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## Appeal Decision

Inquiry held on 23, 24, 25, 26 February 2016 and 1 March 2016

Site visit made on 29 February 2016

**by C Sproule BSc MSc MSc MRTPI MIEnvSc CEnv**

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

**Decision date: 20 June 2016**

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**Appeal Ref: APP/J3720/W/15/3089709**

**Land at Waterloo Road, Bidford-on-Avon, Warwickshire**

- 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 Miller Homes Limited against the decision of Stratford-on-Avon District Council.
  - The application Ref 14/03027/OUT, dated 31 October 2014, was refused by notice dated 17 March 2015.
  - The development proposed is outline planning application for a residential development of up to 200 dwellings, public open space, access and associated infrastructure; detailed approval is sought for access arrangements from Waterloo Road, with all other matters to be reserved.
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### Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for a residential development of up to 200 dwellings, public open space, access and associated infrastructure; detailed approval is sought for access arrangements from Waterloo Road, with all other matters to be reserved at land at Waterloo Road, Bidford-on-Avon, Warwickshire in accordance with the terms of the application, Ref 14/03027/OUT, dated 31 October 2014, subject to the conditions in the attached schedule.

### Applications for costs

2. Applications for costs were made by: Miller Homes Limited against Stratford-on-Avon District Council; Stratford-on-Avon District Council against Miller Homes Limited; and, South Warwickshire Foundation Trust against Miller Homes Limited. These applications will be the subject of separate Decisions.

### Procedural Matter and Main Issues

3. The appeal concerns an application made in outline with all matters reserved for determination at a later date, except those in relation to the site access.
4. Paragraph 1.5 of the Statement of Common Ground (SoCG) confirmed that the Council would not be defending: the first reason for refusal in relation to highways and traffic; the second reason for refusal where it relates to the loss of Grade 2 agricultural land; and, the third reason for refusal where it relates to healthcare provision. Nevertheless, while the Council did not defend these areas of objection, others who made representations did so. One of these interested parties is South Warwickshire NHS Foundation Trust (SWFT) who

maintains its objection in regard to healthcare provision and attended the inquiry.

5. SoCG paragraph 1.4 confirmed that the Council would be defending: the third reason for refusal in so much as it relates to education provision; the second reason for refusal where it relates to the use of an unsustainable greenfield site location; and, the fourth reason for refusal which addresses prematurity in relation to the emerging Core Strategy (eCS).
6. Therefore, based on the Council's remaining reasons for refusal and the *principal areas of disagreement* set out in section 8 of the SoCG, the main issues are considered to be whether the proposed development would: (a) accord with development plan and national planning policies regarding the provision of land for housing; (b) make adequate provision for education infrastructure and healthcare; (c) be a sustainable form of development; and, (d) be premature to the out-come of plan-making.

## Reasons

### *Planning policy*

7. The SoCG confirms the development plan to be the saved policies of the Stratford on Avon Local Plan Review 1996-2011 + July 2006 (LPR).
8. LPR Policy STR.1 designated Bidford-on-Avon as a Main Rural Centre (MRC). Stratford-upon-Avon is designated as a Main Town at the top of the hierarchy, with eight MRC settlements in the second tier, followed by Local Centre Villages that have a basic range of services and finally, all other settlements. The SoCG notes that LPR Policy STR.1, which states that the hierarchy, for the purposes of controlling and regulating development, is partially consistent with the National Planning Policy Framework ('the Framework') and the reduced weight attributed to the policy reflects this.
9. LPR proposal BID.E allocated the Friday Furlong site immediately to the south of the appeal site for mixed-use development, and planning permission has been granted for 170 dwellings on that site. The appeal site was not allocated within the LPR. However, the LPR sought to address development needs up to June 2011. The Council's case to the inquiry failed to identify any conflict with the development plan in regard to the principle of development on the appeal site.
10. LPR Policy DEV.4 seeks the design of new or improved access arrangements for development to ensure that the safety of all road users and pedestrians is not impaired.
11. In relation to the third reason for refusal and the second main issue identified above, LPR Policy IMP.4 only enables planning permission to be granted where proper arrangements have been put in place to secure the full range of physical and social infrastructure necessary to serve and support the development proposed. The implementation and phasing of the proposed development would be co-ordinated with any improvements required in accordance with LPR Policy IMP.4. These objectives are consistent with the Framework *Core planning principle of "...delivering sufficient community and cultural facilities and services to meet local needs..."*.

12. Eight MRCs remain within the proposed eCS policy framework. *Distribution of Development* is the subject of eCS Policy CS.15. However, there remain outstanding objections to eCS Policy CS.15 which addresses the MRCs (and Policy CS.16 – *Housing Development* which has the proposed housing requirement).
13. The currently proposed eCS requirement is 14,485 dwellings. It is noted by the Council to be derived from migration-led economic projections and to be significantly higher than the output from demographic-led projections. In addition, Figure 1 of the eCS Proposed Modifications suggests the delivery of at least 15,479 homes by 2031.
14. Paragraph 47 of the Framework seeks to boost significantly the supply of housing, with paragraph 49 stating that ‘...*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites...*’.
15. Framework paragraph 56 is unambiguous that ‘...*Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people...*’. In this appeal, ‘design’ considerations include the placement of development within the landscape/townscape, rather than details that would be the subject of later decisions.
16. A number of eCS policies have been adopted by the Council on an interim basis as they were considered not to be the subject of significant objections or unresolved concerns. These include eCS Policy CS.1- *Sustainable Development* and eCS Policy CS.26 – *Developer Contributions*.
17. Policy CS.1 states that, amongst other things, ‘...*All development proposals should contribute towards the character and quality of the District and to the well-being of those who live and work in and visit the District...*’. Policy CS.26 addresses the timing and delivery of affordable homes and local infrastructure that are essential for development to take place on individual sites. The Council has commented on the remaining objections, and the eCS Examination Inspector’s interim conclusions did not express particular concern regarding these policies. However, the eCS Examination Inspector’s final report has yet to be received and modifications could still be made to eCS policies. As a consequence, eCS policies cannot attract full weight in this appeal since they may change.
18. Policy H1 of the *Pre-submission Draft Policy Consultation* for the *Bidford-on-Avon Parish Neighbourhood Plan* (draft NDP)<sup>1</sup> states that all new housing development will be confined to within the Village Boundary defined on the Proposals Map. The appeal site is immediately outside the proposed Village Boundary.
19. Draft NDP Policy H2 – *Strategic Reserve for Future Housing Need* would safeguard part of the appeal site for no more than 100 dwellings, and it would only be released for housing if an identified local need is demonstrated.

### *The provision of land for housing*

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<sup>1</sup> CD-A14

20. The Council's fourth reason for refusal notes that the proposal is for up to 200 dwellings and that this has significant implications for the distribution of development proposed by the eCS, and that it would significantly exceed the number of dwellings planned for Bidford-on-Avon.
21. The eCS seeks to provide 3,900 homes across the District's 8 MRCs and is clear regarding the *limited* scale of development that would be sought in Bidford-on-Avon due to the level of service provision within the village.<sup>2</sup> This level of housing delivery has already been met through existing commitments.<sup>3</sup>
22. As noted above, the current trajectory indicates the delivery of housing in excess of the eCS revised target of 14,485 dwellings by 2031.<sup>4</sup> The fact that this proposal would result in exceeding the target would not, in itself, be a reason for dismissal of the appeal as the additional housing delivery would help to provide the significant boost in housing supply sought by Framework paragraph 47.

#### Affordable homes

23. A significant proportion of the appellant's case focusses on the potential for 70 of the 200 proposed dwellings to be split tenure affordable homes, with planning obligations addressing local occupancy and clustering.
24. The delivery rate for affordable homes was very low in 2006/2007, at 54 from a total of 454 "all housing" completions. After 2006/2007, the delivery rate has been between 29% and 79%. From 2006 to 2015 there were a total of 933 affordable homes delivered from 2,846 housing completions in the district.<sup>5</sup> This produces an average delivery of 104 affordable homes per annum. I calculate this to be a 32.8% delivery rate for affordable homes since 2006/2007, which is lower than the 35% rate sought within the LPR and eCS.<sup>6</sup>
25. The Council refers to the judgement in *Kings Lynn and West Norfolk v Secretary of State for Communities and Local Government* [2015] EWHC 2464 (Admin). This is clear that neither the Framework nor PPG suggest that affordable housing needs have to be met in full when determining the Full Objectively Assessed Need (FOAN) for housing. The judgement notes that in practice very often the calculation of unmet affordable housing need will produce a figure which the planning authority has little prospect of delivering in practice. Nor is there a requirement for a local planning authority to produce a five year affordable housing need or to fully meet the affordable housing need.
26. The eCS Examination Inspector's interim conclusions considered affordable housing need and concluded that there was no basis on which to determine FOAN using affordable housing needs. In this respect, his interim conclusions are consistent with the above judgement.<sup>7</sup>
27. Even so, the provision of affordable housing in an area where local families may not otherwise be able to afford a home is clearly a matter of importance to

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<sup>2</sup> eCS paragraph 6.3.11

<sup>3</sup> Appendix 2 of Mr Careford's proof of evidence, with further data provided by the Council on 12 May 2016 and by ID-62

<sup>4</sup> With Figure 1 and paragraph 5.2.6 of the Core Strategy Proposed Modifications (August 2015) indicating delivery of 15,479 homes by 2031

<sup>5</sup> Figure 6.2 of Mr Stacey's evidence

<sup>6</sup> LPR Policies STR.2 and COM.13, and eCS Policy CS.17 and their supporting texts

<sup>7</sup> Paragraphs 50 and 53 of Appendix 4 to Mr Careford's proof of evidence

the planning system. Paragraph 50 of the Framework is unambiguous on steps that local planning authorities should take to *deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities*. These steps include setting policies to meet affordable housing need, which in this area (as referred to above) is 35%.

28. The appellant's evidence describes the need for affordable housing as 'acute' and records speeches and reports that have addressed concerns regarding housing delivery. Attention has been drawn to average rents in Stratford-upon-Avon which are the highest in the West Midlands at £812 per month, and house prices that are 11.4 times the average income of £27,498. At the time of the inquiry there were 2,130 households on the Council's Housing Register.<sup>8</sup>
29. This evidence reflects the comments of the Inspector in the Pulley Lane, Droitwich appeals where there were nearly 5,000 households on that Council's waiting list. He noted these to be "...real people in real need now..." and attributed significant weight to the provision of affordable housing.<sup>9</sup>
30. In Stratford-upon-Avon there is a need that has been met in part, but not to the level sought by adopted and emerging planning policies. Evidence from the appellant refers to instances where appeal decisions, or agreements in relation to them, have attached substantial weight to the provision of affordable homes. I have not been made aware of the particular circumstances in those cases. However, in the current appeal it is apparent that policy objectives for the provision of affordable housing remain unmet. The scale of that under-provision and the associated number of households on this Council's Housing Register ensures that the provision of affordable homes attracts significant weight in favour of the current appeal scheme.

#### Buffer and shortfall

31. The Council accepts that: in accordance with Framework paragraph 47, a 20% buffer should be added to the five year supply of deliverable sites for housing to ensure choice and competition following a record of persistent under delivery; and, there is a shortfall in delivery that should be addressed in the next five years (referred to as the 'Sedgefield' method).<sup>10</sup>

#### Objectively Assessed Need (OAN)

32. The appellant has referred to a number of judgements in regard to the consideration of a five year supply of deliverable sites, including: the five year supply being measured against OAN; that this can be done with an ongoing eCS examination; and, that an appellant can present evidence on OAN.<sup>11</sup> The Council accepted these matters during cross-examination.

#### Household formation rates

33. The Council highlights that the principal areas of difference between the main parties are in relation to the approach to household formation rates, projected job growth over the period of the plan and economic activity rates. These

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<sup>8</sup> Pages 18-23 of the appellant's closing submissions

<sup>9</sup> Paragraph 8.123-8.124 of the report for Appeal refs: APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426 at CD-C24

<sup>10</sup> Paragraph 5.7 of the SoCG

<sup>11</sup> CD-C45, CD-C43 and ID-1

- result in Council and appellant predicted annual housing requirements over the plan period of 724 dwellings per annum (dpa) and 944 dpa respectively.
34. PPG states that household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need.<sup>12</sup> There is agreement between the main parties on the adjustment of the 2012-based household projections to take into account the latest population figures and 10 year migration trend.<sup>13</sup> The difference between the main parties' adjustment for second homes and vacancies is only 6 dpa.
  35. The potential importance of suppressed household formation rates is reflected in PPG Reference ID: 2a-015-20140306, which notes that a *household projection-based estimate of housing need may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends*.
  36. In September 2014 an Addendum to the Council's 2013 Strategic Housing Market Assessment (SHMA) considered the 2012-based sub-national population projections (2012-based SNPP) and economic forecasts.<sup>14</sup> Paragraph 4.13 of the Addendum noted that there are a complex set of factors at play and that it is difficult to predict how these factors might impact on household formation rates.
  37. Interim Conclusions from the eCS Examining Inspector post-date the publication of the 2012-based household projections, which were released on 27 February 2015.<sup>15</sup> He found there to be no clear basis on which to assume a full return to trend due to little sign of an improvement in average real incomes and thus housing affordability.<sup>16</sup> The appellant proposes that 45% of households in the 25-34 age group would form a new household.
  38. The release of the 2012-based household projections followed the publication of PPG Reference ID: 2a-015-20140306 and the projections include future household formation rate assumptions.<sup>17</sup> While the appellant's approach may be 'modest', it has not been shown to be an appropriate adjustment within the context of the 2012-based household projections.

#### Economic Forecasts

39. The respective positions for the Council and appellant are for job growth of 12,100 and 14,500 over the period of the eCS. In March 2015, the eCS Examining Inspector's interim conclusions noted that the basis for the 12,100 figure was not as clear as it could be, but ultimately compared favourably with some of those put forward by the development industry, and was not fundamentally at odds with the aspirational figure within the Local Enterprise Partnership's Strategic Economic Plan.<sup>18</sup>

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<sup>12</sup> Reference ID: 2a-015-20140306

<sup>13</sup> Tables RPS1 and RPS2

<sup>14</sup> Addendum at CD-A26

<sup>15</sup> The date provided in paragraph 2.11 of CD-A22 - the *Review of Objectively Assessed Housing Need...* (ROAN)

<sup>16</sup> Paragraph 17 of CD-A4 - eCS Examining Inspector's Interim Conclusions, dated 18 March 2015

<sup>17</sup> Paragraph 2.16 of CD-A22

<sup>18</sup> Paragraphs 29 and 31 of CD-A4

40. The appellant's case was not put to the eCS Examining Inspector.<sup>19</sup> It totals three up to date economic forecasts, deducts 4.2% for double jobbing and then produces an average figure to arrive at 14,500 for job growth as summarised in ID-8. These forecasts are from Cambridge Econometrics (17,800 jobs), Oxford Economics (17,000 jobs) and Experian (11,200 jobs). Averaging these forecasts was the approach adopted by the Examination Inspector in South Worcestershire.
41. Evidence from the Council in relation to the current appeal is based on data within the 2013 SHMA.<sup>20</sup> The Council: omits an Oxford Economics forecast as being too high; identified sector areas within Cambridge Econometrics/Warwick Institute for Employment Research ('CE/WIE') projections where growth was considered to be too high; and, rejected an Experian forecast that it considered to be methodologically sound, but too low and not supported by other evidence.<sup>21</sup> The Council supports its position by reference to actual growth data for the period 2011-2014, which had not matched forecasted growth.<sup>22</sup> In this regard it seeks to make adjustments for particular local circumstances, noting CE/WIE advice that states "...*The economic prospects in any particular local area will however depend on a whole host of local factors which only those 'close to the ground will know about'...*".<sup>23</sup>
42. Although the Council has used older data and has been selective in the forecasting that it has used, it has sought to provide a higher degree of interpretation. This includes making an adjustment for the findings of a Retail Study Update from March 2014. The appellant has not made such an adjustment.
43. The CE/WIE projection used by the Council was to 2025 and extrapolated forward from 2026-2031 to address the full plan period of the eCS. The eCS Examining Inspector did not object to this approach in coming to the interim conclusion referred to above that '*12,100 appears to be a reasonable estimate*' (and he noted that the Oxford Economics forecast of 21,000 jobs during the plan period to be significantly above comparable forecasts).<sup>24</sup> While I have reservations regarding the use of a forecast that is based on population projections that have since been updated, that in itself is not sufficient to undermine the Council's case or cause me to take a different view to that of the Examining Inspector's Interim Conclusions regarding the appropriateness of the forward projection from 2026-2031.
44. Attention is drawn by the Council to: PPG that indicates housing assessments are not automatically rendered out of date every time new projections are issued;<sup>25</sup> and, that RPS (representing the appellant in this case) did not seek to present its evidence to the resumed eCS Examination hearings in January 2016.
45. When representing another client at the recent eCS Examination hearings, RPS maintained that the OAN could be '*a minimum of 16,572 dwellings over the plan period*', which the Council considers to be '*...consistent with a broad*

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<sup>19</sup> Paragraph 29 of the Council's closing submissions

<sup>20</sup> *Coventry & Warwickshire Joint SHMA* – November 2013 at CD-A9

<sup>21</sup> Paragraph 3.18 of CD-A22

<sup>22</sup> As indicated in Figure 3.3 of CD-A22

<sup>23</sup> From the *Local Economic Forecasting Model* manual as quoted in paragraph 3.19 of CD-A22

<sup>24</sup> Paragraph 29 of CD-A4

<sup>25</sup> Reference ID: 2a-016-20150227

*acceptance of [the Council's] job growth figure...'* .<sup>26</sup> Nevertheless, in this appeal it is the appellant's case that 18,880 dwellings are required over the plan period.

46. While the appellant's approach has sourced the most up-to-date economic forecasts, the Council's approach is informed by evidence on a number of local factors that ultimately cause it to be preferable and attract greater weight.

Economic activity rates (EAR)

47. Both parties have provided evidence on the effect of EAR. The appellant has drawn on 2011 Census EAR and used Office for Budget Responsibility (OBR) data to apply growth rates across the plan period. This is the first time that the appellant has used the OBR rates. In doing so, the appellant highlights the credibility of the source and had made an adjustment to address EAR for the large proportion of the District population that is over 75 years old. The Council's approach is to use a range of national economic forecasts and part age/sex specific trends in economic activity.
48. Evidence indicates that there is no set method for approaching EAR.<sup>27</sup> While the appellant has sought to draw on 2011 Census data and OBR figures with five year banding, the Council's assessment draws on more sources and in this respect, is more detailed and preferred in this instance.

Conclusion on OAN

49. Helpfully, the appellant has supplied tables to address the removal of the household formation rate and over 75s adjustments. However, the evidence indicates the Council's approach to be robust and preferable due to the matters highlighted above. As a result it is the figure of 724 dwellings per annum (dpa) that is taken to be the OAN for the District.

Five year housing land supply

50. There remain three main areas of dispute between the main parties regarding housing land supply and they amount to 789 dwellings. The areas are in relation to Use Class 'C2' 'extra care accommodation', sites under construction and a number of site specific issues.

Extra care housing

51. Previously, the Council sought to include within its housing land supply beds in residential care institutions, but now for 'C2' only includes self-contained extra care units. The Council considers that the use of 'C2' accommodation may become blurred with 'C3' as the needs of the occupiers change. Even so, if self-contained extra care units are designed for and to provide care they would appear to fall within Use Class C2.
52. The Council also considers the appellant's case to conflate housing (and economic) needs assessments with housing (and economic) land availability assessments, which are two separate chapters of PPG.<sup>28</sup>

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<sup>26</sup> Page 1 of RPS submission [0447-1] to the eCS Examination at Appendix 4 to Mr Gilder's proof of evidence, and paragraph 29 of the Council's closing submissions

<sup>27</sup> Paragraph B16 of CD-A22

<sup>28</sup> Paragraphs 21 and 37 of PPG chapters 2a and 3 respectively



53. In addressing *How should the needs for all types of housing be addressed?*, PPG Reference ID: 2a-021-20160204 states that "...Once an overall housing figure has been identified, plan makers will need to break this down by tenure, household type (singles, couples and families) and household size...". Chapters 9 and 10 of the 2013 SHMA addressed the need for particular types of housing that are now referred to within this PPG paragraph.<sup>29</sup>
54. Turning to housing land supply, PPG Reference ID: 3-037-20150320 states that "...Local planning authorities should count housing provided for older people, including residential institutions in Use Class C2, against their housing requirement. The approach taken, which may include site allocations, should be clearly set out in the Local Plan...".
55. In ID-22 the Council indicates that: the 2012-based household projections do not have a component for residential institutions that provide bed spaces rather than self-contained dwellings; and therefore, if the Council wishes to count C2 bedspaces as part of its housing supply this must be clearly set out within the Local Plan. However, the Council also suggests in ID-22 that household projections include households that occupy extra care units and as such, the units can be counted towards supply.<sup>30</sup> A proposed modification to the eCS would set out the Council's approach to 'extra care' accommodation.<sup>31</sup> The Examination Inspector's final report has yet to be received. As a consequence his views on outstanding objections in regard to the Council's approach to this matter and any issues raised during consultation on possible modifications are yet to be known.
56. The appellant considers the Council's approach, which is that described within the Methodological Report for the 2012-based household projections,<sup>32</sup> is not representative of future trends with fewer people going into institutional care. The Council's position refers to the current low institutional population in the District and that the aging population will maintain the demand for such accommodation, hence the ONS approach going forward of locking the ratio of the population in residential care homes. The ONS approach removes this institutional population from household projections.
57. In relation to RPG, the Council has set out its approach within the eCS. The 2013 SHMA pre-dates the release of the 2012-based household projections and its conclusions draw on the 2012-based SNPP. The resulting identified need of 150dpa<sup>33</sup> would include people within residential care as well as those within self-contained extra care accommodation.
58. PPG Reference ID: 3-037-20150320 is clear on what is expected of local planning authorities, but the Council's approach has yet to be found sound, having regard to this PPG advice, and thus incorporated into a development plan.
59. The appellant seeks the removal of all extra care provision from the five year housing land supply. For the reasons above, the inclusion of self-contained extra care accommodation within supply figures is inappropriate as the OAN has yet to include a specific assessment for it. Therefore, on the evidence

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<sup>29</sup> CD-A9

<sup>30</sup> Paragraphs 2 and 4 of ID-22 – *Core Strategy Examination C2 Uses and Housing Land Supply*

<sup>31</sup> CD-A5 paragraph 5.2.14(5)

<sup>32</sup> As quoted in paragraph 1.9 of the Mr Watton's *Five Year Housing Land Supply - Rebuttal*

<sup>33</sup> Table 89 of the 2013 joint SHMA at C-A9

before me at this inquiry, extra care provision should be removed from the housing land supply.

60. The appellant's adjustments for C2 within the SoCG on Housing Land Supply would suggest a deduction of 431 from the housing land supply,<sup>34</sup> although I note this includes two figures of 50 and 100 that Table 13.1 of Mr Watton's proof of evidence indicates to be 'Up to 50' and 'Up to 100'.

#### Non-completion of sites under construction

61. The appellant considers that a discount rate of 5% should be applied to sites under construction to allow for the possibility of non-completion. The Council assumes that 100% of sites under construction will come forward and notes that neither the Framework nor PPG require such a deduction.
62. Footnote 11 of the Framework states that "*...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...*".
63. Attention has been drawn to a number of smaller sites in the District that have been under construction for eight years. Smaller developments of one or two dwellings may be self-build schemes and it was agreed they may take longer to complete. However, there is no *clear evidence* that once started such schemes would fail to be built within five years.
64. The Council applies a 10% deduction (for non-implementation) to all committed sites yet to begin construction, even though only 2% of these sites failed to implement during 2014/15. As a result, the Council has not included 500 units in its five year housing land supply figure that appear likely to come forward in the next five years. These figures indicate this to be a very robust approach.
65. Although some sites may take over five years to be completed, it has not been shown that a 5% deduction for sites under construction would be appropriate in the circumstances described above.

#### Individual site deductions

66. Discussions that took place between the main parties during the inquiry reduced the list of disputed sites to the following:
67. Land west of Shottery – It is the Council's view that 395 houses will be delivered on the site over the next five years, with the appellant estimating 325 dwellings. The site owners support the Council's view. Last year agreement was reached on the sale of land for a relief road and discussions continue with the Highway Authority. This has delayed delivery of the site. 350 dwellings can be delivered prior to the relief road. A reserved matters application has been made and conditions are being discharged.

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<sup>34</sup> ID-20

68. However, the purchase of the land on the route of the relief road is understood to be on the basis that the vertical alignment of the new highway will avoid visual impact at Anne Hathaway's Cottage. The original proposal required EIA and the realignment of the scheme would require a further planning application. A planning condition requires the relief road to be completed within two years of the implementation of the scheme.
69. Given the nature of this site and the strength of the housing market in the District, both main parties consider this site could deliver up to 100 units a year. The further planning decision in relation to the relief road is a significant risk to the initial delivery of the scheme. However, the developer and the local planning authority have taken this into account in re-profiling delivery during 2016/2017 and they are well placed to make this judgement. Consequently, the delivery of 395 dwellings is realistic and it should remain within the five year housing land supply.
70. Land off Stockton Road – The Council considers that 40 dpa should be deliverable on this site, noting that a volume house builder managed to exceed 30dpa. It is not unreasonable to anticipate higher rates of delivery, especially when affordable units are being built. Even so, the appellant's suggested rate of delivery follows advice from the developer and in this instance it provides greater confidence in the appellant's projection. This results in 17 dwellings being taken out of the five year housing land supply.
71. Former Cattle Market – The site does not have a current planning permission and as such the appellant considers that for consistency it should be removed from the five year housing land supply. However, this is an unusual site. It is brownfield land on the edge of Stratford-upon-Avon town centre immediately next to the railway station. It is available now and has recently been sold by Redrow to Orbit Housing Association. The Council notes that an affordable housing scheme has been worked-up that has considerable local support. It would provide 102 affordable self-contained extra care units and 87 residential units.
72. The particular circumstances of the site and the nature of the flatted housing proposed suggest the absence of a current planning permission is not in itself likely to prevent the site being delivered within five years. Evidence indicates there to be a realistic prospect that housing will be delivered on the site within five years and accordingly, the 87 residential units should remain within the housing land supply. With reference to the conclusion regarding extra care housing, the 102 affordable self-contained extra care units should be removed from the five year housing land supply.
73. Land at Arden Heath – The Council considers that the site could deliver at a higher rate than 40 dpa due to it being on the edge of Stratford-upon-Avon. Two other sites on the edge of the town have delivered 43 and 55 dpa in current market conditions. The Arden Heath site is being promoted and is of sufficient size to be suitable for a volume house builder, but a developer has yet to be found for it. In the absence of a developer who could confirm their intention to build out the site at a high rate, the appellant's caution appears appropriate which removes 22 houses from the supply.

Conclusion on housing

74. The LPR sought to address development needs up to June 2011 and the Council accepts that it does not have an up-to-date development plan.<sup>35</sup> This is consistent with the views of the Secretary of State when determining two appeals in July 2012 for sites at Bishop's Cleeve, Gloucestershire. In that decision letter the Secretary of State agreed "...that components of the development plan are dated and that the settlement boundaries in the LP are based on housing requirements for the period up to June 2011. Consequently, the weight that should be accorded to this conflict should be significantly reduced...".<sup>36</sup> There is no evidence in this case that would cause me to take a different view.
75. The eCS Examination Inspector's final report is awaited with his view on the OAN for the District. However for the reasons above and for the purposes of this appeal, I have found the OAN for the District to be 724dpa which is 3,620 dwellings for the five year period.
76. The Council's Information Sheet No.054/2015, issued 22 December 2015, confirms there to have been a requirement of 3,439 dwellings from the start of the plan period in 2011 to the five year period and 2,018 completions.<sup>37</sup> Therefore, the shortfall in the delivery of dwellings during the plan period is 1,421. When this shortfall is added to the 3,620 dwellings sought during for the five year period and the 20% buffer is applied, the requirement for the current five year period is 6,049 dwellings.
77. Paragraph 2.3 of the SoCG re: Housing Land Supply (ID-20) provided on the final sitting day of the inquiry confirms the Council's most recent supply position to be 6,287 dwellings. This is comprised of: 1,576 dwellings under construction; 1,254 dwellings with full planning permission; 2,400 dwellings with outline planning permission; 887 dwellings with a resolution to grant planning permission; and, 170 with no planning permission. Paragraph 2.4 of ID-20 confirms these figures to include a 10% lapse rate, except that in relation to dwellings under construction.
78. My conclusions above result in 39 sites being removed from the supply due to concerns over delivery of specific sites along with 431 extra care units, but 75 dwellings (less 10% for possible lapse rate) are added through the determination in June 2016 of appeal decision ref: APP/J3720/W/15/3010653. Therefore, on the basis of the evidence before this inquiry the District has a housing land supply of 5,885 dwellings, which is 4.9 years.

#### *Provision for education infrastructure and health services*

##### Education

79. In January 2016, Warwickshire County Council and the appellant signed a SoCG on education matters in relation to the appeal scheme. It states that, amongst other things, the County Council is seeking contributions towards: Early Years Education at The Willow Tree Nursery; additional primary school places that would be provided at Bidford Primary School; and, primary and secondary school special educational needs places.

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<sup>35</sup> As highlighted on pages 2 and 3 of the appellant's closing submissions

<sup>36</sup> CD-C17 – paragraph 17 of the Secretary of State's decision letter in relation to appeal refs: APP/G1630/A/11/2146206 and APP/G1630/A/11/2148635

<sup>37</sup> Appendix 1 of Mr Careford's proof of evidence

80. The appellant refers to Department for Education guidance that is *generally written to apply to new buildings in primary and secondary schools, but most of the details can be used when considering schools with existing buildings, whether they are to be remodelled or unaltered.*<sup>38</sup> This confirms that it is applicable to this scheme.
81. The main parties to this appeal agree that the proposed development would result in a need for additional primary school places.
82. The primary school site includes a community library and a Parish Council office and meeting room. These existing activities could constrain the future use of the school site. Indeed, the education SoCG notes various reasons that could result in alternative outcomes for educational provision. However, there is no convincing evidence to suggest that existing library and Parish Council uses on the school site would be likely to prevent the school meeting local needs.
83. There are matters that suggest Bidford Primary School would be likely to be expanded. Firstly, there is no evidence to suggest that the primary school could not be expanded. Secondly, the school currently has mixed age classes and the inquiry heard that a school would normally seek to have single age classes.
84. From the outset the County Council has been clear regarding the scale of the planning obligation sought and what factors have been taken into account in arriving at the figure. Given the nature of the provision that the contribution seeks to address, the need for the contribution is clear and there can be confidence that the contribution would be used for that purpose without a detailed scheme being in place.
85. The local planning authority has taken a view that is at odds with the statutory consultee in relation to education provision. Warwickshire County Council has accepted the appropriateness of a planning obligation to address the additional school places that would be required. There would appear to be no physical impediment or constraint that could not be overcome to enable the expansion of the school to accommodate the additional pupils from the appeal scheme. Accordingly, there is no evidence that demonstrates children from the proposed development would be likely to travel out of the village due to an inability for them to be accommodated at Bidford Primary School.

#### Healthcare

86. The appellant maintains that a single healthcare trust is not the appropriate body to be seeking contributions, but rather it should be a larger organisation of such trusts or the NHS regional body.
87. SWFT highlights that there is nothing in legislation that would suggest SWFT would not be the appropriate body to secure obligations. It is an NHS Foundation Trust that is a legally independent Public Benefit Corporation which remains fully part of the NHS and is directly accountable to Parliament. SWFT is commissioned to provide acute healthcare services, is a secondary care provider and is the sole capable provider of urgent and emergency care services in South Warwickshire.

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<sup>38</sup> The first paragraph on page 4 of Mr Clyne's Appendix SCE 6

88. SWFT is clear that no contributions are sought for planned infrastructure development to address population growth. Instead, a planning obligation is sought to address the additional demand on existing infrastructure and planned healthcare that would result from the occupation of the 200 dwellings proposed.
89. Two recent Secretary of State decisions have been referred to in relation to sites in Warwickshire where healthcare planning obligations were found to meet the tests in Community Infrastructure Levy Regulations (CIL) and Framework paragraph 204.<sup>39</sup> In relation to the current appeal, it also has been shown that the NHS funding system could not make retrospective payments to address the additional demands placed on SWFT's acute healthcare services caused by local increases in population over a 12 month period.<sup>40</sup>
90. Details have been provided of how the healthcare contribution within the executed s.106 agreement has been calculated.<sup>41</sup> SWFT has provided a comprehensive rebuttal of the appellant's detailed and forensic evidence that, along with the legal opinion provided, is convincing on the robustness of SWFT's case.

#### Conclusion on education infrastructure and health service provision

91. As a consequence, the education and healthcare contributions within the executed s.106 agreement would be expected to provide accessible local services that would support a strong, vibrant, healthy and inclusive community. They would meet LPR Policy IMP.4, and relevant Framework objectives including those within paragraphs 37, 69 and 70 of the Framework.

#### *Sustainable development*

92. Paragraph 7 of the Framework confirms there to be three dimensions to sustainable development, namely economic, social and environmental, and describes matters that are relevant to each.

#### Environmental dimension

93. Correspondence after the sitting days of the inquiry suggested that the draft NDP strategic reserve allocation which includes part of the appeal site may not be taken forward. In any event, Bidford Residents Group (through Mr Longstaff who is a member of the NDP steering group) considers the scale of recent development in Bidford-on-Avon to have been excessive and disproportionate to the character of the village and its environment.
94. The appeal site is an elongated area of agricultural land that stretches between Waterloo Road on the north eastern boundary of the site and Heart of England Way (which provides the route of Footpath AL21 in this location)<sup>42</sup> on the south western boundary.
95. Land to the west of the appeal site is predominantly residential in character, with Stepping Stones running westwards from Heart of England Way and providing access to Victoria Road.

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<sup>39</sup> Appeal Refs: APP/T3725/A/14/2229398 and APP/T3725/A/14/2221613 accompanying SWFT's statement

<sup>40</sup> Pages 22-24 of ID-24

<sup>41</sup> Pages 12 and 13 of ID-24

<sup>42</sup> Paragraph 4.3.6 of the *Landscape and Visual Assessment* at CD-A11

96. Bidford Industrial Estate is to the east and on the opposite side of Waterloo Road from the appeal site. Countryside is present to the north of the industrial estate, and on the southern section of Waterloo Road there is housing as it approaches its junction with the B439. Many of the other services in Bidford-on-Avon lie between the B439 and the River Avon which provides the southern limit for development concentrated within the settlement.
97. Development that extends along Waterloo and Victoria Roads creates two 'arms' that extend northwards from the core of the village to provide the settlement with a 'u' shape. The appeal site is currently an agricultural field that is part of the open area between these two 'arms', and it has been used by people for informal recreation such as dog walking.
98. Recent development that has occurred and is occurring to the south and north east of the appeal site has reduced the open area between the two 'arms'. The appeal proposal would further reduce the open area, and it is apparent that the scale and location of the proposed development would conflict with eCS Policy CS.15 and draft NDP Policies H2 and H1.
99. Nevertheless, the parameters plan indicates that the appeal scheme would retain a significant area of open space within the development. This, along with other existing areas of open space within and around recent developments, would help to retain and create opportunities for informal recreation.
100. Within the context of the parameters plan, the scale and density of the proposal would be acceptable on this northern edge of the settlement, and would provide a suitable transition to the land uses around the appeal site. Submissions have highlighted that, unlike other MRCs in the west of the District, development in Bidford-on-Avon is not constrained by Green Belt.
101. During the inquiry the Council accepted that the proposed site, whilst larger than the strategic reserve within the draft NDP, is in the optimum location to extend the village. This was borne out by the site visit and associated evidence in this case. Given the form of the settlement along with the layout of development, open space and highways around the appeal site, the proposed housing would appear as a logical addition to Bidford-on-Avon.
102. The Council's second reason for refusal notes the appeal site to be Grade 2 agricultural land and that the proposal would result in the loss of 13.81ha of best and most versatile (BMV) agricultural land. Paragraph 112 of the Framework states that "*...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...*". Draft NDP Policy ENV6 would not support development that would result in the complete or partial loss of BMV land.
103. Developing the appeal site would cause a loss of BMV land of sufficient scale to be locally significant and this weighs against the proposed development. However, given the quantity of BMV land in the wider area and that land of lower quality is associated with the floodplain,<sup>43</sup> it is not apparent that homes

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<sup>43</sup> Appendix 3 to Mr Hill's proof of evidence

could be provided in such close proximity to the settlement on suitable areas of poorer quality land. Therefore, this harm only attracts limited weight against the appeal scheme.

104. Bidford-on-Avon is shown to be within a Mineral Safeguarding Area for sand and gravel within the Warwickshire Minerals Plan Preferred Options and Policies Consultation, October 2015. Mapping indicates the appeal proposal would affect a very small proportion of the sand and gravel reserves that are understood to be present in many parts of Warwickshire.<sup>44</sup> Although there may be workable mineral beneath the appeal site, it is adjacent to existing housing and it would be very unusual for a new quarry to be in such close proximity to a residential area. In such circumstances the sterilization of mineral reserves attracts considerably less than significant weight against the proposal and that needs to be set against the other matters in this case.

105. Although some hedgerow would be lost through the proposal, there would be environmental benefits through the provision of significant areas of open space with scope for ecological improvement in comparison to the existing agricultural land use.<sup>45</sup>

#### Social dimension

106. The appeal scheme would provide 200 additional households to support and help retain services within Bidford-on-Avon. They also would be expected to support services in nearby settlements.

107. Representations were clear regarding the lack of affordability of houses in the locality. Both the affordable and market housing delivered through the appeal proposal would be of direct benefit to people who wish to live in the locality, and given that an active house builder controls the land, there is no reason to doubt that the proposal would be delivered.

108. Therefore, the provision of housing and affordable units would yield social benefits that meet Framework objectives and attract significant weight in favour of the appeal scheme.

109. Access to be determined at this stage is that enabling vehicular and pedestrian movements to and from Waterloo Road, on the eastern boundary of the appeal site. The Highway Authority has raised no objection to the proposal, which would create a highway access with visibility splays suitable for the observed conditions. Given the nature of the highway and the traffic movements at the proposed location of access with Waterloo Road, the proposed junction layout would provide a safe and suitable access to the development. This would comply with LPR Policy DEV.4. Framework paragraph 32 is clear that '*...Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe...*', and no such impacts have been identified in this case.

110. While Bidford-on-Avon is not a large settlement, it is a village of sufficient size to have a range of services and employment opportunities that are complemented by those in neighbouring settlements. The eCS notes the *reasonable range* of shops and services in the village to have been declining.<sup>46</sup>

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<sup>44</sup> Appended to the appellant's letter of 6 April 2016

<sup>45</sup> As described in Section 8 of Mr Hill's proof of evidence

<sup>46</sup> Paragraphs 6.3.4 and 6.3.9 on page 143 of the eCS



111. Heart of England Way is a pedestrian route that runs along the western boundary of the appeal site. A link to Heart of England Way is shown on the parameters plan. Both links to neighbouring land and improvements to Heart of England Way are the subject of a suggested condition. Developing the appeal scheme to enable its occupiers to use the Heart of England Way would provide an alternative pedestrian (and possibly a cycle) route to locations toward the centre of Bidford-on-Avon.
112. It is possible that financial contributions to the County Council could be focussed on matters other than the Heart of England Way. However, given its location and the existing access from the appeal site onto the footpath, it seems highly likely that pedestrians accessing the appeal scheme would seek to use this route which is away from the traffic on Waterloo and Victoria Roads.
113. The Council Officer's report on the application noted Bidford Primary School to be 800-1100m from the proposed housing. 'Manual for Streets' indicates that "...Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800 m) walking distance of residential areas...".<sup>47</sup> There may be opportunities to link to other footways in the locality, and a pedestrian link through the neighbouring Friday Furlong development would bring the primary school to within 500-700m of the appeal proposal.
114. Planning permission has been granted for a supermarket in very close proximity to the appeal site. It is not clear who might develop and operate the site, but given the commercial opportunity it provides, it would appear likely to occur. In addition to the industrial estate on Waterloo Road, the proposal would be near to other shops, services and job opportunities in Bidford-on-Avon.<sup>48</sup> Consequently, while for many people the appeal scheme would be towards the upper limit of acceptable walking journeys to some local services, there would be opportunities for journeys to be made on foot (or cycle) and these are likely to increase.
115. The scales of service provision in the village and occupation of the development proposed would be expected to result in additional travel and commuting to nearby settlements. There is no train station in Bidford-on-Avon and the bus service would not be suitable for all journeys,<sup>49</sup> and this reflects other MRCs. Nevertheless, public transport would be available to access locations within Bidford-on-Avon and beyond, including Stratford-upon-Avon and Evesham.
116. Therefore, while the appeal site would not be the most accessible location in the District, it would be sufficiently so to attract significant weight in favour of the proposal. This finding is consistent with Bidford-on-Avon being designated as an MRC within LPR Policy STR.1 and identified as a proposed MRC in the eCS.

#### Economic Dimension

117. Developing new homes would result in economic benefit through the economic activity associated with their construction and occupation. In accordance with Framework paragraph 19 (and 28), rural economic growth

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<sup>47</sup> Paragraph 4.4.1 of *Manual for Streets*

<sup>48</sup> Walking distances to local facilities are provided within Table 1 of the Statement of Common Ground

<sup>49</sup> For example, evening and Sunday journeys

through the provision of construction jobs and the sale of construction materials, and expenditure during occupation of the houses, attracts significant weight in favour of the appeal scheme.

#### *Plan-making and prematurity*

118. Paragraph 216 of the Framework states that from the day of publication decision-takers may give weight to relevant policies in emerging plans according to: the stage of preparation of the plan; the extent to which there are unresolved objections; and, the consistency of the relevant policies in the emerging plan with the Framework.
119. Although there have been two rounds of consultation on the NDP, it is still at an early stage and has yet to be submitted or examined. Therefore, the extent of unresolved objections is not known and its policies can only attract limited weight in this case.
120. The eCS has been published and is being examined, but for the reasons above its policies are yet to attract full weight. The Council highlights that, within the context of the eCS objective for 3,900 new dwellings across the 8 MRCs, between April 2011 and 2015 planning permission was granted for 501 dwellings in Bidford-on-Avon. To this is added 75 dwellings granted planning permission in June 2016.<sup>50</sup>
121. Even so, the appeal scheme would not be so substantial, nor its cumulative effect so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan.<sup>51</sup>

#### **Planning obligations**

122. The tests of a planning obligation are contained within CIL Regulation 122 and are reflected in paragraph 204 of the Framework. These tests are that planning obligations should only be sought where they would be: 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.
123. An executed section 106 agreement has been supplied that makes provision for affordable housing, a local equipped area of play, open space and a commuted sum toward the maintenance of it, and contributions toward education, healthcare, a footpath link, rights of way, bus stop, library and sustainable welcome packs.
124. The appellant has provided a statement in relation to CIL Regulation 123.<sup>52</sup> It addresses the pooling of planning obligations directed at primary school education in Bidford-on-Avon, and indicates that neither of the two projects being taken forward by the County Council has received five or more separate planning obligations.
125. A statement has been provided by the District Council that addresses CIL Regulations 122 and 123 in regard to affordable homes, sustainable welcome

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<sup>50</sup> Through appeal decision ref: APP/J3720/W/15/3010653 - ID-62

<sup>51</sup> PPG Reference ID: 21b-014-20140306

<sup>52</sup> ID-49

packs, education, libraries, public rights of way, on-site open space, bus stop and the footpath link.<sup>53</sup>

126. The evidence in this case demonstrates that the planning obligations meet the CIL Regulation 122 and Framework paragraph 204 tests. These obligations ensure that LPR Policies IMP.4 and eCS Policy CS.26 would be met and therefore the benefits of the appeal scheme attract significant weight in favour of it.

### **Conditions**

127. The following conditions will be imposed.
128. In the interests of the character and appearance of the locality, two conditions are imposed in relation to reserved matters, along with a condition to address commencement.[Conditions 1, 2 and 3]
129. Conditions are imposed which require the development to be carried out in accordance with the submitted plans. This is important as the submitted plans and drawings define the scope and extent of the development proposed. It includes the overall balance and location of built development and open space across the site, and details of the site access which are for determination at this stage.[Conditions 4 and 5] For this reason and in the interests of the character and appearance of the locality, a condition is imposed setting an upper limit on the number of dwellings constructed on the appeal site.[Condition 6]
130. To protect the character and appearance of the locality conditions are imposed in relation to external lighting and site levels. These matters are integral to the detailed design of the development. [Conditions 12 and 15]
131. Also for this reason, a condition is imposed requiring a scheme for tree protection during construction, and to be effective these measures need to be in place prior to works commencing.[Condition 11]
132. To ensure that the proposed dwellings address local housing needs, a condition is imposed in regard to housing mix.[Condition 8]
133. Highway safety and local living conditions are protected by a condition requiring the provision of, and adherence to, a Construction Method Statement. To be effective the Construction Method Statement needs to be in place prior to works commencing. [Condition 10]
134. In the interests of highway safety, conditions are imposed to address the provision of estate roads, vehicle manoeuvring areas, visibility splays, accesses and their use. These matters are integral to the detailed design of the development. [Conditions 7 and 9]
135. In the interests of protecting the natural environment, and future users of the appeal site and land elsewhere, conditions are imposed in regard to surface and foul water drainage, and the potential for land contamination. These matters are relevant to the detailed design of the development. [Conditions 13, 14 and 18]

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<sup>53</sup> ID-34

136. In the interests of protecting the natural environment and the character and appearance of the locality, a condition is imposed for a combined ecological and landscape management scheme. To be effective the scheme needs to be in place prior to works commencing. [Condition 16]
137. To protect the historic environment a condition is imposed requiring a programme of archaeological work. The extent of the programme of work needs to be determined before any development occurs that could harm archaeology. [Condition 17]
138. The reasons given indicate that the above conditions (except conditions 6 and 7) need to be met prior to commencement.
139. In the interests of highway safety and to ensure a sustainable form of development, a condition is imposed for the provision of roads and footways prior to the occupation of houses that they serve .[Condition 20]
140. To provide suitable living conditions and a sustainable form of development, a condition is imposed requiring the provision, specification and siting of all sports and play equipment. [Condition 19]
141. To ensure a sustainable form of development that meets the objectives of LPR Policy DEV.7, conditions are imposed to address waste storage and collection facilities and the collection (and therefore effective use) of rainwater.[Conditions 22 and 21]

## Conclusions

142. The appeal scheme falls to be considered within the context of the presumption in favour of sustainable development. With that background, consideration and balancing of the matters in this case ensures that the Framework's 'cost/benefit' approach is addressed in applying development plan policies that do not explicitly state it.<sup>54</sup>
143. The evidence indicates there to be a 4.9 year supply of housing land. Accordingly, relevant policies for the supply of housing are considered to be out-of-date due to the absence of a five year supply of housing land,<sup>55</sup> and the expiration of the LPR plan period. Such policies attract less than full weight.
144. The presumption in favour of sustainable development, as expressed in paragraph 14 of the Framework, is not irrefutable.<sup>56</sup> It is obvious that there is significant local concern regarding the scale of recent and proposed development around Bidford-on-Avon. However, in this case I have found the proposal to represent sustainable development. It is clear that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the appeal scheme when assessed against the development plan, and Framework planning policies, taken as a whole.
145. Consideration has been given to all matters raised in this case. For the reasons above, it is apparent that the first PPG prematurity test is not met.<sup>57</sup>

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<sup>54</sup> Pages 2 and 3 of the Council's closing submissions

<sup>55</sup> Framework paragraph 49

<sup>56</sup> Paragraph 72 of ID-18 - *Ivan Crane vs Secretary of State for Communities and Local Government and Harborough District Council* [2015] EWHC 425 (Admin)

<sup>57</sup> Reference ID: 21b-014-20140306

The appeal scheme would conflict with eCS Policy CS.15 and draft NDP Policies H1, H2 and ENV6, but the benefits of the appeal scheme would ensure compliance with LPR Policy IMP.4, eCS Policy CS.26 and relevant parts of the Framework. The appeal proposal would be a form of sustainable development that complies with LPR Policy DEV.4 and eCS Policy CS.1, and accordingly the appeal should be allowed.

*C Sproule*

INSPECTOR

Richborough Estates

### **Schedule 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 begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
Drawing number: 1302-01 – *Planning Application Boundary*  
Drawing number: 09153-10 Revision A – *Northern Footway Access Option*  
Drawing number: 09153-13 – *Visibility Splay Proposed Site Access...*
- 5) The extent of the built development, open spaces and structural landscaping shall be in accordance with the submitted *Parameters Plan*, drawing number 1302-02 Revision 007.
- 6) No more than 200 dwellings are hereby permitted to be constructed within the application site.
- 7) There shall be no vehicular access to the site via Stepping Stones.
- 8) Prior to the submission of any reserved matters application, details of the mixture of housing for the development hereby permitted, these details shall include dwelling sizes in terms of bedroom numbers, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority, a scheme with a timetable for the provision of: the vehicular, cycle and pedestrian accesses to the site from Waterloo Road, associated highway works and visibility splays shown on drawing numbers: 09153-10 Revision A – *Northern Footway Access Option* and 09153-13 – *Visibility Splay Proposed Site Access Waterloo Road*; vehicle manoeuvring areas; bus stop works; improved footways along Waterloo Road and Heart of England Way; any proposed link to adjacent land; and, the phasing of these works. The scheme shall be implemented as approved.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be

adhered to throughout the construction period. The Statement shall take into account the phasing of development and provide for:

- i) the parking of vehicles of site operatives and visitors
  - ii) the loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate, and lighting
  - v) measures to prevent mud and debris from vehicles being deposited on the highway
  - vi) measures to control the emission of dust, dirt and noise during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works, and
  - viii) hours of construction and demolition works.
- 11) No demolition, site clearance or building operations of any type hereby permitted shall commence or equipment, machinery or materials be brought onto site until a scheme for the protection of trees has been submitted to and approved in writing by the local planning authority. The scheme shall include the provision of protective fencing within the site and around those trees outside the site whose Root Protection Areas (RPA) (as defined in BS 5837 (2012)) fall within the site. The tree protection measures shall include:
- a) The submission of a Tree Protection Plan and appropriate working methods - the Arboricultural Method Statement in accordance BS5837:2012 Trees.
  - b) The scheme must include details of the erection of stout protective fencing in accordance with British Standard BS5837:2012, Clause 6.2.
  - c) Fencing shall be shown on the Tree Protection Plan and installed to the extent of the tree Root Protection Area (RPA) as defined in BS5837:2012 and as agreed in writing by the local planning authority.
  - d) No equipment, machinery or structure shall be attached to or supported by a retained tree.
  - e) No mixing of cement or use of other contaminating materials or substances shall take place within, or close to, a root protection area (RPA) that seepage or displacement could cause them to enter a root protection area.
  - f) No fires shall be lit within 10 metres of the nearest point of the canopy of the retained tree within or adjacent to the site.
  - g) A phasing plan for the provision and removal of the tree/hedge protection works to take account of the commencement and completion phases of different parts of the site.
- The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.
- 12) No development shall take place until a scheme of external lighting (including any floodlighting) has been submitted to and approved in writing by the local planning authority. Such details shall include the location, height, type, design of the lamps/luminaires, the direction and intensity of

the illumination, and a phasing programme for its installation. External lighting shall be installed in accordance with the approved details before the phase of development to which it relates is first occupied or brought into use.

- 13) No development shall take place until a surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall include an assessment of the hydrological and hydrogeological context of the development, proposals for sustainable drainage (SUDs), an implementation programme, and a maintenance and management plan. The surface water drainage scheme shall be implemented in accordance with the approved details and retained as such thereafter.
- 14) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme for foul water drainage to serve the residential development hereby permitted. None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage have been provided in accordance with the approved scheme
- 15) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan showing the existing and proposed site levels. Development shall be implemented in accordance with the approved site levels.
- 16) No development shall take place until there has been submitted to and approved in writing by the local planning authority a combined ecological and landscape management scheme. The combined ecological and landscape management scheme shall be implemented as approved.
- 17) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 18) No development shall take place until a site investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site, including the timing and phasing of the remediation, to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins. The site shall be remediated in accordance with the approved details, including any measures that would form part of the development, such as the provision of gas vents or membranes within buildings and other structures.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and



approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 19) Within 1 month of development commencing a scheme shall be submitted to and approved in writing by the local planning authority for the provision, specification and siting of all sports and play equipment. The scheme shall be implemented in accordance with the approved details prior to the occupation of 50% of the dwellings hereby permitted and retained as such thereafter.
- 20) No dwelling hereby permitted shall be occupied until the carriageways and footways serving that dwelling have been constructed in accordance with the approved scheme and details.
- 21) No house hereby permitted that has a rainwater downpipe shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child proof lid, connected to a downpipe and with an overflow facility connected to a drainage system or area.
- 22) Prior to the first occupation of any dwelling hereby permitted, the developer shall provide 3 bins that are in accordance with the Council's bin specification for the purpose of refuse, recycling and green waste storage and collection from the occupied dwelling.

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Isobella Tafur	Of Counsel
She called	
Ian Gilder	ERM
John Careford	Stratford-on-Avon District Council
Cllr Daren Pemberton	Stratford-on-Avon District Council

### FOR THE APPELLANT:

Christopher Young	Of Counsel
He called	
Tim Watton	RPS Group
Simon Tucker	DTA Transportation
Stephen Clyne	EFM Ltd
Paul Hill	RPS Group

### INTERESTED PERSONS:

Cllr Mark Cargill	Ward member for Bidford West and Salford Priors
Nicholas Butler	Campaign to Protect Rural England (CPRE) - Warwickshire Branch
Jeremy Harvey	Bidford-on-Avon Parish Council
George Longstaff	Bidford Residents Group
Annabel Graham Paul	Of Counsel, advocate to SWFT
Jayne Blacklay	Director of Development and Deputy Chief Executive of SWFT

## DOCUMENTS

- 1 West Berkshire District Council vs Secretary of State for Communities and Local Government and HDD Burghfield Common Ltd - [2016] EWHC 267 (Admin)
- 2 Opening statement on behalf of the appellant
- 3 Opening statement on behalf of the District Council
- 4 A statement from Cllr Cargill
- 5 A statement from Mr Butler
- 6 Planning Practice Guidance on Housing and Economic Development Needs Assessments
- 7 An A4 data sheet for economic activity for gender across age ranges 2011-2031 – OBR Unadjusted and OBR Adjusted 75+
- 8 Jobs forecasts – Cambridge Econometrics 2015, Experian 2015 and Oxford Econometrics 2014
- 9 Table RPS8 – Future Employment Trends no 2012 unadjusted household projections
- 10 Planning Practice Guidance on Housing and Economic Land Availability Assessment
- 11 Page 19 of a Statement of Common Ground in relation to appeal refs: APP/J3720/W/15/3017900 and APP/J3720/W/15/3132950
- 12 A statement by the Bidford Residents Group
- 13 A statement by Bidford-on-Avon Parish Council
- 14 Stratford-on-Avon District Council Core Strategy 2011-2031 – Meeting a Revised Housing Requirement: Options Assessment – July 2015
- 15 An e-mail, of 10 February 2016 at 16:31hrs, from the Rights of Way and Access Information Officer at Warwickshire County Council
- 16 Borough Council of Kings Lynn and West Norfolk vs the Secretary of State for Communities and Local Government and Elm Park Holdings Ltd [2015] EWHC 2464 (Admin)
- 17 Daventry District Council vs Secretary of State for Communities and Local Government and Gladman Developments Limited [2015] EWHC 3459 (Admin)
- 18 Ivan Crane vs Secretary of State for Communities and Local Government and Harborough District Council [2015] EWHC 425 (Admin)
- 19 Planning Practice Guidance on Neighbourhood Planning
- 20 Statement of Common Ground re: Housing Land Supply

- 21 Cabinet, 27 January 2011, Agenda No 2: *Care & Choice Programme – The Future of Warwickshire County Council’s residential Care Homes for Older People*
- 22 Core Strategy Examination Note: C2 Uses and Housing Land Supply – January 2016
- 23 An A3 copy of Inquiry Document 7
- 24 SWFT - Rebuttal to Proof of Evidence of Stephen Clyne, which includes an application for costs against the appellant
- 25 SWFT – Statement of Jayne Blacklay
- 26 R. (on the application of Redditch BC) vs First Secretary of State [2003] EWHC 650 Admin
- 27 Minutes of the Neighbourhood Plan Steering Group Meeting - Thursday 21 January 2016
- 28 Update Report for Planning Committee West 7 October 2015 re: 15/02548/OUT – Land at Waterloo Road, Bidford on Avon and other applications
- 29 Retail Planning Application (Planning Note) Ref 15/00212/OUT – Former Geodis Site, Waterloo Road, Bidford – Decision Notice 20 January 2016
- 30 Stratford-on-Avon District Council - Planning Committee (West) – Notice of Meeting – Tuesday, 18 August 2015
- 31 Committee Report – Application Ref: 15/02548/OUT - Core Document B7
- 32 Decision Notice – Application Ref: 15/02548/OUT – Core Document B8
- 33 Tables on OAN for:
  - RPS9 - Future Employment Trends (RPS) Unadjusted OBR Rates;
  - RPS10 - Future Employment Trends (RPS) Unadjusted OBR Rates/Household Representative Rates (HRRs);Tables on five year supply positions:
  - RPS8 - Future Employment Trends 14,500 jobs (RPS) 2012 unadjusted household projections (913 dpa);
  - RPS9 - Future Employment Trends 14,500 jobs (RPS) Unadjusted OBR Rates (888 dpa);
  - RPS9 - Future Employment Trends 14,500 jobs (RPS) Unadjusted OBR Rates and unadjusted Household Formation Rates (858 dpa)
- 34 Community Infrastructure Levy (CIL) Justification Statement, Stratford-on-Avon District Council, 22 February 2016
- 35 Section 106 revisions
- 36 Section 106 agreement – unexecuted
- 37 South Northamptonshire Council vs Secretary of State for Communities and Local Government and Barwood Land and Estates Limited [2014] EWHC 573 (Admin)

- 38 Cheshire East Council vs Secretary of State for Communities and Local Government and Richborough Estates Partnerships LLP [2015] EWHC 410 (Admin)
- 39 Court of Appeal - Grant of permission to appeal – 1 May 2015 re: Cheshire East Council vs Secretary of State for Communities and Local Government and Richborough Estates Partnerships
- 40 Court of Appeal - Replacement Skeleton – 4 January 2016 on behalf of the appellant re: Richborough Estates Partnerships LLP vs Cheshire East Council and Secretary of State for Communities and Local Government – CO/4217/2014
- 41 Costs Decision in relation to appeal ref: APP/E3715/A/12/2186128
- 42 Costs Decision in relation to appeal ref: APP/J3720/A/12/2185727
- 43 Costs Decision in relation to appeal ref: APP/N2535/A/14/2223170
- 44 Appeal decision ref: APP/J3720/A/15/3132655 – Land off Blackwell Road, Tredington CV36 4NU
- 45 Suggested conditions
- 46 An e-mail from the Council to the appellant, dated 18:43hrs 24 February 2016, regarding an additional planning condition

**Documents received after the final sitting day of the inquiry**

- 47 Closing submissions on behalf of the appellant
- 48 Application for costs made on behalf of the appellant against the Council
- 49 A statement from the appellant in relation to Community Infrastructure Levy Regulation 123 - *Pooling arrangements for s106 contributions directed at primary school education at Bidford on Avon*
- 50 Closing submissions on behalf of the Council
- 51 An application for costs made on behalf of the Council against the appellant
- 52 A response made on behalf of the Council to the appellant's costs application
- 53 A response made on behalf of the appellant to the Council's application for costs
- 54 Suffolk Coastal District Council vs Hopkins Homes Limited and Secretary of State for Communities and Local Government & Richborough Estates Partnership LLP vs Cheshire East Borough Council and Secretary of State for Communities and Local Government [2016] EWCA Civ 168
- 55 An e-mail, dated 17:12hrs 23 March 2016, from The Wilkes Partnership LLP on behalf of SWFT clarifying matters in relation to the Trust's costs application
- 56 A letter from Avon Planning Services, dated 29 March 2016, regarding the Bidford-on-Avon Neighbourhood Development Plan

- 57 A s.106 Agreement, executed 30 March 2016
- 58 A response made on behalf of the appellant to SWFT's application for costs
- 59 Appellant comments and legal Opinion, both dated 6 April 2016, in relation to the letter from Avon Planning Services,
- 60 A letter from Avon Planning Services, dated 6 April 2016, regarding the Bidford-on-Avon Neighbourhood Development Plan
- 61 The Development Plan Examination Inspector's interim calculation of 5-year supply at 31 March 2016 using OAN figure taking account of revised level of commitments, but without completions from 1 January 2016
- 62 Appeal decision ref: APP/J3720/W/15/3010653 - Marriage Hill Nurseries, 45 Salford Road, Bidford-on-Avon, Alcester, Warwickshire, B50 4EY

Richborough Estates