.1 The base date is the start date for the five year period for which both the requirement and supply should relate.
- 4.2 The current housing land supply position statement has a base date of 1<sup>st</sup> April 2024 and a five year period to 31<sup>st</sup> March 2029. We have assessed the supply at 1<sup>st</sup> April 2024 as that remains the most up to date position.
- 4.3 The Council should not attempt to include any new sites, which are not already within its schedule of sites as being deliverable at the base date. This would effectively mean changing the base date to beyond 1<sup>st</sup> April 2024. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 4.4 In a decision in relation to an appeal made by Wavendon Properties Ltd against the decision of Milton Keynes Council to refuse to grant outline planning permission for a mixed use development including up to 203 dwellings at land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands<sup>3</sup>, the Secretary of State agreed with Inspector Gilbert-Wooldridge that whilst evidence which post-dated the base date was acceptable, this was only in relation to sites already in the schedule of sites. New sites should not be added after the base date<sup>4</sup>.
- 4.5 Similarly, in an appeal made by the Darnhall Estate against the decision of Cheshire West and Chester Council to refuse to grant residential development for up to 184 dwellings at land off Darnhall School Lane, Winsford<sup>5</sup>, the Secretary of State agreed with Inspector Middleton that it would be inappropriate for new sites to be included after the base date and that their insertion should await the next full review of the housing land supply position<sup>6</sup>.
- 4.6 We have therefore proceeded on the basis of the sites included in the Council's schedule at the base date.

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<sup>3</sup> PINS ref: 3169314 – 25<sup>th</sup> June 2020 - [Reference: APP/Y0435/W/17/3169314 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/y0435/w/17/3169314)

<sup>4</sup> Please see DL paragraph 12 and IR paragraph 12.12

<sup>5</sup> PINS ref: 2212671 – 4<sup>th</sup> November 2019 - [Reference: APP/A0665/W/14/2212671 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/a0665/w/14/2212671)

<sup>6</sup> Please see DL paragraph 15 and IR paragraph 344



## 5. Stage 2: Identifying the housing requirement

5.1 Given that the Local Plans that cover the former local authority areas which make up Dorset Council are now more than 5 years old, the Local Housing Need [LHN] is calculated using the Standard Method to establish the housing target.

5.2 In accordance with paragraph 77 and footnote 42 of the Framework, the five year housing land supply should be measured against the local housing need using the standard method set out in the PPG. Paragraph 2a-004 of the PPG<sup>7</sup> explains how local housing need is calculated. There are four steps:

- Step 1 – set the baseline by calculating the projected annual household growth over a 10 year period using the 2014-based household projections with the current year being used as the starting point. For Dorset, the annual household growth from 2024-34 is 1,281.
- Step 2 – make an adjustment to take account of affordability using the most recent median workplace-based affordability ratios. For Dorset, the most recent median workplace-based affordability ratio (published 25<sup>th</sup> March 2024) is 11.03. The affordability adjustment is 1.44. Therefore, the uncapped local housing need is 1,844 dwellings per annum.
- Step 3 – cap the level of any increase. For Dorset, the local housing need figure should be capped at 40% above the annual household growth of 1,281. This is 1,793 dwellings per annum.
- Step 4 – apply the cities and urban centres uplift – a 35% uplift is not applied because Dorset is not in the top 20 cities and urban centres list. This means that the local housing need is **capped at 1,793 dwellings per annum.**

5.3 The ‘base’ five year requirement is therefore 8,965 dwellings (i.e., 1,793 x 5 years = 8,965).

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<sup>7</sup> Paragraph: 004 Reference ID: 2a-004-20190220: “What is the standard method for assessing local housing need?”

## 6. Stages 3 and 4: Identifying the shortfall or oversupply and addressing it

### 6.1 Paragraph 68-031 of the PPG<sup>8</sup>: “How can past shortfalls in housing completions against planned requirements be addressed?” states:

“Where shortfalls in housing completions have been identified against planned requirements, strategic policy-making authorities may consider what factors might have led to this and whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure. Under-delivery may need to be considered where the plan being prepared is part way through its proposed plan period, and delivery falls below the housing requirement level set out in the emerging relevant strategic policies for housing.

Where relevant, strategic policy-makers will need to consider the recommendations from the local authority’s action plan prepared as a result of past under-delivery, as confirmed by the Housing Delivery Test.

The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.

Where strategic policy-making authorities are unable to address past shortfalls over a 5 year period due to their scale, they may need to reconsider their approach to bringing land forward and the assumptions which they make. For example, by considering developers’ past performance on delivery; reducing the length of time a permission is valid; re-prioritising reserve sites which are ‘ready to go’; delivering development directly or through arms’ length organisations; or sub-dividing major sites where appropriate, and where it can be demonstrated that this would not be detrimental to the quality or deliverability of a scheme.” (emphasis added)

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<sup>8</sup> Paragraph: 031 Reference ID: 68-031-20190722: “How can past shortfalls in housing completions against planned requirements be addressed?”

6.2 As in this case the five year housing land supply is to be measured against the local housing need, there is no requirement to specifically address under-delivery separately as this has been factored in as part of the affordability ratio under step 2 as highlighted in this part of the PPG.

## 7. Stage 5: Applying the buffer

### Housing Delivery Test

7.1 The Housing Delivery Test (HDT) is defined on page 71 of the Framework as follows:

“Housing Delivery Test: Measures net homes delivered in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England annually.”

7.2 The following consequences apply where the HDT results confirm delivery falls below specific thresholds.

7.3 Firstly, paragraph 79(a) of the Framework explains that where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years.

7.4 Secondly, paragraph 79(b) of the Framework explains that where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 77 of this framework, in addition to the requirement for an action plan.

7.5 Thirdly, paragraph 79(c) of the Framework explains that where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.

7.6 Guidance on the Housing Delivery Test is then provided in paragraphs 68-036 to 68-054 of the PPG, which should be read alongside the Housing Delivery Test measurement rule book.

7.7 The HDT Measurement Rule Book (July 2018) explains that HDT is calculated as a percentage of net homes delivered against the “number of homes required”. Paragraph 14 of the rulebook explains that where the latest adopted housing requirement is over five years old, unless the strategic policies have been reviewed and found not to require updating, the figure used for areas with a Local Plan will be the minimum annual local housing need figure.

7.8 The HDT results for 2022 were published on 19 December 2023. The result for Dorset is summarised in the table below:

**Table 7.1 – Published 2022 Housing Delivery Test Results**

	Number of homes required				Number of homes delivered				HDT %
	2019-20	2020-21	2021-22	Total	2019-20	2020-21	2021-22	Total	
Christchurch and East Dorset	712	537	816	2,065	774	448	629	1,851	90%
West Dorset and Weymouth & Portland	709	525	787	2,021	697	671	925	2,293	113%
North Dorset	261	204	332	797	96	201	298	595	75%
Purbeck	164	118	183	464	148	131	151	430	93%
<b>Total (Dorset Council area + Christchurch)</b>	<b>1,846</b>	<b>1,384</b>	<b>2,118</b>	<b>5,347</b>	<b>1,715</b>	<b>1,451</b>	<b>2,003</b>	<b>5,169</b>	<b>97%</b>

7.9 As can be seen from the table above, Dorset delivered 5,169 new homes over the last three years against the “number of homes required” over the same period of 5,347 dwellings. This results in a HDT measurement of 97% and means that the HDT has been passed. Consequently, the tilted balance set out in paragraph 11(d) of the Framework is not triggered because of the HDT result (although we conclude it is because of a 5YHLS shortfall), the buffer is not increased to 20% and an action plan is not required.

## 8. Stage 6: Identifying a Realistic and Deliverable Supply

8.1 On the supply side, the Council claims to have a deliverable supply at 1<sup>st</sup> April 2023 of 9,573 dwellings.

### What constitutes a deliverable site?

#### Previous National Planning Policy (2012) and Guidance (2014)

8.2 Footnote 11 of the 2012 Framework stated:

“To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”

8.3 Paragraph 3-031 of the previous PPG (dated 6<sup>th</sup> March 2014): “What constitutes a ‘deliverable site’ in the context of housing policy?” stated:

“Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (eg infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year housing supply.”

8.4 Therefore, under the 2012 Framework, all sites with planning permission, regardless of their size or whether the planning permission was in outline or in full were to be considered deliverable until permission expired unless there was clear evidence that schemes would not be “implemented” within five years. The PPG went further by stating that allocated sites “could” be deliverable and even non-allocated sites without planning permission “can” be considered capable of being delivered.

8.5 The Government consulted on the draft revised Framework between March and May 2018. The draft revised Framework provided the following definition of “deliverable” in the glossary:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Small sites, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

8.6 Question 43 of the Government’s consultation on the draft revised Framework asked: “do you have any comments on the glossary?”

8.7 There were 750 responses to question 43 of the consultation. Some of the points raised included:

**“Local authorities called for the proposed definition of ‘deliverable’ to be reconsidered, as it may result in them being unable to prove a five year land supply and place additional burdens on local authorities to produce evidence.** Private sector organisations were supportive of the proposed definition.” (emphasis added)

8.8 The government’s response was as follows:

“The Government has considered whether the definition of ‘deliverable’ should be amended further, but having assessed the responses it has not made additional changes. This is because **the wording proposed in the consultation is considered to set appropriate and realistic expectations for when sites of different types are likely to come forward.**” (emphasis added)

### Current National Planning Policy and Guidance

8.9 The definition of “deliverable” is set out on page 69 of the Framework (December 2023) and states:

“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

8.10 The definition of deliverable was not amended in the revised Framework published in December 2023.

8.11 The PPG was most recently updated on this issue on 22<sup>nd</sup> July 2019. Paragraph 68-007 of the PPG<sup>9</sup> provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;
- are allocated in a development plan;
- have a grant of permission in principle; or
- are identified on a brownfield register.

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s)

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<sup>9</sup> Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”



which confirms the developers' delivery intentions and anticipated start and build-out rates;

- firm progress with site assessment work; or
- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.”

### Assessment

8.12 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the current Framework is clear that only sites with detailed consent for major development should be considered deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.

8.13 As above, the PPG has been updated to provide some examples of the type of evidence which may be provided to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable.

### Relevant appeal decisions

8.14 There have been several appeal decisions which have considered the definition of “deliverable” as set out in the 2023 version of the Framework and whether “clear evidence” has been provided for the inclusion of sites which only have outline planning permission for major development or are allocated without planning permission. Whilst each appeal has been determined on a case by case basis on the evidence before the decision-maker, several themes have arisen in appeal decisions, which we discuss below.

#### The absence of any written evidence

8.15 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. For example:

- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich<sup>10</sup>, the Secretary of State removed 301 dwellings from Cheshire East Council's supply from sites including: “*sites with outline planning permission which had no*

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<sup>10</sup> PINS refs: 2197532 and 2197529 – 15<sup>th</sup> July 2020 – Appendix EP2

*reserved matters applications and no evidence of a written agreement*” (paragraph 21 of the decision letter dated 15<sup>th</sup> July 2020);

- In an appeal decision regarding land to the south of Cox Green Road, Surrey<sup>11</sup> an Inspector removed 563 dwellings on 24 sites from Waverley Council’s supply because the Council had not provided any evidence for their inclusion (paragraphs 22 to 24 of the appeal decision dated 16<sup>th</sup> September 2019);
- In an appeal decision regarding land at Station Road, Stalbridge, North Dorset<sup>12</sup> an Inspector removed 2 large sites from North Dorset’s supply (references A02 and A04) because the Council had not provided any up to date information from the developers for these sites and applications for reserved matters had not been made (paragraphs 53 and 57); and
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester<sup>13</sup>, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82).

### The most up to date evidence

8.16 Paragraph 68-004 of the PPG<sup>14</sup> explains that for decision-taking purposes, an authority will need to be able to demonstrate a five year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

- *“using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);*
- *‘confirming’ the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 78 of the National Planning Policy Framework).”*

8.17 As above, paragraph 68-007 of the PPG also states that *“robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions”*. It also states that the “current” planning status of a site is one example of the type of evidence that could be used to support the inclusion of category b) sites. Therefore, the latest available evidence should be used but this is only in relation to sites already in the supply.

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<sup>11</sup> PINS ref: 3227970 – 16<sup>th</sup> September 2019 - [Reference: APP/R3650/W/19/3227970 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/R3650/W/19/3227970)

<sup>12</sup> PINS ref: 3284485 – 20<sup>th</sup> June 2022 – Appendix EP3

<sup>13</sup> PINS ref: 3270721 – 27<sup>th</sup> May 2022 - [Reference: APP/L3815/W/21/3270721 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/L3815/W/21/3270721)

<sup>14</sup> Paragraph: 004 Reference ID: 68-004-20240205: *“How can an authority demonstrate a 5 year supply of deliverable housing sites?”*

8.18 In an appeal regarding land on the east side of Green Road, Woolpit<sup>15</sup>, the Inspector found Mid Suffolk Council’s approach in publishing its AMR and then retrospectively seeking evidence to justify its position “wholly inadequate”. Paragraph 70 of the appeal decision states:

“the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published.”

8.19 However, evidence can post date the base date to support the sites in the deliverable supply and not seek to introduce new sites. In an appeal regarding land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands (Milton Keynes)<sup>16</sup>, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability. Paragraph 12 of the Secretary of State’s decision letter dated 25<sup>th</sup> June 2020 states:

“For the reasons given at IR12.8-12.12 the Secretary of State agrees with the Inspector that it is acceptable that the evidence can post-date the base date provided that it is used to support sites identified as deliverable as of 1 April 2019 (IR12.11)”.

8.20 Similarly, in a decision regarding land off Darnhall School Lane, Winsford<sup>17</sup>, the Secretary of State agreed with Inspector Middleton that it is appropriate to take into account information received after the base date if it affects sites included in the deliverable supply<sup>18</sup>.

8.21 This means that where sites have not progressed as the Council’s trajectory claimed at the time the position statement was published, the supply should be reduced. In the Audlem Road appeal<sup>19</sup>, the Secretary of State removed from Cheshire East Council’s supply;

“a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress”. (paragraph 21 of the Decision Letter dated 15<sup>th</sup> July 2020)

8.22 Cheshire East Council’s Housing Monitoring Update (HMU) had a base date of 31<sup>st</sup> March 2019 and was published in November 2019. Representations by both parties on the HMU were received with the final

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<sup>15</sup> PINS ref: 3194926 – 28<sup>th</sup> September 2018 - [Reference: APP/W3520/W/18/3194926 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/w3520/w/18/3194926)

<sup>16</sup> PINS ref: 3169314 – 25<sup>th</sup> June 2020 - [Reference: APP/Y0435/W/17/3169314 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/y0435/w/17/3169314)

<sup>17</sup> PINS ref: 2212671 – 4<sup>th</sup> November 2019 - [Reference: APP/A0665/W/14/2212671 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/a0665/w/14/2212671)

<sup>18</sup> Paragraph 344 of the Inspector’s Report and paragraph 15 of the Decision Letter.

<sup>19</sup> PINS refs: 2197532 and 2197529 – Appendix **EP2**

comments received on 12<sup>th</sup> February 2020 (DL paragraph 7). Therefore, whilst the written evidence for this site explained a planning application would be made on this site in August 2019 because the application was not forthcoming by the time the decision was made and no other evidence of progress had been provided, the Secretary of State removed the site from the supply.

### The form and value of the evidence

- 8.23 In the Woburn Sands appeal decision referred to above, the Secretary of State agreed with the Inspector that a proforma can, in principle, provide clear evidence of a site's deliverability (please see paragraph 12 of the decision letter and paragraphs 12.13 to 12.15 of the Inspector's Report). However, the evidential value of the written information is dependent on its content. The Secretary of State and Inspectors have concluded that it is simply not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. The evidence needs to provide a realistic prospect that housing will be delivered on the site within five years.
- 8.24 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel<sup>20</sup>, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.
- 8.25 Braintree Council claimed that it could demonstrate a 5.29 year supply. In determining the appeal, the Secretary of State concluded that the Council could only demonstrate a 4.15 year supply. The reason for this is set out in paragraph 41 of the decision letter (page 7), which states:

“Having reviewed the housing trajectory published on 11 April, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission do not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years. He has therefore removed ten sites from the housing trajectory”

- 8.26 The ten removed sites are listed in a table provided at Annex D on page 24 of the Secretary of State's decision letter. Of the ten sites removed from Braintree's supply, 9 had outline planning permission and the remaining site was an allocated site with a hybrid planning application pending determination. For these sites, Braintree Council had submitted completed forms and emails from landowners, developers and their agents providing the timescales for the submission of reserved matters applications and anticipated build rates<sup>21</sup>. However, the Secretary of State removed these sites because he did not consider they met the definition of “deliverable” as set out in the Framework.

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<sup>20</sup> PINS ref: 3180729 – 8<sup>th</sup> July 2019 – Appendix EP4

<sup>21</sup> Appendix EP5

8.27 As part of its case in seeking to defend an appeal against its decision to refuse to grant outline planning permission for up to 140 no. dwellings at land off Popes Lane, Sturry<sup>22</sup>, Canterbury City Council claimed that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.

8.28 The Inspector, however, found that the Council could not demonstrate a five year housing land supply. The Inspector concluded that the deliverable supply was 4,644 dwellings, which equates to 4.8 years. The reason why the Inspector concluded that the deliverable supply was 1,811 dwellings (28%) less than the Council claimed was because he found that 10 sites should be removed from the supply because:

*“there is insufficient clear evidence to show that they meet the NPPF’s definition of deliverable. Sites which are not deliverable cannot be counted as part of the supply for the purposes of meeting the 5-year requirement.”* (paragraph 23)

8.29 In this case, Canterbury Council had provided statements of common ground between the Council and the developer or landowner to support the inclusion of several of the disputed sites. However, the Inspector found that the statements of common ground did not demonstrate that the development prospect was realistic. Paragraph 23 of the appeal decision states:

*“For a number of the disputed sites, the Council’s evidence is founded on site-specific SCGs which have been agreed with the developer or landowner of the site in question. I appreciate that the PPG refers to SCGs as an admissible type of evidence, and I have had full regard to that advice. But nevertheless, the evidential value of any particular SCG in this context is dependent on its content. In a number of cases, the SCGs produced by the Council primarily record the developer’s or landowner’s stated intentions. Without any further detail, as to the means by which infrastructure requirements or other likely obstacles are to be overcome, and the timescales involved, this type of SCG does not seem to me to demonstrate that the development prospect is realistic. In addition, most of the site-specific SCGs are undated, thus leaving some uncertainty as to whether they represent the most up-to-date position.”*

8.30 Similarly, as part of its case in seeking to defend an appeal made by Parkes Ltd against its decision to refuse to grant outline planning permission for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick<sup>23</sup>, Waverley Council claimed it could demonstrate a supply of 5,708 dwellings, which equated to just under 5.2 years against its housing requirement and buffer.

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<sup>22</sup> PINS ref: 3216104 – 3<sup>rd</sup> September 2019 - [Reference: APP/J2210/W/18/3216104](https://www.planninginspectorate.gov.uk/app/J2210/W/18/3216104)  
([planninginspectorate.gov.uk](https://www.planninginspectorate.gov.uk))

<sup>23</sup> PINS ref: 3227970 – 16<sup>th</sup> September 2019 - [Reference: APP/R3650/W/19/3227970](https://www.planninginspectorate.gov.uk/app/R3650/W/19/3227970)  
([planninginspectorate.gov.uk](https://www.planninginspectorate.gov.uk))

8.31 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a “deliverable” supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. We note that whilst Waverley Council’s assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site’s lead developer, the Inspector however considered that the details contained within it were “scant”. There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.

8.32 In an appeal decision dated 25<sup>th</sup> August 2022 regarding an appeal made by Salter Property Investments Ltd against the decision of Exeter City Council to refuse to grant outline planning permission for up to 93 dwellings at land off Spruce Close, Exeter<sup>24</sup>, the Inspector found:

- The pro-formas used by Exeter were undated, unsigned and deficient (paragraph 39);
- That 2 sites with outline planning permission and no reserved matters applications pending, and no clear evidence for their inclusion should be removed (paragraphs 40 and 41); and
- That even where reserved matters application had been made, where those applications are subject to outstanding objections and there is no written agreement with the developer, the sites should not be included because no clear evidence had been provided (paragraphs 42 and 43).

8.33 We now refer to two appeal decisions in Oxfordshire where the definition of “deliverable” and “clear evidence” were considered. For these cases we also append the clear evidence the Councils relied on.

#### Little Sparrows, Sonning Common (South Oxfordshire) Appeal Decision

8.34 At the time the South Oxfordshire Local Plan was examined, the Council’s 5YHLS position at 1<sup>st</sup> April 2020 was that it could demonstrate a 5.35 year supply. These claims were tested soon after the Local Plan was examined at an inquiry in relation to an appeal regarding Little Sparrows, Sonning Common<sup>25</sup>. In that case, the Inspector concluded that the Council could only demonstrate a 4.21 year supply.

8.35 Paragraph 18 of the appeal decision explains that at the inquiry, the Council’s case had fallen to 5.08 years. The Council’s case at that time was that it could demonstrate a deliverable 5YHLS of 5,785 dwellings and the Appellant’s case was that it could demonstrate a deliverable 5YHLS of 4,789 dwellings.

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<sup>24</sup> PINS ref: 3292721 – 25<sup>th</sup> August 2022 - [Reference: APP/Y1110/W/22/3292721 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/3292721)

<sup>25</sup> PINS ref: 3265861 – 25<sup>th</sup> June 2021 – Appendix EP6

The difference between the two positions was 996 dwellings on 15 sites as set out in table 3 of the SoCG for that case as referred to in paragraph 19 of the appeal decision.

8.36 Paragraphs 20 and 21 of the appeal decision then state:

“20. I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on ‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”

This advice indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. **Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.** (emphasis added)

8.37 This is relevant because in that case the Council had submitted emails from those promoting sites<sup>26</sup>. However, the Inspector in that case found that such emails were not clear evidence as set out in the paragraphs above.

8.38 Paragraph 22 of the appeal decision then stated:

“It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. **In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position.** For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its

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<sup>26</sup> Appendix EP7

case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. **There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years**” (emphasis added)

8.39 Paragraph 23 of the appeal decision states:

“Overall, I consider that the Appellant’s assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant’s approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times”

8.40 Finally, paragraph 25 of the appeal decision states:

“I consider that the Council’s supply figure should be reduced to reflect the Appellant’s position set out in Table 2 of SoCG 5. The Council’s supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to 4.21 years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.”

#### Land west of Wroslyn Road, Freeland (West Oxfordshire) appeal decision<sup>27</sup>

8.41 In this case, West Oxfordshire accepted that it could not demonstrate a deliverable 5YHLS. However, the extent of the shortfall was not agreed. Our evidence on behalf of the Appellant in that case was that 1,691 dwellings should be removed from West Oxfordshire’s 5YHLS. The Inspector found that the figure the 5YHLS was closer to our position of 2.5 years rather than the Council’s figure of 4.1 years (paragraph 59).

8.42 Paragraphs 50 to 57 of the appeal decision set out the Inspector’s findings on the disputed sites in that case. For the disputed sites, West Oxfordshire had provided emails and proformas to support the

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<sup>27</sup> PINS ref: 3301202 – 18<sup>th</sup> January 2023 – Appendix EP8



inclusion of the sites<sup>28</sup>. However, the Inspector concluded that this was not “clear evidence” and removed the sites from the deliverable supply.

## Annual Position Statements

8.43 Few authorities choose to have their 5YHLS confirmed through the Annual Position Statement (APS) route.

### South Kesteven – 2022 APS

8.44 South Kesteven submitted its APS for examination in July 2022. It claimed that at 1<sup>st</sup> April it had a deliverable supply of 4,770 dwellings, which equated to 6.1 years. Whilst Inspector John Felgate found the Council could demonstrate a 5YHLS, he removed 693 dwellings from 10 sites in the Council’s claimed supply and concluded the supply equated to 5.2 years.

8.45 Of the 10 sites, the Inspector reduced the number of dwellings that should be included in the 5YHLS on four sites and concluded that six sites should be removed from South Kesteven’s claimed supply. This was because the Council had not provided clear evidence for their inclusion and therefore these sites did not meet the definition of “deliverable”. Whilst the Council had provided “Housing Deliverability Forms” and emails provided by those promoting sites<sup>29</sup>, which included information such as when applications were going to be made and when a start on site could be expected, the Inspector found it was not clear evidence and removed the sites. The six removed sites were:

- APS007(S) Bridge End Road, Grantham (120 dwellings);
- APS011(S) Grantham Church High School, Queensway (40 dwellings);
- APS041 Main Road (South), Long Bennington (10 dwellings);
- APS043 Thistleton Lane/Mill Lane, South Witham (24 dwellings);
- APS045 Towngate West, Market Deeping (73 dwellings); and
- APS063(S) Land at Brittain Drive, Grantham (16 dwellings).

### South Kesteven – 2023 APS

8.46 South Kesteven then submitted its 2023 draft APS for assessment. It claimed that it had a deliverable supply at 1<sup>st</sup> April 2023 of 4,816 dwellings. Inspector Christina Downes found the Council could

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<sup>28</sup> Appendix EP9

<sup>29</sup> Appendix EP10

demonstrate a 5.01 year supply but concluded that 866 dwellings should be removed from the following 9 sites<sup>30</sup>:

**Table 8.1 – Deductions to South Kesteven’s 5YHLS at 1<sup>st</sup> April 2023**

Reference	Address	APS Inspector deduction	Reference in APS Inspector’s Report (EP11)
APS 017	Land north of Barnack Road, Stamford	110	Paragraphs 29-31, page 7
APS 023	Land north of Towngate East and south of Northfield Road, Market Deeping	120	Paragraph 32, pages 7 and 8
APS 041	Main Road (South), Long Bennington	39	Paragraphs 38-39, page 9
APS 043	Thistleton Lane and Mill Lane, South Witham	28	Paragraphs 40-42, pages 9-10
APS 045	Towngate West, Market Deeping	73	Paragraphs 43-44, page 10
APS 048	Rectory Farm (Phase 2 North West Quadrant), Grantham	100	Paragraphs 47-49, pages 10-11
APS 049	Prince William of Gloucester Barracks, Grantham	175	Paragraphs 50-52, pages 11-12
APS 054	Folkingham Road, Morton	71	Paragraphs 56-58, pages 12-13
APS 058	Stamford North	150	Paragraphs 59-62, pages 13-14
	<b>Total</b>	<b>866</b>	

8.47 Again, for these sites, South Kesteven provided Site Deliverability Information in the form of completed proformas. However, the Inspector did not find this was clear evidence for the inclusion of 866 dwellings in the claimed 5YHLS.

8.48 In summary, the above appeal decisions and APS Inspectors found that sites with outline planning permission for major development and allocated sites without planning permission should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required. In some cases those Councils had provided proformas and other evidence from those promoting sites, and Inspectors and the Secretary of State found this not to be clear evidence.

<sup>30</sup> Appendix EP11

8.49 As set out in the introduction to this statement, we respectfully invite the Inspector to compare the evidence in Appendix H with the evidence provided by Braintree, South Oxfordshire, West Oxfordshire and South Kesteven Councils which was found not to be clear evidence by the Secretary of State and Inspectors in those cases<sup>31</sup>.

8.50 We now set out our assessment of the Council's deliverable five year supply.

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<sup>31</sup> Appendices **EP5, EP7, EP9, EP10** and **EP12**

## 9. Sites allocated within Local Plans

9.1 The Council includes 964 dwellings on 16 no. large sites which did not have planning permission at the base date (of 1<sup>st</sup> April 2024) but were allocated in Local Plans. These 16 sites are listed in Appendix B of the draft APS: “Sites allocated within Local Plans”. We dispute the inclusion of all 16 sites as summarised in the following table.

**Table 9.1 – Disputed sites allocated within Local Plans**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites allocated within Local Plans (Appendix B of the draft APS)</b>					
BRID1	Vearse Farm (South East – Douglas Crammond)	80	20	0	-20
BRID3	Land east of Bredy Vets Centre	70	20	0	-20
CHIC2	Chickerell Urban Extension East	579	148	0	-148
CRS1	Land at Crossways	500	99	0	-99
DOR8	Four Paddocks – land south of St Georges Road, Dorchester	108	68	0	-68
LIS_F17	Land at Green Worlds	50	24	0	-24
LYMT3	Blarney’s Corner, Lytchett Matravers	25	25	0	-25
LYMT4	East of Flowers Drove, Lytchett Matravers	28	28	0	-28
LYMT2	East of Wareham Road, Lytchett Matravers	95	95	0	-95
CRS2	Redbridge Pit, Moreton Station	490	35	0	-35
No reference	Land at Policemans Lane,	92	92	0	-92

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	Upton (phase 2)				
WEY7	Council Offices, North Quay	75	75	0	-75
WOOL1	West of Chalk Pit Lane / Oakdene Road, Wool	320	120	0	-120
WOOL3	North of Railway Line, Wool	35	35	0	-35
WOOL1	North East of Burton Cross Roundabout	90	50	0	-50
WOOL1	North West of Burton Cross Roundabout	30	30	0	-30
	<b>Subtotal</b>		<b>964</b>	<b>0</b>	<b>-964</b>

9.2 We comment on these sites as follows.

### **BRID1: Vearse Farm (South East – Douglas Crammond) – Capacity = 80 dwellings, Council’s 5YHLS = 20 dwellings**

9.3 This site is listed in Appendix B (page 8 – 1<sup>st</sup> row). This part of the site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 20 dwellings in the 5YHLS, which it includes in year 5 (2028/29).

9.4 The Council relies on an e-mail from Doug Crammond dated 3<sup>rd</sup> May 2024 (Appendix H, pages 45-47). The email includes the promoter’s response to the Council’s proforma. It considers that 80 dwellings are deliverable (20 dwellings in year 3 – 2026/27, 40 dwellings in year 4 – 2027/28 and 20 dwellings in year 5 – 2028/29). Whilst the proforma provides these timescales and build out rates, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

- 9.5 As referred to in section 8 above, the evidence provided by Braintree, South Oxfordshire, West Oxfordshire and South Kesteven was more detailed than this and yet that was found not to be clear evidence of deliverability.
- 9.6 In addition, this site does not have vehicular access and is reliant on the development of the adjoining Vearse Farm allocation to provide access. Due to the phasing of the wider site, which has a 10+ year build programme, the delivery of the site will not be until the later phases, and will be subject to negotiation between the landowners / developers.
- 9.7 In the absence of clear evidence of deliverability, this site is not deliverable and **20 dwellings** should be removed from the Council's 5YHLS.

### **BRID3: Land east of Bredy Vets Centre – Capacity = 70 dwellings, Council's 5YHLS = 20 dwellings**

- 9.8 This site is listed in Appendix B (page 8 – 2<sup>nd</sup> row). This part of the site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 20 dwellings in the 5YHLS, which it includes in year 5 (2028/29).
- 9.9 The Council relies on an e-mail from AG Jessopp Limited dated 13<sup>rd</sup> May 2024 (Appendix H, pages 41-44). The email includes the promoter's response to the Council's proforma. It considers that 70 dwellings are deliverable (20 dwellings in year 3 – 2026/27, 25 dwellings in year 4 – 2027/28 and 25 dwellings in year 5 – 2028/29). Based on our client's experience with the planning department of Dorset Council, we consider that lengthy delays can be expected at all stages of the planning application process and it is highly unlikely that this site will be delivered in the anticipated timeframe.
- 9.10 Whilst the proforma provides these timescales and build out rates, it is scant in detail. It states:
- “The site has had ecological survey's and we are about to request pre app discussions with the development control team, to put in an application shortly after.”
- 9.11 It also states:
- “The submission of planning has been delayed by confusion caused by changes as to the biodiversity requirements”
- 9.12 This is not clear evidence of deliverability. In the absence of clear evidence of deliverability, this site is not deliverable and **20 dwellings** should be removed from the Council's 5YHLS.

## CHIC2: Chickerell Urban Extension East – Capacity = 579 dwellings, Council’s 5YHLS = 148 dwellings

9.13 This site does not have planning permission. However, a hybrid planning application was validated in November 2020 (over 3.5 years ago) for:

“Outline application for 393 dwellings with full details supplied in respect of 186 dwellings (Phase A) including creation of new accesses onto School Hill and Chickerell Link Road (B3157), details of the internal spine road, landscaping, drainage, car parking, golf ball fencing of various heights up to 30m, public open space, associated works and diversion of three public right of ways and with all matters reserved in respect of 207 dwellings (Phases B and C) and a primary school, public open space, landscaping, drainage and associated works.”

9.14 The application (LPA ref: WD/D/20/002569) remains undetermined. The Council’s Urban Design Officer has said that the proposals do not meet national or local policies relating to well-designed places. The Council’s Landscape Officer does not support the proposals. Chickerell Town Council has said that the application should be refused as no green space has been provided and Chickerell is severely lacking green space.

9.15 No information about the site or a proforma has been provided by the Council. Accordingly, there is no:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.16 No clear evidence of deliverability has been provided. It is unknown what the intentions of the promoter on this site are. **148 dwellings** should be removed from the Council’s 5YHLS.

## CRS1: Land at Crossways – Capacity = 500 dwellings, Council’s 5YHLS = 99 dwellings

9.17 This site does not have planning permission. However, a hybrid planning application was validated in April 2016 (over 8 years ago) for:

“A full planning application for the erection of 99 open market dwellings & affordable dwellings, a new doctors surgery, a replacement village hall, a car park, a new village green, new vehicular and pedestrian accesses and works to Warmwell Road. An outline application for the erection of 401 open market and affordable dwellings, the provision of 2.5ha of employment land, new vehicular and pedestrian accesses, roads, footpaths and cycleways, a car park for the proposed Site of Alternative

Natural Greenspace (SANG) and 2 pumping stations; and A full application for the change of use of 22.4ha of land to Site of Alternative Natural Greenspace (SANG).”

- 9.18 The application (LPA ref: WD/D/16/000378\_DP) remains undetermined.
- 9.19 The Council relies on an e-mail provided by Allenby Homes Limited dated 20<sup>th</sup> May 2024 (Appendix H, page 77). The email states:

“Thank you for your email. Given the current challenging housing market, it is difficult for us to provide a precise indication on housing delivery timelines, as our construction efforts are demand-driven”

- 9.20 The proforma has not been completed.
- 9.21 This is not clear evidence of deliverability. **99 dwellings** should be removed from the Council’s 5YHLS.

### **DOR8: Four Paddocks – land south of St Georges Road, Dorchester – Capacity = 108 dwellings, Council’s 5YHLS = 68 dwellings**

- 9.22 This site does not have planning permission. However, a full planning application was validated in August 2021 (**almost 3 years ago**) for the:

“Erection of 107 No. dwellings & associated works, including the formation of access, landscape & ecological enhancements”

- 9.23 The application (LPA ref: P/FUL/2021/02623) remains undetermined. Historic England has concerns about the application on heritage grounds. The National Trust has several serious concerns about the proposals. The Council’s Environmental Health department has noise concerns about the proposals and suggest that less properties are proposed to ensure that noise guidelines are met. Network Rail has serious concerns about the proposals and a potential impact on a level crossing. The Council’s Tree Officer has objected to the proposals due to several reasons. The Council’s Urban Design officer has objected to the proposals for a few reasons including that two thirds of the proposed dwellings would not meet nationally prescribed space standards. The Council’s Ecologist has concerns that bats will be forced along the A35.
- 9.24 No information about the site or a proforma has been provided by the Council.
- 9.25 No clear evidence of deliverability has been provided. **68 dwellings** should be removed from the Council’s 5YHLS.



## LIS\_F17: Land at Green Worlds – Capacity = 50 dwellings, Council’s 5YHLS = 24 dwellings

9.26 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 24 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on information provided by Adam Constantinou from Woolf Bond Planning who states that the development will be delivered in years 3 and 4 (2026/27 and 2027/28).

9.27 The Council relies on a partially completed pro-forma, with the only information being:

“Some limited tree clearance required. Following grant of planning permission, it is anticipated first delivery of new homes will occur in 2026/27.”

9.28 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.29 In the absence of clear evidence of deliverability, this site is not deliverable and **24 dwellings** should be removed from the Council’s 5YHLS.

## LYMT3: Blaney’s Corner, Lytchett Matravers – Capacity = 25 dwellings, Council’s 5YHLS = 25 dwellings

9.30 The Council includes 25 dwellings in the 5YHLS, which it includes in years 1 and 2 (2024/25 and 2025/26).

9.31 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspectors Report published in May 2024) it has not yet been adopted.

9.32 This site does not have planning permission. However, a full planning application was validated in February 2022 (**over 2 years ago**) to:

“Erect 25 dwellings (C3 use class), new vehicular and pedestrian access onto Wimborne Road and other associated works including landscaping and open space.”

9.33 The application (LPA ref: P/FUL/2022/01095) remains undetermined. Lytchett Matravers Parish Council has objected to the proposals due to the proposals being inappropriate development in the Green Belt.

The Council's Landscape Officer has objected to the application on the grounds of adversely affecting the openness of the green belt.

9.34 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 25 homes submitted February 2022. Determination is pending, subject to progress of the Purbeck Local Plan. Delivery programme is also contingent on resolution of nutrient neutrality requirements.”

9.35 Whilst the proforma provides the above information, it is scant in detail and the full planning application has been in the planning process for over 2 years and remains undetermined. This is one of our client's sites and we understand that due to lack of resources, the Council is not currently working on the above application; they are working on other applications; and the Council is unable to confirm when the application is due to go to planning committee.

9.36 In the absence of clear evidence of deliverability, this site is not deliverable and **25 dwellings** should be removed from the Council's 5YHLS.

#### **LYMT4: East of Flowers Drove, Lytchett Matravers – Capacity = 28 dwellings, Council's 5YHLS = 28 dwellings**

9.37 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector's Report published in May 2024) it has not yet been adopted.

9.38 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 28 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28).

9.39 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 28 homes is currently being prepared for submission Q3 2024. Delivery programme is subject to progress of the Purbeck Local Plan and resolution of nutrient neutrality requirements.”

9.40 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.41 In the absence of clear evidence of deliverability, this site is not deliverable and **28 dwellings** should be removed from the Council's 5YHLS.

### **LYMT2: East of Wareham Road, Lytchett Matravers – Capacity = 95 dwellings, Council's 5YHLS = 95 dwellings**

9.42 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector's Report published in May 2024) it has not yet been adopted.

9.43 The Council includes 95 dwellings in the 5YHLS, which it includes in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28).

9.44 This site does not have planning permission. However, a full planning application was validated in May 2021 (**over 3 years ago**) for the:

“Phased residential development of site for 95 dwellings, new vehicular and pedestrian access onto Wareham Road and other associated works including landscaping and open space.”

9.45 The application (LPA ref: 6/2021/0282) remains undetermined. The Campaign to Protect Rural England has objected to the proposals as it is premature and truly damaging which disregards the Green Belt and valued open countryside which has carbon capture potential. This is one of our client's sites and we understand that due to lack of resources, the Council is not currently working on the above application; they are working on other applications; and the Council is unable to confirm when the application is due to go to planning committee.

9.46 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 95 homes submitted May 2021. Determination is pending, subject to progress of the Purbeck Local Plan. Delivery programme is also contingent on resolution of nutrient neutrality requirements.”

9.47 Whilst the proforma provides the above information, it is scant in detail and the full planning application has been in the planning process for over 3 years and remains undetermined.

9.48 In the absence of clear evidence of deliverability, this site is not deliverable and **95 dwellings** should be removed from the Council's 5YHLS.

## CRS2: Redbridge Pit, Moreton Station – Capacity = 490 dwellings, Council’s 5YHLS = 35 dwellings

- 9.49 The site is a proposed allocation in the emerging Purbeck Local Plan, whilst this plan is at an advanced stage (Inspectors Report published in May 2024) it has not yet been adopted.
- 9.50 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in year 5 (2028/29). No justification has been provided for this.
- 9.51 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:
- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
  - Clear evidence of any site assessment work.
- 9.52 There are significant constraints to the delivery of this site. Current uses on this site include a caravan park and an active quarry. It is unclear when these tenancies will terminate. This site could only realistically be considered as a long term prospect for housing.
- 9.53 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

## No reference: Land at Policemans Lane, Upton (phase 2) – Capacity = 92 dwellings, Council’s 5YHLS = 92 dwellings

- 9.54 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.
- 9.55 The Council includes 92 dwellings in the 5YHLS, which it includes in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28). This is in accordance with information provided by Tim Hoskinson from Wyatt Homes.
- 9.56 This site does not have planning permission. However, a full planning application was validated in January 2020 (**over 4 years ago**) for the:
- “Erection of 92 Dwellings with access via Osprey Close, associated landscaping, drainage and footpaths onto Watery Lane.”
- 9.57 The application (LPA ref: 6/2019/0717) remains undetermined.

9.58 The Council relies on a partially completed pro-forma, with the only information being:

“Full planning application for 92 homes submitted in 2019, determination is pending, subject to progress of the Purbeck Local Plan. Delivery programme is also contingent on resolution of nutrient neutrality requirements.”

9.59 Whilst the proforma provides the above information, it is scant in detail and the full planning application has been in the planning process for over 4 years and remains undetermined. This is one of our client’s sites and we understand that due to lack of resources, the Council is not currently working on the above application; they are working on other applications; and the Council is unable to confirm when the application is due to go to planning committee.

9.60 In the absence of clear evidence of deliverability, this site is not deliverable and **92 dwellings** should be removed from the Council’s 5YHLS.

### **WEY7: Council Offices, North Quay – Capacity = 75 dwellings, Council’s 5YHLS = 75 dwellings**

9.61 An outline application for the ‘*Demolition of the existing office buildings and redevelopment with approximately 72 dwellings and approximately 216 sq. m. of commercial space (Outline)*’ was approved in July 2016 (WP/15/00031/OUT). No reserved matters applications have been made. Condition 2 of the above outline approval states that ‘*application for approval of any ‘reserved matter’ must be made not later than the expiration of three years beginning with the date of this permission., i.e. by July 2019.* Given that no reserved matters application had been made or approved by July 2019, **the permission has lapsed.**

9.62 This site is a longstanding allocation that has failed to deliver to date. This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 75 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on the trajectory provided by Craig Bates, the Council’s Interim Development Manager which states that the dwellings will be delivered in years 2 and 3 (2025/26 and 2026/27 – Appendix H, page 241).

9.63 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Instead, the Council’s Interim Development Manager has partially completed the proforma and stated:

“We expect to procure a development partner this year, subject to detailed planning consent. Final contract to be signed by May 2025 so they can start building late 2025.

As the scheme has yet to be determined I have estimated 75 units. It could be more.  
If the scheme is all flats then completion may not be until 26/27 with none in 25/26”.

9.64 The proforma is not completed by the developer and is partially completed by the Council. The proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.65 In the absence of clear evidence of deliverability, this site is not deliverable and **75 dwellings** should be removed from the Council’s 5YHLS.

### **WOOL1: West of Chalk Pit Lane / Oakdene Road, Wool – Capacity = 320 dwellings, Council’s 5YHLS = 120 dwellings**

9.66 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.

9.67 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 120 dwellings in the 5YHLS, which it includes in years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). No justification has been provided for this.

9.68 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.69 This site cannot be delivered in isolation as it relies on adjoining land for drainage.

9.70 In the absence of clear evidence of deliverability, this site is not deliverable and **120 dwellings** should be removed from the Council’s 5YHLS.

### WOOL3: North of Railway Line, Wool – Capacity = 35 dwellings, Council’s 5YHLS = 35 dwellings

- 9.71 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.
- 9.72 This site does not have planning permission. However, a full planning application was validated in April 2021 (over 3 years ago) for the:
- “Development of 35 new homes, together with the provision of associated pedestrian and vehicle access, infrastructure, drainage, open space, landscaping and ancillary and related development.”
- 9.73 The application (LPA ref: 6/2021/0045) remains undetermined. The LLFA has issued a holding objection to the proposals. Wool Parish Council has objected to the proposals for several reasons. Dorset Waste Partnership has objected to the proposals for a few reasons.
- 9.74 It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in year 4 (2027/28). No justification has been provided for this.
- 9.75 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma.
- 9.76 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

### WOOL1: North East of Burton Cross Roundabout – Capacity = 90 dwellings, Council’s 5YHLS = 50 dwellings

- 9.77 The site is a proposed allocation in the emerging Purbeck Local Plan. Whilst this plan is at an advanced stage (Inspector’s Report published in May 2024) it has not yet been adopted.
- 9.78 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 50 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). No justification has been provided for this.
- 9.79 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.80 In the absence of clear evidence of deliverability, this site is not deliverable and **50 dwellings** should be removed from the Council's 5YHLS.

### **WOOL1: North West of Burton Cross Roundabout – Capacity = 30 dwellings, Council's 5YHLS = 30 dwellings**

9.81 The site is a proposed allocation in the emerging Purbeck Local Plan, whilst this plan is at an advanced stage (Inspectors Report published in May 2024) it has not yet been adopted.

9.82 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 30 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). No justification has been provided for this.

9.83 The developer has not provided any "clear evidence" of deliverability of the site, nor have they completed the proforma. Accordingly, the following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

9.84 In the absence of clear evidence of deliverability, this site is not deliverable and **30 dwellings** should be removed from the Council's 5YHLS.



# 10. Sites allocated within Neighbourhood Plans

10.1 The Council includes 263 dwellings on 10 no. sites which did not have planning permission at the base date (of 1<sup>st</sup> April 2024) but were allocated in Neighbourhood Plans. These sites are listed in Appendix C of the draft APS: “Sites allocated in neighbourhood plans”. We dispute the inclusion of 245 dwellings on 8 of these sites as summarised in the following table.

**Table 10.1 – Disputed sites allocated in Neighbourhood Plans**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites allocated in Neighbourhood Plans (Appendix C of the draft APS)</b>					
NP_PV1	Austral Farm	10	10	0	-10
NP_BR01	Back Lane, Bere Regis	51	51	0	-51
NP_BR02	North Street, Bere Regis	15	15	0	-15
Policy BR7	Former School Site, Bere Regis	21	21	0	-21
Policy BR7	White Lovington, Bere Regis	17	17	0	-17
NP alloc 6	Clarkes Yard, Bath Road	30	30	0	-30
NP alloc 1	North of the Livestock Market	86	86	0	-86
H5	Westminster Road Industrial Estate	30	15	0	-15
	<b>Subtotal</b>		<b>245</b>	<b>0</b>	<b>-245</b>

10.2 We discuss these sites as follows.

## NP\_PV1: Austral Farm – Capacity = 10 dwellings, Council’s 5YHLS = 10 dwellings

10.3 This site does not have planning permission. However, a full planning application was validated in January 2021 (over 3 years ago) for:

“Removal of modern buildings (including agricultural building, grain store, silage pit & dutch barn etc). Conversion of traditional buildings into offices (Class E (g)) and a café (Class E (b)). Creation of 9no residential units (Class C3) & 2no. workshop buildings (Class B2).”

10.4 The application (LPA ref: WD/D/20/003302) remains undetermined. The Council’s Landscape Officer has objected to the application because supporting information is missing. The Council’s AONB team has concerns regarding the extent of vegetation proposed for removal and the limited details of future planting.

10.5 The Council relies on an e-mail provided by Carter Jonas dated 22<sup>nd</sup> April 2024. The email states:

“Planning hasn’t yet been approved for this site so we’re unsure of timescales.”

10.6 The proforma has not been completed.

10.7 This is not clear evidence of deliverability. **10 dwellings** should be removed from the Council’s 5YHLS.

## NP\_BR01: Back Lane, Bere Regis – Capacity = 51 dwellings, Council’s 5YHLS = 51 dwellings

10.8 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 51 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28). This information has been provided by Wyatt Homes.

10.9 The Council relies on a partially completed pro-forma, with the only information being:

“A full planning application is currently being prepared for submission Q2 2024. Delivery programme is subject to resolution of nutrient neutrality requirements.”

10.10 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made given that the Q2 2024 deadline has been missed; or
- Clear evidence of any site assessment work.

10.11 In the absence of clear evidence of deliverability, this site is not deliverable and **51 dwellings** should be removed from the Council's 5YHLS.

### **NP\_BR02: North Street, Bere Regis – Capacity = 15 dwellings, Council's 5YHLS = 15 dwellings**

10.12 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 15 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). This information has been provided by Wyatt Homes.

10.13 The Council relies on a partially completed pro-forma, with the only information being:

"A full planning application is currently being prepared for submission Q2 2024. Delivery programme is subject to resolution of nutrient neutrality requirements."

10.14 Whilst the proforma provides the above information, it is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made given that the Q2 2024 deadline has been missed; or
- Clear evidence of any site assessment work.

10.15 In the absence of clear evidence of deliverability, this site is not deliverable and **15 dwellings** should be removed from the Council's 5YHLS.

### **Policy BR7: Former School Site, Bere Regis – Capacity = 21 dwellings, Council's 5YHLS = 21 dwellings**

10.16 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 21 dwellings in the 5YHLS, which it includes in year 3 (2026/27). The Council relies on information provided by Chris McDermott, the Council's Senior Housing Enabling & Policy Officer which states that the dwellings will be delivered in year 2 (2025/26).

10.17 The developer has not provided any "clear evidence" of deliverability of the site, nor have they completed the proforma. Instead, the Council's Senior Housing Enabling & Policy Officer has partially completed the proforma and stated:

‘they are waiting on the Nutrient Neutrality to be sorted and then hopefully they can put in for planning permission’ and ‘school to be demolished. Depends when they can get planning permission as when this will happen’.

10.18 The proforma is not completed by the developer and is partially completed by the Council. The proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

10.19 In the absence of clear evidence of deliverability, this site is not deliverable and **21 dwellings** should be removed from the Council’s 5YHLS.

### Policy BR7: White Lovington, Bere Regis – Capacity = 17 dwellings, Council’s 5YHLS = 17 dwellings

10.20 This site does not have planning permission. However, a full planning application was validated in January 2020 (over 4 years ago) to:

“Erect 17 No. dwellings, create an access and associated parking and landscaping.”

10.21 The application (LPA ref: 6/2020/0013) remains undetermined. The Council’s Planning Policy department has objected to the proposals due to the lack of affordable housing, non-compliance with the Bere Regis Neighbourhood Plan and due to habitats regulations and biodiversity mitigation. Natural England has requested further information before it can form a view on the proposals. Bere Regis Parish Council has objected to the proposals for several reasons.

10.22 An email from Adam Bennett from Ken Parke Planning Consultants dated 22<sup>nd</sup> April 2024 states that the dwellings will be delivered in years 2 and 3 (2025/26 and 2026/27). The completed proforma provided by Adam Bennett states that:

“Delivery has been substantially delayed by the Nutrient Neutrality issue. The Application was originally recommended for approval in April 2021 by the Dorset Eastern Area Planning Committee.”

10.23 In relation to abnormal costs which may affect deliver, Adam Bennett states that:

“Confirmation awaited, due to the delay in permission being granted, whether there remains a requirement for a site specific Heathland Infrastructure Project (HIP) to be delivered in the short term.”

10.24 This is not clear evidence of deliverability. **17 dwellings** should be removed from the Council’s 5YHLS.

## NP alloc 6: Clarkes Yard, Bath Road – Capacity = 30 dwellings, Council’s 5YHLS = 30 dwellings

10.25 This site has a long planning history and to date, has been undeliverable due to viability issues. The Council first included this site in its housing land supply in 2008 (LPA ref: 2/54/0166).

10.26 An outline application to ‘develop land by the erection of 29 No. dwellings with associated parking and access (outline application to determine access, layout and scale). Demolish existing buildings.’ was approved in August 2017 (LPA ref: 2/2016/0788/OUT).

10.27 A reserved matters application to determine appearance and landscaping, following the grant of outline planning permission was approved in November 2021 (LPA ref: P/RES/2021/00696). Condition 1 of the above outline approval states that ‘the development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved’, i.e. by November 2023. Given that the development had not begun by November 2023, the permission has lapsed.

10.28 Accordingly, this site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 30 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29).

10.29 The proforma is partially completed by Simon Sharp from Boon Brown who states that ‘we are intending to submit a full application in Summer 2025 with sufficient information to avoid the need for pre-commencement conditions. A Housing Association is already secured to deliver the affordable housing’. However, the proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. There is no evidence provided that this will be Summer 2025; or
- Clear evidence of any site assessment work.

10.30 In the absence of clear evidence of deliverability, this site is not deliverable and **30 dwellings** should be removed from the Council’s 5YHLS.

## NP alloc 1: North of the Livestock Market – Capacity = 86 dwellings, Council’s 5YHLS = 86 dwellings

10.31 This site was allocated in the North Dorset Local Plan (2003) for residential development. The Council first included this site in its housing land supply in 2007.

10.32 This site does not have planning permission. However, a full planning application was validated in November 2023 for the:

“Erection of 86no. dwellings, formation of access, green space & associated infrastructure”.

10.33 The application (LPA ref: P/FUL/2023/06986) remains undetermined. The Council’s Tree Officer has concerns that trees are not being given the consideration they require and has placed a Tree Preservation Order (TPO) over several trees on the site. The Council’s Landscape Architect has objected to the proposals for several reasons. The LLFA has issued a holding objection to the application. There are ecological constraints associated with the site which would need to be addressed prior to the delivery of this site.

10.34 No information about the site or a proforma has been provided by the Council.

10.35 No clear evidence of deliverability has been provided. **86 dwellings** should be removed from the Council’s 5YHLS.

### **H5: Westminster Road Industrial Estate – Capacity = 30 dwellings, Council’s 5YHLS = 15 dwellings**

10.36 This site does not have planning permission. However, an outline application was validated in March 2022 to:

“Demolish the existing industrial unit at 1 Westminster Road, and erect 9 residential dwellings (Outline application with all matters reserved)”.

10.37 The application (LPA ref: P/OUT/2022/01345) remains undetermined. Natural England has objected to the proposals on the basis that there is insufficient information to confirm that adverse effects from increased levels of nutrients in Poole Harbour SPA/Ramsar have been avoided. The Council’s Housing Officer has objected to the proposals due to lack of affordable housing proposed. The site contains multiple occupants and is in multiple ownerships. The site is currently in use as an industrial estate.

10.38 No information about the site or a proforma has been provided by the Council. Accordingly, there is no:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

10.39 No clear evidence of deliverability has been provided. **15 dwellings** should be removed from the Council’s 5YHLS.

# 11. Specific Large Sites

11.1 The Council includes 426 dwellings on 14 large sites in its 5YHLS on “Specific Large Sites”. These sites are listed in appendix D of the draft APS: “Specific Large Sites”. The sites did not have detailed planning permission at the base date. We dispute the inclusion of the 359 dwellings on 10 of these sites as summarised in the following table.

**Table 11.1 – Disputed Specific Large Sites**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Specific large sites (these sites are listed in Appendix D of the draft APS)</b>					
6/2019/0639	Land North of West Lane, Stoborough	15	15	0	-15
P/FUL/2024/00233	Brewery site (Lot 2), Blandford St Mary	41	41	0	-41
LA/BLSM/003	Brewery site (Lot 4), Blandford St Mary	21	21	0	-21
P/OUT/2021/05309	Land Adjacent Broadmead, Broadmayne	80	80	0	-80
WD/D/17/000800	South of Fullers, Bridport Road, Broadwindsor	22	22	0	-22
WD/D/20/001242	Tennis Courts, Trinity St Carpark	15	15	0	-15
LA/SIXP/004	Land off Dean Lane	55	35	0	-35
LA/SIXP/005	Land off The Orchard	30	30	0	-30
P/FUL/2023/06544	Lakeside	65	65	0	-65

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
	Superbowl, St Nicholas Street				
LA/COLE/022	Furzehill - Previous Council Offices	35	35	0	-35
	<b>Subtotal</b>		<b>359</b>	<b>0</b>	<b>-359</b>

11.2 We discuss these sites as follows.

**6/2019/0639: Land North of West Lane, Stoborough – Capacity = 15 dwellings, Council’s 5YHLS = 15 dwellings**

11.3 This site does not have planning permission. However, an outline application was validated in November 2019 (over 4 years ago) for:

“Up to 15 residential dwellings, site re-profiling and associated infrastructure, with all matters reserved apart from vehicular access from West Lane.”

11.4 The application (LPA ref: 6/2019/0639) remains undetermined.

11.5 Accordingly, this site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 15 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28).

11.6 The proforma is partially completed by Hayzee Pritchard who states that:

“Dorset Council resolved to approve outline planning application 6/2019/0639 in August 2021. The section 106 agreement was signed in March 2022 but the planning permission has not been able to be issued due to nutrient neutrality. A solution has, however, been identified and so we are hopeful that the planning permission will be issued by 1 June 2024. This will pave the way for a reserved matters application to be prepared and submitted.”

11.7 As above the outline application was not determined by 1<sup>st</sup> June 2024 and is still pending determination.

11.8 However, the proforma is scant in detail and does not provide any of the following:



- Clear evidence of firm progress towards the submission of a reserved matters application. There is no evidence when this will be; or
- Clear evidence of any site assessment work.

11.9 In the absence of clear evidence of deliverability, this site is not deliverable and **15 dwellings** should be removed from the Council's 5YHLS.

### **P/FUL/2024/00233: Brewery site (Lot 2), Blandford St Mary – Capacity = 41 dwellings, Council's 5YHLS = 41 dwellings**

11.10 A full planning application was validated in February 2024 (LPA ref: P/FUL/2024/00233) to:

“Convert buildings into 24 No. dwellings and erect 17 No. dwellings, form parking.”

11.11 The full planning application is still pending determination. Accordingly, this site does not have planning permission.

11.12 Dorset Police has concerns that the proposals are currently open to crime and disorder. The Council's Natural Environment Team has said that the proposals lack the recommended bat surveys. The LLFA has issued a holding objection to the proposals on grounds of surface water discharge. The Highway Authority has raised several concerns with the proposals. The Council's Tree Officer has said that the proposals are unsatisfactory and lack sustainability.

11.13 The Council considers that the proposals will be delivered in year 4 (2027/28). No proforma or information on deliverability has been provided by the developer.

11.14 In the absence of clear evidence of deliverability, this site is not deliverable and **41 dwellings** should be removed from the Council's 5YHLS.

### **LA/BLSM/003: Brewery site (Lot 4), Blandford St Mary – Capacity = 21 dwellings, Council's 5YHLS = 21 dwellings**

11.15 This site does not have detailed consent. An outline application was approved in February 2017 (LPA ref: 2/2015/1269/OUT) to:

“Develop land by the erection of residential development, comprising a mix of new buildings and restoration, extension and conversion of existing brewery buildings. Modify existing / create vehicular / pedestrian access points, access roads and car parking; ancillary engineering and other works including drainage proposals, raising ground levels, landscaping and elevation changes to existing brewery and commercial

buildings - outline application with access to be approved for whole site, together with scale, layout and appearance for the restoration, extension and conversion of existing brewery buildings for residential use and for elevation changes to existing brewery and commercial buildings (demolish existing buildings). (Outline application to determine access).”

11.16 No reserved matters application has since been submitted.

11.17 Accordingly, this site does not have detailed consent or a reserved matters application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 21 dwellings in the 5YHLS, which it includes in year 5 (2028/29). The Council relies on information provided by David Ramsay who has said that the dwellings will be delivered in year 2 (2025/26).

11.18 The proforma has not been completed. Accordingly, there is no:

- Clear evidence of firm progress towards the submission of a planning application. There is no evidence provided that this will be Summer 2025; or
- Clear evidence of any site assessment work.

11.19 In the absence of clear evidence of deliverability, this site is not deliverable and **21 dwellings** should be removed from the Council’s 5YHLS.

### **P/OUT/2021/05309: Land Adjacent Broadmead, Broadmayne – Capacity = 80 dwellings, Council’s 5YHLS = 80 dwellings**

11.20 This site does not have planning permission. However, an outline application was validated in December 2021 (**over 2 years ago**) for:

“Development of up to 80 residential dwellings, together with open space, allotments and enhanced drainage features (outline application to determine access only).”

11.21 The application (LPA ref: P/OUT/2021/05309) remains undetermined.

11.22 Accordingly, this site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 80 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on information provided by Brett Spiller who states that the dwellings will be delivered in years 3 and 4 (2026/27 and 2027/28).

11.23 The proforma is partially completed by Brett Spiller who states that there is a:

“Resolution to approve Outline Consent – subject to completion of S106 (and confirmation of offset phosphates mitigation strategy).”

11.24 However, the proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. There is no evidence when this will be; or
- Clear evidence of any site assessment work.

11.25 In the absence of clear evidence of deliverability, this site is not deliverable and **80 dwellings** should be removed from the Council’s 5YHLS.

### **WD/D/17/000800: South of Fullers, Bridport Road, Broadwindsor – Capacity = 22 dwellings, Council’s 5YHLS = 22 dwellings**

11.26 This site does not have planning permission. However, an outline application was approved in December 2018 (LPA ref: WD/D/17/000800) for the:

“Erection of up to 22 dwellings, formation of access, on-site parking provision and associated works (amended scheme).”

11.27 A full planning application was validated in January 2021 (LPA ref: WD/D/21/000123) to:

“Erect 22 dwellings and associated works, including the formation of access, surface water attenuation pond, landscape and ecological enhancements (AMENDED SCHEME).”

11.28 The full planning application is still pending determination. Accordingly, this site does not have planning permission.

11.29 Broadwindsor Group Parish Council has raised several concerns about the proposals. The Council’s Landscape Officer has concerns about the proposals. The Council’s Tree Officer requires updated arboricultural information prior to forming a view on the proposals. The Council’s Urban Design Officer has objected to the proposals because it represents such a departure from the approved plans of the outline approval. Broadwindsor Group Parish Council states that the proposals are not in accordance with the Broadwindsor Neighbourhood Plan. The Council’s Housing Enabling Team states that the proposals do not provide enough affordable housing and do not comply with relevant Local Plan policies.

11.30 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

11.31 In the absence of clear evidence of deliverability, this site is not deliverable and **22 dwellings** should be removed from the Council's 5YHLS.

### **WD/D/20/001242: Tennis Courts, Trinity St Carpark – Capacity = 15 dwellings, Council's 5YHLS = 15 dwellings**

11.32 A full planning application was validated in May 2020 (LPA ref: WD/D/20/001242) for the:

“Erection of 15no. one bedroom affordable flats, including one wheelchair accessible dwelling (revised scheme).”

11.33 The full planning application is still pending determination. In terms of ownership issues, the developer has said that an *'easement will be needed with Dorset Council. Negotiations underway'*.

11.34 Accordingly, this site does not have planning permission. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 15 dwellings in the 5YHLS, which it includes in year 5 (2028/29). An email from Robin James, East Boro Housing Trust, considers that the proposals will be delivered in year 4 (2027/28).

11.35 The only information provided by the developer is a partially completed proforma which states that the *'start has been delayed until at least 2026/27'* and the site is *'close to roman walls. Will need archaeological surveys during build'*.

11.36 In the absence of clear evidence of deliverability, this site is not deliverable and **15 dwellings** should be removed from the Council's 5YHLS.

### **LA/SIXP/004: Land off Dean Lane – Capacity = 55 dwellings, Council's 5YHLS = 35 dwellings**

11.37 This site is not allocated; it is outside of the current settlement boundary; and is located within Areas of Outstanding Natural Beauty (AONB). Progress of any future planning application on the site would be contingent upon a change in policy status.

11.38 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The Council relies on information from Phillip Saunders, Wyatt Homes considers that the site will be developed in years 3, 4 and 5 (2027/28, 2028/29 and 2029/30).

11.39 The email from Phillip Saunders, Wyatt Homes states that:

“Housing delivery of c. 50 units (private and affordable) could take place towards the end of the 5 year trajectory period, and into the years beyond (please see table above). However, this would likely be subject to a housing allocation within the emerging Dorset Local Plan and a subsequent planning permission.”

11.40 The email is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

11.41 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

## LA/SIXP/005: Land off The Orchard – Capacity = 30 dwellings, Council’s 5YHLS = 30 dwellings

11.42 This site is not allocated; it is outside of the current settlement boundary; and is located within Areas of Outstanding Natural Beauty (AONB). Progress of any future planning application on the site would be contingent upon a change in policy status.

11.43 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 30 dwellings in the 5YHLS, which it includes in year 5 (2028/29). This is in accordance with information provided in an email from Richard Mears.

11.44 The Council relies on an email from Richard Mears which states that ‘30 units anticipated for delivery by 2028/29 or if later, by 2034. Build out could occur over a one to two year period’ and ‘abnormal costs have not be identified at this stage’.

11.45 The email is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this will be made; or
- Clear evidence of any site assessment work.

11.46 In the absence of clear evidence of deliverability, this site is not deliverable and **30 dwellings** should be removed from the Council’s 5YHLS.

## P/FUL/2023/06544: Lakeside Superbowl, St Nicholas Street – Capacity = 65 dwellings, Council’s 5YHLS = 65 dwellings

11.47 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 65 dwellings in the 5YHLS, which it includes in year 5 (2028/29). This is in accordance with the trajectory provided by Craig Bates, the Council’s Interim Development Manager.

11.48 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Instead, an email from the Council’s Interim Development Manager states:

‘The Weymouth Bowl site will be turned into a temporary car park once the buildings are cleared this year. No definite scheme has been decided yet but we expect procurement of a developer to take place within the next two years. Use of this site

will be influenced by other regeneration sites in Weymouth. The site could support 60-70 units’.

11.49 The proforma is not completed by the developer and is partially completed by the Council. The proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

11.50 In the absence of clear evidence of deliverability, this site is not deliverable and **65 dwellings** should be removed from the Council’s 5YHLS.

### **LA/COLE/022: Furzehill – Previous Council Offices – Capacity = 35 dwellings, Council’s 5YHLS = 35 dwellings**

11.51 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 35 dwellings in the 5YHLS, which it includes in years 3 and 4 (2026/27 and 2027/28). This aligns with the trajectory provided by Stella Yates, the Council’s Interim Lead Manager Developments.

11.52 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma. Instead, an email from the Council’s Interim Development Manager states that:

“The previously selected developer due to purchase the site at Furzehill withdrew over a year ago due to increased costs impacting the viability of their proposed scheme. In February 2024 the site was re-marketed with offers invited to purchase and develop the site. We are currently reviewing the offers received which are all subject to planning. From the returned offers a calculation of the number of housing units is assumed at this stage and equally the projected delivery dates.”

11.53 The email from the Council is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

11.54 In the absence of clear evidence of deliverability, this site is not deliverable and **35 dwellings** should be removed from the Council’s 5YHLS.

## 12. Rural exception sites

12.1 The Council includes 56 dwellings on 6 rural exception sites as listed in Appendix G. We dispute the inclusion of 22 dwellings on the following site.

**Table 12.1 – Disputed rural exception site**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Rural exception sites (Appendix G of the draft APS)</b>					
No reference	Corfe Caste CLT	22	22	0	-22
	<b>Subtotal</b>		<b>22</b>	<b>0</b>	<b>-22</b>

12.2 We discuss this site as follows.

**No reference: Corfe Castle CLT – Capacity = 22 dwellings, Council’s 5YHLS = 22 dwellings**

12.3 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 22 dwellings in the 5YHLS, which it includes in year 5 (2028/29).

12.4 The developer has not provided any “clear evidence” of deliverability of the site and has only partially completed the proforma, claiming that nutrient neutrality is delaying the delivery of the site (Appendix H, pages 65-67).

12.5 The partially completed proforma is scant in detail. As well as the nutrient neutrality issue, it also states that legal agreements are awaited on the site. The proforma has been completed by the Senior Housing Enabling & Policy Officer of the Council, Chris McDermott. It does not provide any of the following:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.



12.6 This is not clear evidence of deliverability. In the absence of clear evidence of deliverability, this site is not deliverable and **22 dwellings** should be removed from the Council's 5YHLS.

## 13. Sites with outline planning permission

13.1 The Council includes 851 dwellings on 13 large sites which had outline planning permission at the base date. These 13 sites are listed at the end of Appendix A of the draft APS: “Sites with outline permission” (page7). We dispute the inclusion of 701 dwellings on the following 12 sites.

**Table 13.1 – Disputed sites with outline planning permission**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Sites with outline planning permission (these sites are listed in Appendix A – page 7 of the draft APS)</b>					
WD/D/19/000613	Land to the north and west of Cockroad Lane, Beaminster	58	58	0	-58
2/2017/1919/OUT	Lower Bryanston Farm, BSM	75	75	0	-75
1/D/11/002012	St Michaels Trading Estate	92	60	0	-60
P/RES/2022/04960	Ham Farm - Phase 1b	108	108	0	-108
P/RES/2023/05868	Ham Farm - Phase 3	151	68	0	-68
2/2019/0403/OUT	Land south of Milborne Business Centre, Blandford Hill, Milborne St Andrew	58	58	0	-58
WP/17/00270/OUT	Portland Lodge Hotel, Easton Lane	24	24	0	-24
2/2018/1773/OUT	Land south of A30	115	45	0	-45
2/2019/1799/OUT	Land South of Station Road	130	40	0	-40

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
2/2017/1912/OUT	Land At The Bull, Common Lane	17	17	0	-17
WP/19/00993/OUT	Land at Beverley Road	17	17	0	-17
P/OUT/2022/00852	Land at Newtons Road, Newtons Road, Weymouth (Former QinetiQ Site, Bincelaves)	164	131	0	-131
	<b>Subtotal</b>		<b>701</b>	<b>0</b>	<b>-701</b>

13.2 We discuss these sites as follows.

### WD/D/19/000613: Land to the north and west of Cockroad Lane, Beaminster – Capacity = 58 dwellings, Council’s 5YHLS = 58 dwellings

13.3 Outline planning permission was approved in April 2020 (LPA ref: WD/D/19/000613) for:

“Up to 58 residential dwellings (including 35% affordable housing), amenity area for recreational use, planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS), including demolition of agricultural structures. All matters reserved with the exception of access.”

13.4 A reserved matters application was validated in July 2022 (LPA ref: P/RES/2022/04434) for:

“The approval of layout, scale, appearance and landscaping (condition 2 - 'the reserved matters'), construction traffic management plan (condition 6), attenuation pond details (condition 9), finished floor levels (condition 10), tree protection details (condition 11), ground remediation scheme (condition 12), biodiversity mitigation and enhancement plan (condition 14), highway details (condition 17), bridge details (condition 18), electric vehicle charging points (condition 19) and travel plan (condition 20) pursuant to outline planning permission ref. WD/D/19/000613 for the erection of 58 No. dwellings and associated works (Amended plans/information).”

13.5 The reserved matters application is still pending determination almost **2 years** later. The Council’s landscape architect has objected to the application and requires changes to be made to the proposals. Beaminster Town Council has concerns regarding traffic, utility services infrastructure, the location of the

children’s play area and safety of the attenuation pond. The Council’s Rights of Way Officer has objected to the proposals on the grounds that not all public rights of way have been included in the proposals. The Council’s Urban Design Officer considers that the proposals lack an overall quality that is expected to meet the requirements of well-designed places as set out in the Framework and Local Plan policies.

13.6 Accordingly, this site does not have detailed consent. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 58 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29).

13.7 The proforma has been partially completed by Sarah Barney. Key points are:

- Start on site is estimated to be late 2024 / early 2025.
- The existing farm buildings will need to be cleared post any reserved matters approval.
- There are ongoing **viability issues** due to planning delays.

13.8 Viability is a reason why even sites with full planning permission may not be deliverable and therefore this is relevant information in terms of assessing deliverability of this site.

13.9 In the absence of clear evidence of deliverability, this site is not deliverable and **58 dwellings** should be removed from the Council’s 5YHLS.

### **2/2017/1919/OUT: Lower Bryanston Farm, BSM – Capacity = 75 dwellings, Council’s 5YHLS = 75 dwellings**

13.10 This site does not have planning permission. However, an outline application was approved in March 2022 (LPA ref: 2/2017/1919/OUT) to:

“Develop land by the erection of up to 80 No. dwellings, form new vehicular access from New Road, open space, landscaping, ecological mitigation, drainage works and other ancillary works. (Outline application to determine access).”

13.11 A reserved matters application was validated in June 2022 (LPA ref: P/RES/2022/03733) to:

“Erect 75 No. dwellings, form new vehicular access from New Road, open space, landscaping, ecological mitigation, drainage works and other ancillary works. (Reserved Matters application to determine appearance, landscaping, layout and scale, following the grant of Outline Planning Permission No. 2/2017/1919/OUT).”

13.12 The reserved matters application is still pending determination **2 years** later. The Council’s Ecology Officer has said that there remains outstanding ecological issues to be addressed. The Council’s Urban Design Officer is unable to support the scheme while key concerns and persistently flagged design issues

have not been addressed. The Council's Landscape Officer has several concerns about the proposals. The LLFA has raised a number of technical issues with the proposals.

13.13 Accordingly, this site does not have detailed consent. It is a category b) site requiring "clear evidence" of deliverability. The Council includes 75 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). The developer has not commented on when the dwellings will be delivered.

13.14 The only information provided by the developer is an email from Lucy Morgan, Savills, which states that an application to discharge condition 20 of the outline permission has been submitted and that the developer is keen to commence on sites towards the beginning of July. Given that the reserved matters application is still pending determination, a start on site in July is not realistic.

13.15 In the absence of clear evidence of deliverability, this site is not deliverable and **75 dwellings** should be removed from the Council's 5YHLS.

### **1/D/11/002012: St Michaels Trading Estate – Capacity = 92 dwellings, Council's 5YHLS = 60 dwellings**

13.16 This site is a longstanding allocation and a complex brownfield site that is currently in use as a trading estate with multiple tenants.

13.17 This site **does not have planning permission**. An outline application was validated in January 2012 (LPA ref: 1/D/11/002012) to:

"Develop land by the erection of 83 dwellings (48 houses and 35 apartments), new and refurbished commercial floor space, associated car parking and new vehicular and pedestrian accesses following demolition of some commercial units. Make repairs to flood wall immediately west of 'Tower Building'. Appearance and landscaping reserved for further approval. (Further revised scheme)."

13.18 The outline application is still pending determination.

13.19 A full planning application was validated in February 2017 (LPA ref: WD/D/16/002852) for the:

"Redevelopment, including part demolition of listed and unlisted structures and refurbishment of retained structures to provide: (a) 9 residential units (including refurbishment of one existing unit); and (b) a net decrease of 47 sq. m. of light industrial floorspace (Revised scheme)."

13.20 The full planning application is still pending determination. The Environment Agency has issued a holding objection, until points previously raised have been adequately addressed.

13.21 Accordingly, this site does not have planning permission. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 60 dwellings in the 5YHLS, which it includes in years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). The Council relies on information provided by Peter Atfield who has said that the dwellings will be delivered in years 2, 3, 4 and 5 (2025/26, 2026/27, 2027/28 and 2028/29).

13.22 The proforma has been partially completed by Peter Atfield. Key points are that the planning applications have been delayed because:

- Dorset Council lost parts of S106 Agreement following signature by the applicant.
- The Council failed to disclose the need to update the FRA to applicant for a 2-year period.
- The Environment Agency is refusing to meet with the applicant to swiftly progress a new FRA.

13.23 In the absence of clear evidence of deliverability, this site is not deliverable and **60 dwellings** should be removed from the Council’s 5YHLS.

### **P/RES/2022/04960: Ham Farm – Phase 1b – Capacity = 108 dwellings, Council’s 5YHLS = 108 dwellings**

13.24 This site does not have detailed consent. An outline application was approved in September 2021 (LPA ref: 2/2018/0036/OUT) to:

“Develop land by construction of an urban extension to the south of Gillingham between Shaftesbury Road (B3081) and New Road (B3092). The urban extension would comprise of up to 961 dwellings, up to 2,642 sq.m in a new local centre providing retail, community, health, and leisure uses, new and enhanced pedestrian/cycle routes, open spaces, roads, car parking and vehicular access. To include all ancillary works and associated infrastructure. (Outline application to determine access only).”

13.25 A reserved matters application was validated in August 2022 (LPA ref: P/RES/2022/04960) for the:

“Erection of 108 dwellings and associated infrastructure including informal and formal public open space pursuant, (reserved matters application to determine access, appearance, landscaping, layout and scale) following the grant of outline planning permission 2/2018/0036/OUT.”

13.26 The reserved matters application is still pending determination. Accordingly, this site does not have detailed consent. The Council’s Landscape Officer and the Council’s Urban Design Officer are unable to support the proposals. Gillingham Town Council has objected to the application due to inadequate green areas, lack of landscaping, lack of BNG, lack of renewable energy measures, lack of parking and other reasons.

13.27 The Council considers that the proposals will be delivered in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28). No proforma or information on deliverability has been provided by the developer.

13.28 In the absence of clear evidence of deliverability, this site is not deliverable and **108 dwellings** should be removed from the Council's 5YHLS.

### **P/RES/2023/05868: Ham Farm – Phase 3 – Capacity = 151 dwellings, Council's 5YHLS = 68 dwellings**

13.29 This site does not have detailed consent. However, an outline application was approved in September 2021 (LPA ref: 2/2018/0036/OUT) to:

“Develop land by construction of an urban extension to the south of Gillingham between Shaftesbury Road (B3081) and New Road (B3092). The urban extension would comprise of up to 961 dwellings, up to 2,642 sq.m in a new local centre providing retail, community, health, and leisure uses, new and enhanced pedestrian/cycle routes, open spaces, roads, car parking and vehicular access. To include all ancillary works and associated infrastructure. (Outline application to determine access only).”

13.30 A reserved matters application was validated in November 2023 (LPA ref: P/RES/2023/05868) for the:

“Erection of 151 dwellings and associated infrastructure - including informal and formal public open space. (Reserved matters application to determine access, appearance, landscaping, layout and scale following the grant of Outline planning permission 2/2018/0036/OUT).”

13.31 The reserved matters application is still pending determination. The Council's Urban Design Officer has said that the proposals do not meet national or local design policies. The Environment Agency has said that the proposals lack enough information for them to form a view on the proposals. Active Travel England has said that they are not currently in a position to support the application. The LLFA has issued a holding objection on the proposals. Accordingly, this site does not have detailed consent.

13.32 The Council considers that the proposals will be delivered in years 4 and 5 (2027/28 and 2028/29). No proforma or information on deliverability has been provided by the developer.

13.33 In the absence of clear evidence of deliverability, this site is not deliverable and **68 dwellings** should be removed from the Council's 5YHLS.

## 2/2019/0403/OUT: Land south of Milborne Business Centre, Blandford Hill, Milborne St Andrew – Capacity = 58 dwellings, Council’s 5YHLS = 58 dwellings

13.34 This site does not have detailed consent. An outline application was approved in August 2021 (LPA ref: 2/2019/0403/OUT) for the:

“Redevelopment, with the construction of a mixed housing, business and community use scheme including up to 61 residential units, business units and a pre-school nursery. Including a Suitable Natural Alternative Greenspace (SANG). (Outline Application to determine access).”

13.35 A reserved matters application was validated in January 2022 (LPA ref: P/RES/2021/05662) for the:

“Redevelopment, with the construction of a mixed housing, business and community use scheme including up to 61 residential units, business units and a pre-school nursery. Including a Suitable Natural Alternative Greenspace (SANG) (reserved matters application including 58 residential units to determine appearance, landscaping, layout & scale following the grant of outline planning permission number 2/2019/0403/OUT.”

13.36 The reserved matters application is still pending determination. The Council’s Urban Design Officer is unable to support the proposals and highlights that not even the basic of issues raised have been addressed by the applicant. The Council’s Landscape Officer raised concerns that significantly less tree planting is proposed than that shown at the outline stage.

13.37 Accordingly, this site does not have detailed consent. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 58 dwellings in the 5YHLS, which it includes in years 2, 3 and 4 (2025/26, 2026/27 and 2027/28). This is in accordance with information provided by Richard Smith, Bracken Group.

13.38 The proforma has been partially completed by Peter Atfield. Key points are:

- Approval of the RM application and delivery of the site is stalled pending a resolution to the Poole Harbour nutrient neutrality issue.
- The cost of achieving nutrient neutrality credits is currently unknown.

13.39 In the absence of clear evidence of deliverability, this site is not deliverable and **58 dwellings** should be removed from the Council’s 5YHLS.



## WP/17/00270/OUT: Portland Lodge Hotel, Easton Lane – Capacity = 24 dwellings, Council’s 5YHLS = 24 dwellings

13.40 This site does not have detailed consent. However, an outline application was approved in December 2017 (LPA ref: WP/17/00270/OUT) for the:

“Demolition of existing building & erection of 24no. flats with associated parking & amenity.”

13.41 A reserved matters application was validated in December 2020 (LPA ref: WP/20/00932/RES) for the:

“Approval of reserved matters of access, appearance, landscaping, layout and scale of outline approval WP/17/00270/OUT.”

13.42 The reserved matters application is still pending determination. Accordingly, this site does not have detailed consent.

13.43 Natural England has objected to the application and has several concerns with the Habitats Regulations Assessment submitted by the applicant. The Council’s Landscape Officer has said that the design is poor on many levels, landscaping is limited / non-existent and the external areas are mainly hardstanding.

13.44 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

13.45 In the absence of clear evidence of deliverability, this site is not deliverable and **24 dwellings** should be removed from the Council’s 5YHLS.

## 2/2018/1773/OUT: Land south of A30 – Capacity = 115 dwellings, Council’s 5YHLS = 45 dwellings

13.46 An outline application was appealed against the non-determination of the application in February 2021 and allowed at appeal February 2022 (LPA ref: 2/2018/1773/OUT) to:

“Develop land by the erection of up to 135. No. dwellings, industrial starter units, primary school, flexible commercial uses including a combination of a hotel and non-food retail or residential care home, modify vehicular access, form car parking, sports pitches, public open space and associated works. (Outline application to determine access).”

13.47 A reserved matters application was validated in October 2023 (LPA ref: P/RES/2023/05407) to:

“Erect 115 No. dwellings, garages and electricity substation. Form roads, car parking, public open space and carry out ancillary development. (Reserved Matters

application to determine Access (in relation to accessibility and circulation within the site), Appearance, Landscaping, Layout and Scale; following the grant of Outline Planning Permission No. APP/D1265/W/20/3259308 (LPA Ref. 2/2018/1773/OUT)).”

13.48 The reserved matters application is still pending determination. Accordingly, this site does not have planning permission.

13.49 Dorset Police has concerns about the proposals and strong recommends that they meet the standards set out in Secured by Design Homes 2023. The Council’s Natural Environment Officer has stated that Biodiversity Net Gain (BNG) trading rules are not met as the loss of woodland is not being adequately mitigated against. The Council’s Housing Enabling Team is concerned that the affordable housing proposed is far too heavily weighted towards cheaper flatted accommodation.

13.50 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

13.51 In the absence of clear evidence of deliverability, this site is not deliverable and **45 dwellings** should be removed from the Council’s 5YHLS.

### **2/2019/1799/OUT: Land South of Station Road – Capacity = 130 dwellings, Council’s 5YHLS = 40 dwellings**

13.52 This site does not have detailed consent. However, an outline application was refused by the Council in September 2021 and allowed at appeal June 2022 (LPA ref: 2/2019/1799/OUT) to:

“Develop land by the erection of up to 130 No. dwellings (including affordable housing), form vehicular access from Station Road, public open space, landscaping and sustainable drainage system (SuDS). (Outline application to determine access).”

13.53 A reserved matters application was validated in October 2023 (LPA ref: P/RES/2023/05768) to:

“Erect 130 No. dwellings, form public open space, landscaping and sustainable drainage system (SuDS). (Reserved matters application to determine appearance, landscaping, layout and scale; following the grant of Outline Planning Permission No. APP/D1265/W/21/3284485 (LPA Ref.2/2019/1799/OUT)).”

13.54 The reserved matters application is still pending determination. Accordingly, this site does not have planning permission.

13.55 The Council’s Landscape Officer is unable to support the proposals and has recommended that they are referred to the Design Review Panel. The LLFA has issued a holding objection on the application. The Highway Authority has several issues with the proposals.

13.56 The Council considers that the proposals will be delivered in year 5 (2028/29). No proforma or information on deliverability has been provided by the developer.

13.57 In the absence of clear evidence of deliverability, this site is not deliverable and **40 dwellings** should be removed from the Council's 5YHLS.

### **2/2017/1912/OUT: Land At The Bull, Common Lane – Capacity = 17 dwellings, Council's 5YHLS = 17 dwellings**

13.58 This site does not have detailed consent. However, an outline application was approved in July 2021 (LPA ref: 2/2017/1912/OUT) to:

“Develop land by the erection of up to 17 No. dwellings, form new vehicular access, car parking, extended garden and associated works relating to The Bull Tavern, with roads, parking, landscaping and ancillary works. (Outline application to determine access, layout and scale).”

13.59 A reserved matters application was validated in May 2024(LPA ref: P/RES/2024/02595) to:

“Erect 17 No. dwellings, form new vehicular access, car parking, extended garden and associated works relating to The Bull Tavern, with roads, parking, landscaping and ancillary works. (Reserved Matters Application to determine appearance and landscaping; following the grant of Outline Planning Permission No. 2/2017/1912/OUT).”

13.60 The reserved matters application is still pending determination. Accordingly, this site does not have planning permission.

13.61 The Highway Authority has said that there are a number of amendments which need to be made before the proposals can be considered to provide safe and suitable access for all road users. The LLFA has issued a holding objection to the proposals, in part, due to a lack of a fully substantiated surface water drainage strategy. The Council's Housing Enabling Team has said that the proposed affordable housing mix does not comply with Local Plan policies.

13.62 No proforma or information on deliverability has been provided by the developer, aside from an email from Paul Harrington, Morgan Carey Architects, who considers that the proposals will be delivered in year 1 (2024/25), whereas the Council consider that the proposals will be delivered in year 5 (2028/29).

13.63 In the absence of clear evidence of deliverability, this site is not deliverable and **17 dwellings** should be removed from the Council's 5YHLS.

## WP/19/00993/OUT: Land at Beverley Road – Capacity = 17 dwellings, Council’s 5YHLS = 17 dwellings

13.64 This site does not have detailed consent. An outline application was approved in December 2021 (LPA ref: WP/19/00993/OUT) for the:

“Erection of 17no. dwellings with associated access.”

13.65 No reserved matters application has since been submitted.

13.66 It is a category b) site requiring “clear evidence” of deliverability. The Council includes 17 dwellings in the 5YHLS, which it includes in year 5 (2028/29). No justification has been provided for this.

13.67 The developer has not provided any “clear evidence” of deliverability of the site, nor have they completed the proforma.

13.68 In the absence of clear evidence of deliverability, this site is not deliverable and **17 dwellings** should be removed from the Council’s 5YHLS.

## P/OUT/2022/00852: Land at Newtons Road, Newtons Road, Weymouth (Former QinetiQ Site, Bincelaves) – Capacity = 164 dwellings, Council’s 5YHLS = 131 dwellings

13.69 This is a complex brownfield site with significant constraints including the need for new seawall defences and cliff stabilisation works, along with flood risk and viability considerations.

13.70 This site does not have detailed consent. However, an outline application was approved in March 2024 (LPA ref: P/OUT/2022/00852) for:

“Mixed use development comprising up to 141 dwellings (Use Class C3) and 60 bed care home (Use Class C2), with up to 340 sqm associated leisure floorspace comprising gym, swimming pool / spa (Sui Generis); up to 1,186 sqm office /light industrial floorspace (Use Class E(g)); up to 328 sqm restaurant floorspace (Class E(b)); with associated car parking, public open space, public realm, cliff stabilisation & sea defence works, with vehicular and pedestrian access from Newton’s Road & associated infrastructure - some matters reserved (appearance & landscaping).”

13.71 No reserved matters application has since been submitted.

13.72 Accordingly, this site does not have detailed consent or a reserved matters application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council includes 131 dwellings in the 5YHLS, which it includes in years 4 and 5 (2027/28 and 2028/29). This is in contrast

to information provided by Hayzee Pritchard who has said that the dwellings will be delivered in years 2 and 3 (2025/26 and 2026/27).

13.73 The proforma is partially completed by Hayzee Pritchard who states that *'currently have outline planning consent and are looking to commence early 2025. By July / August 2024 we aim to have submitted and signed off all pre commencement conditions'*. In terms of abnormal costs, Hayzee Pritchard notes the need to *'install and upgrade to sea defence works. Estimated costs circa £6 million. Construction of this to begin early 2025'*.

13.74 However, the proforma is scant in detail and does not provide any of the following:

- Clear evidence of firm progress towards the submission of a reserved matters application. There is no evidence provided that this will be Summer 2025; or
- Clear evidence of any site assessment work.

13.75 In the absence of clear evidence of deliverability, this site is not deliverable and **131 dwellings** should be removed from the Council's 5YHLS.

# 14. Sites with detailed planning permission

14.1 We dispute the inclusion of the following sites, which are listed in appendix A of the draft APS.

**Table 14.1 – Disputed sites with detailed planning permission**

Reference	Location	Capacity	Council 5YHLS	Emery Planning 5YHLS	Difference
<b>Major sites with planning permission (these sites are listed in Appendix A of the draft APS)</b>					
P/RES/2021/04848	BRID1: Vearse Farm (Hallam Land)	793	420	320	-100
P/RES/2022/03505	Land East of New Road, West Parley (FWP6) - Phase 1	238	238	142	-96
P/RES/2021/01645	West of Frome Valley Road	140	140	100	-40
3/19/0019/RM	Land south of Howe Lane	29	29	0	-29
WP/19/00693/RES	Curtis Fields Phases 2A, 3A, 3B	298	214	0	-214
	<b>Subtotal</b>				<b>-479</b>

14.2 We discuss these sites as follows.

**P/RES/2021/04848: BRID1: Vearse Farm (Hallam Land) – Capacity = 793 dwellings, Council’s 5YHLS = 420 dwellings**

14.3 This site has planning permission. An outline application was approved in May 2019 (LPA ref: WD/D/17/000986) for the:

“development of up to 760 dwellings, 60 unit care home (Use Class C2), 4 hectares of land for employment (Use Classes B1, B2, B8), mixed use local centre (Use Classes A1, A2, A3, A4, A5, B1, C3 and D1), primary school and associated playing fields (Use Class

D1), areas of public open space and allotments, drainage works, the formation of new vehicular accesses to West Road and the formation of new pedestrian and cycle links.”

14.4 A reserved matters application was approved in June 2023 (LPA ref: P/RES/2021/04848) for the:

“Construction of 760 dwellings, public open space (including play space and landscape planting), allotments, an orchard, sports pitch provision, with associated changing rooms and car parking, pedestrian, cycle and vehicular links, drainage works and associated infrastructure (Reserved matters application to determine appearance, landscaping, layout and scale following the grant of Outline planning permission number WD/D/17/000986) - Amended scheme.”

14.5 The Council consider that 20 dwellings will be delivered in year 1 (2024/25) and 100 dwellings will be delivered in each of years 2, 3, 4 and 5 (2025/26, 2026/27, 2027/28 and 2028/29). However, we consider that no dwellings will be delivered in year 1 (2024/25), 20 dwellings will be delivered in year 2 (2025/26) and 100 dwellings will be delivered in each of years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). The justification for this is because significant junction improvements are required to be undertaken prior to the site being delivered for housing. These works comprise the construction of a new roundabout at the A35 trunk road Miles Cross junction, the works have been delayed, the works are yet to be tendered, the start date is yet to be confirmed, and the build programme will be at least a year.

14.6 Accordingly, **100 dwellings** should be removed from the Council’s 5YHLS.

### **P/RES/2022/03505: Land East of New Road, West Parley (FWP6) - Phase 1 – Capacity = 238 dwellings, Council’s 5YHLS = 238 dwellings**

14.7 This site has planning permission. An outline application was approved in February 2021 (LPA ref: 3/17/3609/OUT) for:

“Outline application (All matters reserved except for access and associated link road); with up to 386 dwellings (Class C3); up to 1000sqm of retail units (Classes A1-A5); up to 900sqm of offices (Class B1) and up to 2200sqm of foodstore (Class A1); together with accesses, a link road and associated highway works, public open space including SANG, allotments, landscaping and associated works.”

14.8 A reserved matters application was approved in November 2022 (LPA ref: P/RES/2022/03505) for a:

“Reserved Matters submission comprising layout, scale, appearance and landscaping pursuant to condition 1 of outline permission ref. 3/17/3609/OUT for Phase 1 comprising 238 dwellings (Use Class C3) with public open space, SANG, allotments and landscaping. Vehicular access off Christchurch Road and New Road as approved in the outline planning permission.”

14.9 The Council consider that 72 dwellings will be delivered in year 1 (2024/25), 70 dwellings will be delivered in year 2 (2025/26), 70 dwellings will be delivered in year 3 (2026/27) and 26 dwellings will be delivered in year 4 (2027/28).

14.10 However, in 2023/24 just 4 dwellings had been completed on this site. This site was recorded as being under construction at 1<sup>st</sup> April 2023 in the East Dorset Housing Land Supply Report (published January 2024). Indeed, as above, the reserved matters was approved in November 2022. At a recent public inquiry into an appeal made by Dudsbury Homes regarding land to the south of Ringwood Road, Alderholt (PINS ref: APP/D1265/W/23/3336518), which took place in July 2024, the Appellant explained that there had been slower than expected sales rates at this site and concluded that 96 dwellings from the Council's 5YHLS as a result.

14.11 We agree. We have applied a build rate of around 28 dwellings per annum to reflect the low build rate experienced on this site to date. This means that 142 dwellings should be included in the 5YHLS; a reduction of **96 dwellings** in the 5YHLS.

### **P/RES/2021/01645: West of Frome Valley Road – Capacity = 140 dwellings, Council's 5YHLS = 140 dwellings**

14.12 This site has planning permission. An outline application was approved in March 2019 (LPA ref: WD/D/17/003036) for:

“Residential development of up to 140 residential dwellings (including up to 35% affordable housing) together with associated infrastructure, access onto Frome Valley Road, children's play space, landscaping and creation of a Suitable Alternative Natural Green Space ("SANGS")(means of access to be determined only).”

14.13 A Section 73 application was approved in December 2019 (LPA ref: WD/D/19/001447) for:

“Residential development of up to 140 residential dwellings (including up to 35% affordable housing) together with associated infrastructure, access onto Frome Valley Road, children's play space, landscaping and creation of a Suitable Alternative Natural Green Space ("SANGS")(means of access to be determined only) (with variation of condition 17 of planning permission WD/D/17/003036 - to amend the wording of the condition).”

14.14 A Section 73 application was approved in October 2020 (LPA ref: WD/D/20/000673) for:

“Residential development of up to 140 residential dwellings (including up to 35% affordable housing) together with associated access onto Frome Valley Road, children's play space, landscaping and creation of a Suitable Alternative Natural Green Space ("SANGS") (means of access to be determined only) (with variation of



conditions 9 and 10 of planning permission WD/D/19/001447 - to amend the wording of the conditions).”

14.15 A reserved matters application was approved in October 2021 (LPA ref: P/RES/2021/01645) for:

“approval of reserved matters of appearance, landscaping, layout and scale of Outline approval WD/D/20/000673.”

14.16 The Council considers that 20 dwellings will be delivered in year 2 (2025/26) and 40 dwellings will be delivered in each of years 3, 4 and 5 (2026/27, 2027/28 and 2028/29). However, we consider that 20 dwellings will be delivered in year 3 (2026/27) and 40 dwellings will be delivered in years 4 and 5 (2027/28 and 2028/29). The justification for this is because the conditions of the permission have been amended to allow for a phased development. There is also an issue with downstream sewer capacity and a condition requires a scheme for improvement to be submitted and approved prior to development of any phase.

14.17 Accordingly, **40 dwellings** should be removed from the Council’s 5YHLS.

### **3/19/0019/RM: Land south of Howe Lane – Capacity = 29 dwellings, Council’s 5YHLS = 29 dwellings**

14.18 An outline application was refused by the Council in February 2015 and allowed at appeal in January 2016 (LPA ref: 3/13/0674/OUT) to:

“Construct residential development of 29 homes comprising 15x4 bedroom houses, 7x3 bedroom houses, 2x2 bedroom houses, 2x2 bedroom flats and 3x1 bedroom flats with access from Howe Lane as amended by plans rec 25th Nov 13 and amended application form rec 14.02.14 and as amended by plans rec'd 8.3.14.”

14.19 A reserved matters application was approved in July 2019 (LPA ref: 3/19/0019/RM) for the:

“Approval for Reserved Matters of Landscape, Appearance and layout. Application 3/13/0674/OUT (granted on appeal) for construction of 29 residential dwellings.”

14.20 Condition 1 of the reserved matters approval states that *‘the development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission’*, i.e. by July 2022. Given that the development has not commenced, the permission has lapsed.

14.21 This site does not have planning permission or a planning application pending determination. It is a category b) site requiring “clear evidence” of deliverability. The Council considers that 15 dwellings will be delivered in year 3 (2026/27) and 14 dwellings in year 4 (2027/28). However, given that the site does

not have planning permission or a planning application pending determination, we consider that the site should be removed from the Council's housing land supply.

14.22 The developer has not provided any "clear evidence" of deliverability of the site, nor have they completed the proforma. The following has not been provided:

- Clear evidence of firm progress towards the submission of a planning application. It is unclear when this is to be made; or
- Clear evidence of any site assessment work.

14.23 The site is also constrained by a belt of trees on the site.

14.24 Accordingly, **29 dwellings** should be removed from the Council's 5YHLS.

### **WP/19/00693/RES – Curtis Fields – Phases 2A, 3A, 3B – Capacity = 298 dwellings , Council's 5YHLS = 214 dwellings**

14.25 This site has planning permission. However, an application was made to modify the S106 agreement for phases 2-4 to reduce the affordable housing from 30% to 26.24%. (LPA ref: P/MPO/2023/03270). The reason given by the Applicant was that it was not viable to provide 30% affordable housing at the site. The report for the application states:

*"An approach was made to the applicant to consider the request of the planning committee to consider what other options had been considered to make the scheme viable as it seemed appropriate for the Council to give the applicant that opportunity to respond before a decision is taken by the Committee and to ensure that Members are satisfied that all avenues have been explored.*

*The applicant has responded that in terms of negotiation, 'during the consultation stage of this application, Chesters Commercial and the District Valuer (DV) met to negotiate the costs the applicant presented. At that stage the DV would not accept the reduction the applicant originally specified but after lengthy discussion agreed that a reduction to 26.24% was necessary given the unexpected costs Betterment were faced with.'* The applicant puts forward that this was a negotiation and therefore other options to increase the viability and therefore for the percentage of affordable housing have already been carried out."

14.26 Officers recommended that the application to modify the S106 be made. However, members voted against the recommendation and concluded that the application be refused. The decision notice was issued on 20<sup>th</sup> June 2024.

14.27 The reason for refusal states:

“Having regard to Policy HOUS1 (iii) of the West Dorset, Weymouth & Portland Local Plan (2015) and the information submitted with the application, it is considered that requiring 30% affordable housing and financial contributions in accordance with the extant permission and legal agreement would not make the development economically unviable and hence the proposal is contrary to Policy HOUS1 of the adopted local plan”

14.28 At the base date, whilst the site had permission, it was not viable. An application to modify the S106 due to viability (as a result of unforeseen circumstances relating to contamination which impacted on development costs) was made on 2<sup>nd</sup> June 2023 and was pending determination. This application has subsequently been refused and therefore the developer’s position remains that this site is not viable.

14.29 The definition of deliverable explains that viability is a reason why sites with planning permission should not be considered deliverable. Unless and until this matter is resolved and the permission is viable, the site should not be included in the 5YHLS and **214 dwellings** should be removed.

## 15. Lead in times

15.1 There has been much debate on lead in times and delivery rates. In their latest Insight report (November 2021), “Feeding the Pipeline”, Lichfields, commissioned by the Land Promoters and Developers Federation (LPDF) and Home Builders Federation (HBF), have undertaken research into the pipeline of sites for housing set against what might be needed to achieve the Government target of 300,000 homes per annum across England. Lichfield’s advise:

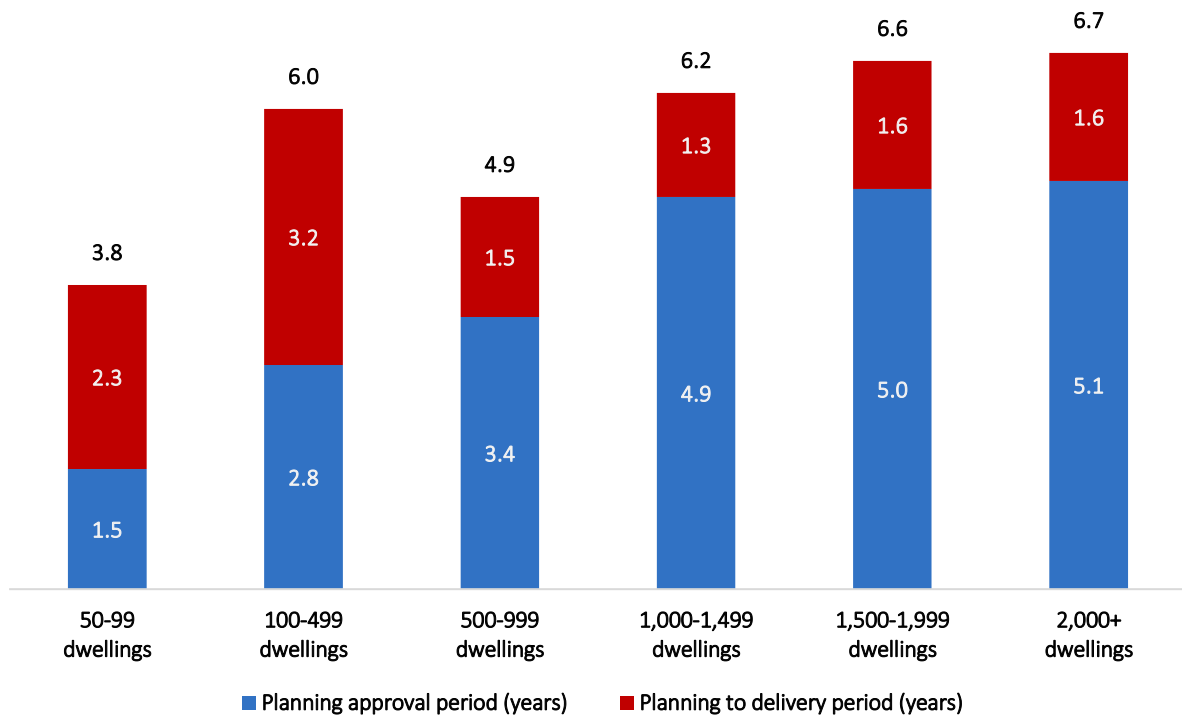
“Increasing the number of ‘outlets’ – the active sites from which homes are completed – and doing so with a wide variety of different sites, is key to increasing output, with each housebuilder outlet delivering on average 45 homes each year.”

15.2 Lichfield’s stark conclusion is that for every district in England a further 4-5 medium sites a year or 4-5 larger sites over the next 5 years (or 1-2 medium sites per annum or 1-2 large sites over the next 5 years and 12 or 13 smaller sites per annum) is needed to achieve Government policy on housing delivery over and above the usual number of permissions granted each year. With regard to the pipeline of developers and the rate of delivery they note that:

““Housebuilders in buoyant conditions may be able to increase build out rates from their existing pipelines, and this might be welcomed. However, it would still necessitate more implementable planning permissions coming through the system to both increase outlets (alongside those existing outlets delivering more quickly) as well as to top-up already short pipelines that would otherwise be exhausted more quickly. Quite simply, without adding more permissions, there is no business rationale for housebuilders to build-out from their pipelines more quickly as the risks associated with topping up their pipeline in time would not be compatible with business resilience.”

15.3 Lichfields’ Insight report in March 2024 ‘Start to Finish’ (third edition) considered what factors affect the buildout rates of large-scale housing sites. They outlined six key conclusions. First, that only sites below 100 dwellings on average begin to deliver within a five-year period from validation of an outline application. Second, that the average build-out rates on large scales sites are lower than previous years. Third, tough market conditions mean a likely slowing in build-out rates and house building overall. Fourth, demand is key to maximising build-out rates. Fifth, additional outlets on site have a positive impact on build-out rates. Sixth, large-scale apartment schemes on brownfield land are less predictable forms of supply.

Figure 15.1 – Median average timeframes from validation of the first application to completion of the first dwelling according to the Lichfields’ study



15.4 The figure above shows the planning approval period and planning to delivery period for a range of site sizes (based on the number of dwellings). Data is taken from Lichfields’ ‘Start to Finish’ report. The planning approval period is the time taken from the validation of the first application (such as an outline application) to obtaining permission for the first detailed permission (such as a reserved matters application). The planning to delivery period includes typical actions such as discharging pre-commencement planning conditions, amending proposals, securing statutory approvals, signing-off details, resolving land ownership and legal hurdles, through to delivering their first dwelling on site.

15.5 Lichfields’ research shows that a site of 100-499 dwellings will, on average, have a planning approval period of 2.8 years and a planning to delivery period of 3.2 years and an overall lead-in time of 6.0 years, i.e. beyond an immediate five-year period for land supply calculations.

15.6 Putting this into practice, as an example, for the WOOL1: West of Chalk Pit Lane / Oakdene Road, Wool site, which includes 320 proposed dwellings, set out in Section 9 above, the site does not have planning permission or a planning application pending determination. The Council includes delivery in years 3, 4 and 5 of its housing land supply, without justification, nor any input from the developer. Based on Lichfields’ research, the West of Chalk Pit Lane / Oakdene Road site will take 6.0 years for the first dwelling to be delivered on the site, which is outside of the Council’s five year housing land supply

period. This creates doubt around the Council's lead in times utilized, particularly those where there has been no input from the developer.

- 15.7 We have also highlighted in the above sections where planning applications have been submitted and still not determined several years after they have been validated. We respectfully request this is considered when considering the realistic prospect that sites without even a planning application pending determination should be included as being deliverable in the 5YHLS.

## 16. Summary of deductions

16.1 In summary, we conclude that 2,770 dwellings should be removed from the Council's supply, as summarised in the following table.

**Table 16.1 – Summary of deductions**

Source of supply	Appendix to the draft APS	EP deduction
Allocated sites without planning permission	B	-964
Neighbourhood Plan allocated sites	C	-245
Specific large sites	D	-359
Rural exception sites	G	-22
Sites with outline planning permission	A (page 7)	-701
Sites with detailed planning permission	A	-479
<b>Total</b>		<b>-2,770</b>

16.2 We therefore conclude that the deliverable supply at 1<sup>st</sup> April 2024 is 6,803 dwellings (i.e., 9,573 – 2,770 = 6,803).

## 17. Conclusions in relation to 5YHLS

17.1 We therefore conclude that the 5YHLS at 1<sup>st</sup> April 2024 is 6,803 dwellings (i.e.  $9,573 - 2,770 = 6,803$ ). Against the Local Housing Need, this equates to **3.79 years** as shown in the following table:

**Table 17.1 – Dorset’s 5YHLS at 1<sup>st</sup> April 2024**

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,793	
B	Five year housing requirement (A X 5 years)	8,965	
	<b>Supply</b>		
C	5YHLS at 1 <sup>st</sup> April 2024	9,573	6,803
D	Supply in years (C / A)	<b>5.34</b>	<b>3.79</b>
E	Surplus / shortfall in 5YHLS (C – B)	<b>+608</b>	<b>-2,162</b>



# 18. Appendices

- EP1.** Marnhull appeal decision
- EP2.** Nantwich appeal decision
- EP3.** Stalbridge appeal decision
- EP4.** Braintree appeal decision
- EP5.** Braintree proformas and evidence
- EP6.** Sonning Common appeal decision
- EP7.** South Oxfordshire proformas and evidence
- EP8.** Freeland appeal decision
- EP9.** West Oxfordshire proformas and evidence
- EP10.** South Kesteven 2022 proformas and evidence
- EP11.** South Kesteven 2023 APS Report
- EP12.** South Kesteven 2023 proformas and evidence

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