



Department for
Communities and
Local Government

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Our Ref: APP/J3720/W/15/3132123

13 October 2016

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY SHARBA HOMES LTD
ERECTION OF UP TO 90 DWELLINGS AT LAND TO THE WEST OF WALTON FARM,
BANBURY ROAD, KINETON, WARWICKSHIRE, CV35 0JY
APPLICATION REF: 14/03602/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of David Cullingford BA MPhil MRTPI, who held a hearing on 23-25 February 2016 into your client's appeal against the decision of Stratford-upon-Avon District Council ("the Council") to refuse your client's application for planning permission for the erection of up to 90 dwellings at land west of Walton Farm, Banbury Road, Kineton, Warwickshire, CV35 0JY, in accordance with application ref: 14/03602/OUT dated 23 December 2014.
2. On 22 March 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority; or where a neighbourhood plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the hearing

4. Following the close of the hearing, and after he had been notified by the Council of the publication of the Stratford on Avon Core Strategy Inspector's Report and the Examination Report of the Kineton Neighbourhood Plan, the Secretary of State invited additional comments from your clients, the Council, and Kineton Parish Council. The responses received are listed at Annex A. The Secretary of State has taken this

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correspondence into account but does not consider that it raises any new issues requiring wider consultation to assist him in his decision. However, 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

5. 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.
6. In this case the development plan consists of Stratford-on-Avon Core Strategy (SACS) adopted on 11 July 2016. The Secretary of State considers that the policies of most relevance to this case are CS.1, CS.5 and CS.8.
7. 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') and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Emerging plan

8. The Secretary of State has taken into consideration the emerging Kineton Parish Neighbourhood Plan (KPNP) which was approved at Referendum on 1 September 2016 and awaits being made formally by the Council. This means that the KPNP has progressed significantly along the formal processes since the appeal Inspector reported, and therefore, having regard to the terms of paragraph 216 of the Framework, the Secretary of State gives significant weight to its policies. He considers that those policies of most relevance to this case are H1, H5 and E2.

Main considerations

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR12.2.

Consistency with the Development Plan

10. For the reasons given at IR12.4-IR12.7, the Secretary of State agrees with the Inspector that the proposal would not comply with the SACS or the KPNP in that the application site sits outside the settlement boundary and the Strategic Housing Land Availability Assessment recognises that the future potential of the appeal site for housing must be subject to further consideration through the plan-making process (IR12.7).

Assimilation or intrusion

11. For the reasons given at IR12.8-12.10, the Secretary of State agrees with the Inspector at IR12.11 that the appeal proposal would not be assimilated into the landscape, but would be evident as a somewhat isolated block of development providing an uncharacteristically straight line to the edge of the settlement. He further agrees that the proposal would thus be incongruous, intrusive and damaging to the character of the settlement and the surrounding landscape, contrary to the aims of the SACS.

Agriculture

12. The Secretary of State notes the Inspector's recommendation at IR12.12 that the land "should remain as Grade 3". This appears to the Secretary of State to miss the point of

the Parish Council's argument at IR7.2 that the land should be classified as 3a ("best and most versatile") rather than 3b. However, in view of his overall conclusion to dismiss the appeal for other reasons, the Secretary of State has not considered it necessary to pursue this matter further.

The Battlefield

13. For the reasons given at IR12.13 -12.16, the Secretary of State agrees with the Inspector's conclusion at IR12.16 that the appeal scheme would not alter the setting of the registered Edgehill Battlefield sufficiently to adversely affect its significance and so would not undermine the aims of SACS Policy CS8. He therefore regards this matter as being neutral in the planning balance.

Traffic

14. The Secretary of State has carefully considered the Inspector's discussion on traffic at IR12.17-2.20. He notes the Inspector's experience that, at times during the day, the road fails to accommodate the traffic seeking to use it - incurring congestion and sometimes grid-lock. However, the Secretary of State also notes that the Inspector is not convinced that the appeal proposal would undermine the advice in the Framework by resulting in a cumulative residual effect that would be severe. In view of this uncertainty, the Secretary of State gives no weight to the matter either in favour of, or against, the scheme.

The Neighbourhood Plan

15. In considering the relevance of the KPNP and the weight to be given to it (IR12.21-12.24), the Secretary of State has taken account of the further progress of that plan since the close of the appeal hearing. He notes that the KPNP includes housing allocation sites in policies SSB1, SSB2, SSB3 and SSB4 but that the appeal site is not included, nor does it sit within the area of the KPNP (IR12.23). The Secretary of State acknowledges that the housing sites in the KPNP represent the choice expressed by local people to ensure that they get what they perceive as the right types of development in the places that they consider right for their community (IR12.24); and he agrees with the Inspector that the appeal proposal is out of kilter with the distribution of development at Kinton envisaged in that Plan.

The 5 year housing supply

16. The Secretary of State gives substantial weight to the recently adopted SACS and, within that context, he agrees with the Inspector that, for the reasons given at IR12.25-IR12.32, there is no dispute about the housing required over the Plan period. He also agrees with the Inspector that the Council are approaching the identification of a 5 year housing land supply along the right lines (IR 12.26). The Secretary of State therefore concludes that the 5 year housing land supply issue has been covered sufficiently by the recent SACS examination process, and he therefore agrees with the appeal Inspector that the Council can currently be considered to be able to demonstrate an up-to-date 5 year housing land supply.

Planning conditions

17. The Secretary of State has given consideration to the conditions set out in the Statement of Common Ground (Document 34 listed on page 77 of the IR) discussed at the hearing; the Inspector's analysis at IR12.36; and national policy as set out in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions would comply with the policy test set out at paragraph 206 of the Framework, but he does not consider

that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning obligations

18. The Secretary of State has taken account of the submitted Section 106 Agreement as discussed by the Inspector at IR12.38-12.42 and agrees with the Inspector's conclusions that, if planning permission were to be granted, all but the contributions considered at IR12.42 would accord with the provisions of paragraph 204 of the Framework and meet the statutory tests in Regulation 122 of the CIL Regulations as amended. However, he does not consider that the provisions proposed in the Section 106 Agreement are sufficient to overcome the concerns identified in this decision letter with regard to this proposal.

Planning balance and overall conclusion

19. For the reasons given above, the Secretary of State concludes that the appeal proposal is not in accordance with SACS policies CS.1, CS.5 and CS.8 and is not in accordance with the development plan as a whole. The policies in the SACS are up-to-date and no reasons have been identified to reduce the weight to be attached to any of those relevant to this appeal. Furthermore, in accordance with paragraph 216 of the Framework, he has also given increasing weight to the fact that the appeal scheme is not in accordance with the emerging KPNP as it has proceeded through the statutory processes.
20. The Secretary of State has therefore gone on to consider whether there are any material considerations which indicate that the proposal should be determined other than in accordance with the development plan and the emerging KPNP and, in that respect, he attaches significant weight in favour of the appeal scheme to the delivery of housing, including the proposed provision of up to 35% affordable housing. Against the scheme, however, he gives significant weight to its intrusion into the landscape, resulting in an incongruous addition to the village and causing permanent and prominent environmental damage to the character of the countryside and the settlement. He gives no weight either for or against the scheme to any traffic implications or to its potential impact on the Edgehill Battlefield.
21. Overall, therefore, while recognising the economic and social benefits of the scheme, the Secretary of State concludes that there would be harm to the environmental role of sustainable development as defined by the Framework. He therefore concludes that the other material considerations weighing in favour of the appeal scheme are not sufficient to outweigh the conflict with the development plan together with the other material considerations weighing against the appeal; and that the balance of other considerations, taken together, is not sufficient to indicate that the appeal should be determined other than in accordance with the development plan.

Formal decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses outline planning permission for the erection of up to 90 dwellings in accordance with application ref: 14/03602/OUT dated 23 December 2014 at land west of Walton Farm, Banbury Road, Kineton, Warwickshire, CV35 0JY.

Right to challenge the decision

23. 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.

24. A copy of this letter has been sent to Stratford-on-Avon District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Richborough Estates

Schedule of representations

DATE	CORRESPONDENT	Nature of response
26 July 2016	Jay Singh Senior Planning Officer Stratford-on-Avon District Council	Response to ref back of 05 July 2016.
26 July 2016	Kathryn Ventham Partner Barton Wilmore	Response to ref back of 05 July 2016
26 July 2016	Gina Lowe Clerk to the Council Kineton Parish Council	Response to ref back of 05 July 2016
8 August 2016	Gina Lowe Clerk to the Council Kineton Parish Council	Response to 2 nd ref back of 27 July 2016.
9 August 2016	Kathryn Ventham Partner Barton Wilmore	Response to 2 nd ref back of 27 July 2016.
16 August 2016	Gina Lowe Clerk to the Council Kineton Parish Council	Response to Final ref back of 10 August 2016
18 August 2016	Kathryn Ventham Partner Barton Wilmore	Response to Final ref back of 10 August 2016



The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by **D R Cullingford BA MPhil MRTPI**

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

Date 20 June 2016

Town and Country Planning Act 1990

STRATFORD-ON-AVON DISTRICT COUNCIL

Appeal

by

SHARBA HOMES LIMITED

Hearing held on 23-25 February 2016

An accompanied site visit was undertaken on 24 February and an unaccompanied visit was made on 26 February 2016

Land to the west of Walton Farm, Banbury Road, Kineton, Warwickshire, CV35 0JP

File Reference: APP/J3720/W/15/3132123

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Land to the west of Walton Farm, Banbury Road, Kineton, Warwickshire, CV35 OJY

- This appeal is made under sections 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is by Sharba Homes Limited against the decision of the Stratford upon Avon District Council.
- The application (ref: 14/03602/OUT and dated 23 December 2014) was refused by notice dated 16 July 2015.
- The development proposed is described as an 'outline planning application with means of access from Banbury Road, Kineton for consideration, all other matters (layout, appearance, scale and landscaping) reserved for subsequent approval, for the erection of up to 90 dwellings, landscaping, including creation of ecological enhancement area, land safeguarded for potential future vehicular and pedestrian link, earthworks to facilitate surface water drainage and all other ancillary infrastructure and enabling works'.

Summary of Recommendation: ~ That the appeal be dismissed.

1. Procedural Matters

1.1 I held an hearing between 23 and 25 February 2016 at the Falcon Hotel, Chapel Street Stratford upon Avon into an appeal made by Sharba Homes Limited under sections 78 and 79 of the Town and Country Planning Act 1990. I undertook an accompanied site inspection on 24 February 2016 and an unaccompanied inspection of the site and its surroundings on 26 February. Subsequently, on 9 March 2016¹, Kineton Parish Council requested the Secretary of State to consider recovering both this, and an appeal relating to the erection of some 33 dwellings on an adjacent site (Brooklands Farm). The Secretary of State directed that he should determine this appeal himself in the letter dated 22 March 2016.

The proposal in outline

- 1.2 The bulk of the appeal site (roughly 4ha) is a fairly narrow rectangular arable field at the eastern edge of Kineton, an attractive Warwickshire village. It rises gently to a local ridge, marked by an intermittent line of silhouetted trees some 10m above the Banbury Road. To the west are roadside cottages and the flat roofed buildings at Kineton High School (a 'specialist' sports college) in front of extensive playing fields; the village lies beyond. To the east is a small group of modern houses arranged around a cul-de-sac (Walton Fields) and some sporadic ribbon development that peters out amongst the surrounding fields. A farm track skirts the eastern boundary of the site from Banbury Road. Some 200m beyond the ridge line it crosses the remnants of a dismantled railway to reach the remainder of the appeal site, a separate 'hammer-head' of arable land extending to almost 1.9ha².
- 1.3 The scheme is submitted in outline with all matters except for the means of access reserved for subsequent approval; the access arrangements would utilise the entrance to the existing farm track from Banbury Road. The proposal is for 'up to 90 dwellings', envisaged as a range of 2, 3 and 4-bedroom family homes, including some 35% as affordable units (about 32 dwellings). The submitted Master Plan incorporates some 42% of the whole site (over 2.4ha) as open space or as an 'ecological enhancement area'. The open space is shown distributed through the proposed estate in the form of play areas, amenity space, landscape buffers and a

¹ Document SR.A

² Documents 2, 13, 34, 37 and 42

SUDS attenuation feature. The 'ecological enhancement area' would occupy the separate 'hammer-head' area beyond the dismantled railway line¹.

The application and the recommendation

1.4 The planning application form is dated 23 December 2014, but submitted and validated on Christmas Eve; it was reported to the committee in July 2015. The appellants worked with officers throughout the determination of the application to respond to matters raised by statutory consultees and third parties. The scheme was recommended for approval, subject to conditions and the execution of a section 106 Agreement securing contributions towards the provision of affordable housing, community, transport, health and education facilities and the maintenance of open space. The reasons for the recommendation were that²:

- Although the proposal would conflict with certain 'saved' policies of the Development Plan, those policies would not be wholly consistent with the Framework (NPPF) and other material considerations would weigh in favour of the scheme. In particular, the overall economic, social and environmental outcomes of the proposal would result in 'sustainable development' and, subject to the implementation of a section 106 Agreement and adherence to several planning conditions, the benefits of the scheme would outweigh the identified harm.
- The policies cited in the Planning Officer's report were: Stratford-on-Avon Local Plan Review 1996-2011 (adopted 2006): - policies STR.1, CTY.1, PR.1, PR.7, PR.8, DEV.1, DEV.2, DEV.4, DEV.7, EF.4, EF.6, EF.7, EF.13, EF.14, COM.4, COM.5, COM.13 and COM.14, and the Stratford-on-Avon Core Strategy, Proposed Submission with Modifications June 2015: - policies CS.1, CS.4, CS.5, CS.6, CS.8, CS.25.

The reasons for refusal and for recovery

1.5 In the event, however, the decision was made to refuse the application, contrary to officers' recommendation³. The reasons for refusal were:

1. In the opinion of the Local Planning Authority, the proposed development would result in unacceptable harm to the landscape character and visual amenity of the area, and the adverse impact of the development would significantly and demonstrably outweigh the benefits of the proposal contrary to the provisions of 'saved' policies PR.1, DEV.1 and EF.4 of the Stratford on Avon District Local Plan Review 1996-2011, policies CS.1 and CS.5 of the Emerging Stratford on Avon Core Strategy, Proposed Submission with Modifications, June 2015 and paragraphs 14, 17 (bullet point 5) and 109 of the National Planning Policy Framework and principles of the Planning Practice Guidance.
2. The proposed development of up to 90 dwellings will result in a significant number of additional traffic movements on the local highway network. In the opinion of the Local Planning Authority, the impacts of the additional vehicle movements will be severe and, together with other cumulative increases in traffic on the local highway network, such impacts cannot be effectively mitigated by improvements to the local highway network, thus leading to unacceptable levels of traffic generation, congestion and associated highway dangers on the local highway network contrary to provisions of 'saved' policy DEV.4 of the Stratford on Avon District Local Plan Review 1996-2011, policy CS.25 of the Emerging Stratford on Avon Core Strategy Proposed Submission with Modifications June 2015, and paragraph 32 of the National Planning Policy Framework and principles of the Planning Practice Guidance.
3. In the opinion of the Local Planning Authority, the development of this site would result in unacceptable harm to the historic character, appearance and setting of the Registered Battlefield of Edgehill, a designated heritage asset, that would not be outweighed by the public benefits of the proposal contrary to 'saved' policy EF.4 of the Stratford on Avon District Local Plan Review 1996-2011 and policies CS.1 and CS.8 of the Emerging Stratford on Avon Core Strategy Proposed Submission with Modifications June 2015, paragraphs 14, 17 (bullet point 10), 131, 132 and 133 of

¹ Documents 13, 34, 37 and plans A, B and C, application on file

² Documents 13, 34, 37

³ Document 4.1

- 1.6 After the Hearing the Kineton Parish Council wrote to the Secretary of State on 9 March 2016 requesting that he recover both this, and an appeal relating to the erection of some 33 dwellings on an adjacent site (Brooklands Farm) for his own determination¹. They pointed out that a criterion for recovery had been introduced in 2014 and extended as recently as January 2016 involving:

proposals for residential development of over 10 units in areas where the qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made

- 1.7 They also indicated that, in this case, the 2 appeals involved the erection of 123 dwellings on 2 adjacent sites in an area where a neighbourhood plan had been submitted to the local planning authority². The Kineton Neighbourhood Development Plan has now reached an advanced stage. It was submitted to Stratford-on-Avon District Council on 19 June 2015 and has undergone a formal consultation and independent examination, the latter resulting in a report and recommendation from the examiner (dated 11 January 2016) that the Plan proceeds to a referendum, subject to certain further modifications³. The Parish Council are now working with Stratford on Avon District Council to agree the modifications required and anticipate that the referendum version of the Kineton Neighbourhood Development Plan will be submitted to the Council for approval in April 2016; it will then proceed to the referendum⁴. Neither appeal site is allocated for housing in the current version of the Plan. Indeed, both sites were specifically excluded from the Plan following early consultation with the local community⁵. Nor is either site identified for housing in the emerging Core Strategy⁶. This too is at an advanced stage, having been submitted in September 2014, examined in January 2015, modified in response to the Inspector's interim conclusions and re-examined in January 2016, with the result that (subject to some further modifications) the examining Inspector now indicates that the Core Strategy is likely to be found sound⁷. Hence, allowing residential development on either appeal site would not accord with the current versions of the Neighbourhood Plan or the emerging Core Strategy.
- 1.8 In those circumstances, it is suggested that it would be premature to determine these appeals now. To do so could prejudice this Neighbourhood Plan and discourage other communities from engaging with that process. Indeed, these appeals are being monitored by over 30 communities within the District and the Parish Council believe that they raise issues of significant national and local interest. To allow the developments proposed now would run counter to the exhortation in the Framework that development should be genuinely plan led and empower local people to shape their surroundings: it would also be inconsistent with the decision to recover an appeal in Lydney, Gloucestershire⁸, where the Lydney Neighbourhood Plan was at the same advanced stage as that at Kineton: and, it would undermine the Guidance (NPPG)⁹, which indicates that

¹ Document SR.A

² Documents 38.3&4

³ Documents 20 & 22

⁴ Document 23, but also see document SR.E which explains that the anticipated programme has not materialised

⁵ Document 23

⁶ Document 12

⁷ Document SR.E

⁸ Appeal Ref. APP/P1615/A/14/2218921

⁹ Ref ID: 41-007-20140306

decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan

- 1.9 As the Kineton Neighbourhood Development Plan allocates sufficient land for housing to meet the provisions of the emerging Core Strategy, safeguards additional land for housing to accommodate contingencies, has successfully undergone an independent examination and awaits its imminent endorsement for a local referendum, the Parish Council requested the recovery of both these appeals for determination by the Secretary of State.
- 1.10 After due consideration, the Secretary of State directed that he should determine this appeal himself in the letter dated 22 March 2016. The reason for recovery was that:

... the appeal involves a proposal for residential development of over 10 units in areas where the qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made

The need for EIA

- 1.11 Although this 'urban development project' falls within the descriptions set out at paragraph 10b of Schedule 2 and exceeds the thresholds in column 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, the Screening Opinion issued by the Council on 15 January 2015¹ indicates that the scheme would not entail development in a sensitive area and would be unlikely to have any significant environmental effect, bearing in mind the criteria set out in Schedule 3 to the Regulations. Accordingly the scheme is not EIA development and an Environmental Statement is not required. Nevertheless, the application was accompanied not just by:

- A Planning statement and
 - A Design and Access Statement
- But also by:
- An Ecological Appraisal
 - An Education Impact Assessment
 - A Transport Assessment
 - A Flood Risk Assessment
 - A Ground Condition Survey
 - A Utilities Statement
 - A Lighting Assessment
 - An Agricultural Statement
 - An Arboricultural Report
 - A Landscape and Visual Impact Assessment
 - An Heritage Assessment
 - A Public Consultation Report, and
 - A Planning Performance Agreement

¹ On file

2. The Site and the Surroundings

*The site*¹

- 2.1 The site consists of 2 distinct parts. The bulk of it is an arable field towards the eastern edge of Kineton that rises up the gentle valley slopes from the Banbury Road (B4086) and the stream-like River Dene to a small 'flattened' ridge roughly 400m from the roadside at the top of the site. This field extends to about 4ha. A farm track provides access from the Banbury Road and rises beside the eastern boundary from 80m AOD to 90m AOD astride the ridge, a difference of about 10m across a gradient of up to 1:16. The land appears well tended. The gentle open slope is evident beyond a carefully trimmed hedge on the Banbury Road frontage and there is a tightly trimmed hedge, with one or two hedgerow trees, that rises beside the eastern boundary and the farm track. Less evident from the roadside are the outgrown hedges, fences and trees, together with a small area of scrub and burgeoning saplings, in the north west corner, though the trees, together with some outgrown hawthorns on the northern boundary are silhouetted on the sky line, marking the line of the local ridge². A power line on 8m timber poles crosses the front of the site. A mix of fences and hedges separate the site from the dwellings around the cul-de-sac at Walton Fields to the south east. The peripheral hedges and trees, along with the semi-improved grassland margins, provide the main natural vegetation on the site. The agricultural land is deemed to be grade 3, although whether 3a or 3b is a matter in dispute³. It is wholly within Flood Zone 1. The intention is that this field would accommodate the 90 dwellings proposed.
- 2.2 The rest of the appeal site consists of a separate 'hammer-head' of arable land extending to almost 1.9ha. This is narrow and awkwardly configured. It lies some 200m beyond the ridge line and the main part of the site beside the remnants of a dismantled railway. The farm track also provides access to this separate sliver of land on a local plateau amongst hedges and intermittent hedgerow trees. The intention is that this land would be transformed into an 'ecological enhancement area'⁴.
- 2.3 Immediately to the west and adjacent to almost the southern half of the main site stand the fairly modern, flat-roofed buildings of Kineton High School. This is a specialist 'sports college' with an expanse of playing fields further north adjacent to the top half of the appeal site; here there is also an all-weather pitch behind green fencing adorned with 8 prominent floodlights. Cottages behind long front gardens stand in front of the school and face Banbury Road; they are encircled by a one-way vehicular access arrangement to the school. To the east, beyond the open frontage of the appeal site, is a small group of modern houses arranged around a cul-de-sac at Walton Fields; that development partially screens the older buildings at Brooklands Farm, to the rear. Further east about half a dozen detached dwellings line the northern side of the road shortly giving way to surrounding fields and farmland. A few bungalows, a row of cottages and an unused commercial unit stand on lower ground opposite the site and to the south of Banbury Road; beyond, bits of left-over land and rural plots fall towards the banks of the modest River Dene⁵.

¹ Documents 2, 13, 34, 37 and 42

² Views in documents 3, 43 and 44

³ Agricultural statement on file and response from Parish Council in document 27

⁴ Plans A.1 & C

⁵ Views in documents 3, 43 and 44 and Plans D&F

2.4 A detailed assessment of the site was undertaken in the context of a *Landscape Sensitivity Assessment*¹. It is deemed to lie within a pattern of small to medium scale regular fields in mixed agricultural use amongst trimmed, or sometimes outgrown, hedges and scattered trees. There are distant views towards Edgehill to the south-east and, beyond the local ridge, to the higher sylvan ridgeline that ends at Pittern Hill (to the north west) forming a sylvan backdrop to the local skyline. The main sensitivities derived from the immediate surroundings are described as the stream corridor and associated ridge and furrow fields, the minor ridge skyline to the north east and the openness of the countryside to the north and east. It is suggested that there is potential for housing along Banbury Road between the college and the cul-de-sac at Walton Fields, but no further north than the latter to ensure that the settlement edge is 'stepped and well below the minor ridge top'.

*The surroundings*²

2.5 The site adjoins Kineton village separating the bulk of the settlement from limited outlying sporadic development along Banbury Road. The core of the village rises from the lower slopes above the River Dene and is centred at a 'crossroads', barely 400m from the appeal site, where Warwick Road, Southam Road, Banbury Road and Bridge Street meet beside St Peter's Church. It is an attractive place containing several Listed Buildings. Most are close to the centre of the village, the nearest to the appeal site being some 200m distant. The village accommodates a village hall, a sports club, a social club, 2 doctors' surgeries, public houses, churches, a primary school, a secondary school, a fish and chip shop, a grocery store, a post office, estate agents and, until recently, a bank. There are bus services to Stratford-on-Avon, Royal Leamington Spa and Banbury (albeit fairly limited) and about a dozen 'scholar' services to Kineton High School at the start and end of the school day. The need for buses and other large vehicles to negotiate a path past parked cars, together with the additional traffic through the village at peak hours, can cause serious congestion; indeed, during my site visit I saw that the streets were practically grid-locked for about half an hour or so during the morning school run. Nevertheless, due to the presence of such facilities, Kineton is classified as one of 8 'main rural centres' in the emerging Core Strategy³ and as a 'sustainable location'⁴. It is, however the smallest 'main rural centre' with a population amounting to some 2,000 souls, barely half (and sometimes less than a third) of all the other 'centres', save that of Henley in Arden, which is marginally larger⁵.

2.6 Kineton is the focus for a rural road network centred on the B4086 connecting Banbury and Wellsbourne (another 'main rural centre' almost 3 times the size of Kineton and about 6km to the west). Rural roads connect the village to the A422 between Stratford-on-Avon and Banbury about 4km to the south and to junction 12 on the M40 about 5km to the north east. Little Kineton (or Little Kington), an attractive collection of cottages and farmsteads around a pleasant green, lies at the confluence of rural roads and tracks that gather roughly 500m to the south of the village to cross the bridge over the River Dene⁶.

2.7 Beyond the cottages, shops, public houses and churches at the centre of the village, estates have mushroomed to the east and west; further development, now entailing an estate of some 107 homes, is currently underway at the northern edge of the

¹ Document 2.C

² Documents 2, 13, 34, 37, 42, 49 and 50.1

³ Document 12

⁴ Document SR.E, Inspector's interim findings

⁵ 2011 Census figures

⁶ Document 50.1 and plan F

village beyond the cemetery beside Southam Road¹. The village is described as a 'hybrid' hilltop and valley bottom settlement². On the eastern side of the village (beside the appeal site), the pattern of development steps down from the estates on higher ground towards the road, with the school playing fields creating an open area towards the school buildings which continues across the appeal site to the roadside development on Banbury Road. To the south of the road and beyond the River Dene, roughly 120m to the south of the appeal site, is the northern boundary of the 'registered battlefield' of Edgehill. This extends across an expanse of mainly open and largely low-lying land from the steep slopes beneath Edgehill to the edge of Kineton and Little Kineton, a distance of some 4km³.

- 2.8 The surrounding landscape is included within the Dunsmore and Feldon National Character Area, in the Feldon Lias Village Farmlands in the Warwickshire Landscape Guidelines and in the Feldon Lias Uplands in the Stratford-on-Avon District Design Guide. Essentially this is a landscape of alternating swathes of hill country between clay vales where 'open fields' were widespread and subsequent enclosures large and geometric. But, within this there is a farmed landscape of small to medium sized fields enclosed by thorn hedges with views framed by low rounded ridges⁴.

Richborough Estates

¹ Document 38.2

² The Stratford Design Guide

³ Document 2

⁴ Documents 2 and 42

3. The Proposal

- 3.1 The scheme is submitted in outline with all matters except the means of access reserved for subsequent approval¹.
- 3.2 The access arrangements would utilise the entrance to the existing farm track from Banbury Road, improved to provide a carriageway 6m in width together with a footway and cycle-way some 3m wide. Visibility splays of 2.4m by 65m would be created along the Banbury Road frontage necessitating a Traffic Regulation Order to prevent on-street parking there².
- 3.3 The proposal is for 'up to 90 dwellings', envisaged as a range of 2, 3 and 4-bedroom family homes, including some 35% as affordable units (about 32 dwellings). The Design and Access Statement and the illustrative Master Plan show how the main access road might curve through the site and, rather than ending in a cul-de-sac, continue another 200m or so to the area demarcated for 'ecological enhancement' beyond the dismantled railway line. The section 106 Agreement³ indicates that this would also offer the potential to provide a pedestrian link to the 'Bloor Homes' development currently underway at Southam Road. Small culs-de-sac and drive-ways are shown off the main access road through the estate, each serving an identifiable group of dwellings and accommodating adequate off-street parking. Roughly 42% of the whole site (over 2.4ha) is shown as open space or as the separate 'ecological enhancement area'. The open space is shown distributed through the proposed estate in the form of play areas, amenity space or landscape buffers. The latter is to include 4m wide 'buffer planting' to the boundaries as part of an overall landscape strategy and a 10m-15m strip adjacent to the High School's floodlit all-weather pitch to mitigate the intrusive effects of the floodlights. Existing landscape features are to be largely retained. The main areas of open space are shown as a 'village green' with a play area within the estate and a landscaped attenuation pond by the roadside. Although the site is within flood zone 1, the SUDS attenuation pond would ensure that the scheme would not exacerbate surface water run-off. Dwellings are shown set back behind this pond aligning with the cottages to the west⁴.
- 3.4 The parameters relating to green infrastructure, open space and the maximum developable areas are set out on a 'Concept Master Plan Drawing'. A low quality hawthorn and a moderate quality sycamore would need to be removed and some cutting back of the eastern hedgerow would be required. However, works to the hedge row would be off-set by replacement planting; all other trees would be retained. A protected oak tree on the northern edge of Walton Fields, but beyond the appeal site, would require appropriate root protection measures⁵.
- 3.5 The 'ecological appraisal'⁶ demonstrates that the site offers little of nature conservation interest and what there is, is likely to be confined to the peripheral landscape features. However, there are existing ponds to the north of Banbury Road and a record of a great crested newt found in a garden about 120m from the site. Hence, subject to appropriate conditions relating to great crested newts, badgers and a landscape and ecological enhancement plan, no objections are raised on

¹ Document 34

² Document 49 and plan A.2

³ Document 14

⁴ Documents 13, 34, 37 and 42 and plan C

⁵ Documents 13, 42 and D&A (on file), also plan C

⁶ On file

ecological grounds, particularly as the 'ecological enhancement area' should result in greater biodiversity.

3.6 The section 106 Agreement, subject to CIL compliance, offers the contributions and arrangements listed below¹. The only contribution engendering any dispute relates to education and, even then, mainly to the contributions sought in respect of additional provision for secondary and sixth form facilities. The main provisions require:

- £90,000 in staged payments towards an upgrade to bus services providing a regular hourly service to both Leamington Spa and Stratford-on-Avon;
- £20,000 towards the enhancement of nearby bus stops;
- £6,000 to support a Traffic Regulation Order preventing on-street parking on Banbury Road in the vicinity of the site;
- Up to £6,750 to provide 'sustainable welcome packs' promoting safe and sustainable local travel;
- Measures to secure 35% of the dwellings as affordable homes, 75% of which are to be social rented units and 25% intermediate;
- Measures to provide, maintain and manage the play areas and areas of open space;
- £215,661 for additional early years, primary, secondary and sixth form education provision;
- up to £2,517 to enhance 'community library' facilities;
- Up to £14,917.50 to improve off-site youth and adult public open space and sports facilities in Kineton;
- £9,750 towards the improvement of existing public rights of way within a 1.5 mile radius of the site;
- £93,597 towards acute health care facilities; and
- Up to £6,120 towards improvements to facilities at the Village Hall.

3.7 Conditions are suggested in connection with the appeal scheme². They are intended to:

- Ensure that the development is carried out along the lines currently indicated;
- Restrict the height of the dwellings on the higher parts of the site in line with the 'building heights' plan;
- Ensure that the green infrastructure, landscaping and public open space is provided and that the maximum extent of developable area is restricted, as shown on the Concept Master Plan Drawing;
- Provide satisfactory access and parking arrangements;
- Minimise car-borne travel;
- Provide details of pedestrian connectivity in relation to the village and neighbouring development;
- Include provision to safeguard land for a future road and pedestrian link to form an 'eastern bypass' for school traffic;
- Include mitigation measures in relation to the floodlighting at the High School;
- Prevent any exacerbation of flood risks and provide for the 'sustainable drainage' of the site;
- Prepare and instigate a landscape and ecological management plan, including the ecological enhancement of the land to the north;
- Require surveys and mitigation measures relating to badgers and great crested newts;

¹ Documents 14, 15 and 16

² Document 34

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- Require an archaeological investigation and ensure that any finds are properly recorded; and,
 - Control construction and construction traffic to reduce road hazards and the impact of the work on residents.

Richborough Estates

4. Policy

The Development Plan

- 4.1 The Development Plan currently consists of the 'saved' policies in the Stratford-on-Avon Local Plan Review 1996-2011 (adopted in July 2006)¹.

*The Local Plan*²

- 4.2 The site benefits from no special designation in the Local Plan; it is an arable field beyond the eastern edge of the village. The reasons for refusal cite 4 of the 'saved' policies in the Local Plan. Policy PR.1 aims to ensure that development respects the quality and character of the landscape and any settlement: policy EF.4 focuses on the protection of historic landscapes: policy DEV.1 requires that layout and design have regard to the character and quality of the local area: and, policy DEV.4 deals with access arrangements and several matters relating to the overall design and layout of development.
- 4.3 Policy PR.1 states that:
- All development proposals should respect and, where possible, enhance the quality and character of the area.*
- Proposals that would damage or destroy features which contribute to the distinctiveness of the local area will not be permitted unless significant public benefit would arise from the scheme. The value attached to such features by local communities will be taken into account.*
- In assessing all applications for development, thorough consideration will be given to the detailed guidance provided in supplementary planning guidance adopted by the District Council, including the District Design Guide, Countryside Design Summary and Village [or] Town Design Statements.*
- 4.4 In aiming to ensure that development respects the quality and character of landscapes and settlements, this policy echoes 'core principles' in the Framework (NPPF), particularly those extolling the enhancement and improvement of places in which people live their lives, securing high quality design and a good standard of amenity for all and recognising the intrinsic character and beauty of the countryside. The importance of the theme is emphasised in the advice that 'good design' should be a key aspect of 'sustainable development' and indivisible from good planning, contributing 'positively to making places better for people'; schemes 'should establish a strong sense of place' responding 'to local character and history' and reflecting 'the identity of local surroundings'.
- 4.5 Policy EF.4 states that:
- The protection and maintenance of the historic character of the landscape will be sought through the careful assessment of planning applications. In particular, permission will not be granted for development which would have a detrimental impact on the historic landscape character.*
- Opportunities to enhance such features as part of development proposals or through specific initiatives will be promoted.*
- 4.6 Here the protection and maintenance of the historic character of landscapes gains some broad support from the advice in the Framework and its 'core principles', though not quite in the terms set out in the 'saved' policy. The 'core principles' seek to 'conserve heritage assets in a manner appropriate to their significance' while schemes should respond 'to local character and history'. Historic landscapes may

¹ Document 34

² Documents 4, 34 and 37

not be 'heritage assets'. And, even where an 'historic landscape' might be adversely affected by development, the refusal of planning permission might not always be warranted¹. Nevertheless, some consideration of the matters raised by this policy is endorsed by the Framework.

4.7 Policy DEV.1 states that:

Development proposals will be required to have regard to the character and quality of the local area through the layout and design of new buildings and the extension or change of use of existing buildings.

The following principles will be taken into account in determining all planning applications:

- a) The extent to which the characteristics that define the locality are shared by the proposals;*
- b) The manner in which the proposed development is integrated with the existing settlement in terms of physical form, patterns of movement and land uses;*
- c) The interrelationship between the components making up the development, including buildings, landscaping, open space and access routes;*
- d) The effect of the development on the surrounding area in terms of position, shape, size and height;*
- e) The provision of appropriate standards of amenity within the development and the extent to which the general amenity of adjoining properties is protected;*
- f) The extent to which important existing features on the site are retained or incorporated into the development;*
- g) The suitability of innovative design to the specific circumstances of the case;*
- h) The use of materials and forms of detailing within the scheme.*

Applications which fail to address adequately the above principles will not be permitted. Applications should be accompanied by a statement which sets out how design issues have been taken into account in formulating the proposal.

4.8 Efforts have been made to comply with this policy; a Landscape and Visual Assessment was submitted. But, as the proposal was made in 'outline', many details such as design, layout, the size and shape of the dwellings, the materials to be used and the distribution of amenity space are to be reserved for subsequent approval. Even so, an indicative layout was provided and a parameters plan demonstrated how the heights of units on the northern part of the site could be limited². The provision of public open space would accord with policy requirements and an Arboricultural Report demonstrated that only 2 trees would be removed to facilitate the development, though extensive new planting is proposed³. The Design and Access Statement provides an indication of how the scheme responds to its surroundings.

4.9 Policy DEV.4 states that:

New or improved access arrangements to serve development will be treated as an integral part of the overall layout and their design will be required to:

- a) Ensure that the safety of all road users and pedestrians is not impaired;*
- b) Reflect the function of the access arrangements in the hierarchy of routes within the settlement and the character of the area;*
- c) Incorporate speed management measures which are appropriate to the function of the road and the development it serves;*
- d) Create a safe and attractive environment to promote walking and cycling;*
- e) Provide scope in appropriate circumstances for bus services to operate through or close to the development;*
- f) Allow for a range of possible uses in the detailed specification of carriageways, footways and verges;*

¹ Document 25

² Plan C and views in document 44

³ Documents 13 and 42

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- g) Distribute vehicular traffic appropriately around the development and the wider area;*
 - h) Provide, where possible, a choice of vehicular and non-vehicular routes within the development and to connect to the wider area; and*
 - i) Minimise impact on the landscape, existing properties and features of ecological and historic importance.*

- 4.10 The second reason for refusal alleges that the additional traffic generated by this scheme would result in unacceptable levels of traffic creating congestion and associated highway dangers. Hence, in citing conflict with this policy, the Decision Notice¹ would appear to refer only to criteria a) and d), above.
- 4.11 In addition, 'saved' policy STR.1 sets out a settlement hierarchy with Stratford-on-Avon identified as a 'main town' and Kineton shown as a 'second tier' settlement, being one of 8 'main rural centres'. The hierarchy identifies 'local centre villages' as 'third tier settlements' and 'other settlements' within a 'fourth tier'. The aim of the policy was to direct development to sustainable locations in line with the then extant Structure Plan, but recognising the important social and economic role played by the larger rural settlements, such as Kineton².

*The Core Strategy*³

- 4.12 The emerging Core Strategy was submitted for examination at the end of September 2014. The examining Inspector held 2 stages of hearings, the first in January 2015 and the second in January 2016. The latter were held to consider the Core Strategy Proposed Modifications, published in July 2015 as a response to the Inspector's Interim Conclusions on the submitted Plan. Essentially, modifications were made to the overall target and distribution of housing, as well as to matters relating to employment land. The housing requirement was raised from 10,800 to 14,480 in order to take account of the latest housing projections and to accommodate the additional employment anticipated. Following the second set of hearings, a Schedule of Main Modifications was published in March 2016 for consultation. This raises the housing requirement to 14,600. At the same time the examining Inspector set out his view of the 5-year housing land supply for the purpose of consultation only. The calculation takes account of the updated requirement, applies a 20% buffer to both the estimated shortfall and the annual requirement and sets this against the estimated provision. The result indicates the availability of sufficient deliverable sites to provide for the housing required over the next 5.4 years, albeit that the completions in the first quarter of 2016 are omitted. Nevertheless, that is a position put forward for consultation, the results of which have yet to emerge. Moreover, it is a position that is disputed here, is likely to be contested by some objectors to the Plan and is different from the findings made in the context of other recent appeals within the District⁴.
- 4.13 In relation to Kineton, the Strategy is to provide for about 100 homes plus any windfall development within the village over the Plan period. In addition, amongst other things, the intention is to maintain a green corridor along the Dene Valley to preserve the separate identities of Kineton and Little Kineton and the open character of the landscape, as policy AS.5 indicates. The Proposed Modifications do not alter that general stance⁵.

¹ Document 4.1

² Documents 4 and 37

³ Documents 4, 7, 37 and SR.E

⁴ Document SR.D

⁵ Document 13

- 4.14 The Core Strategy is clearly at an advanced stage on its path to adoption, so that the weight to be given to its emerging strategy and policies may depend upon their consistency with the Framework and the nature of any outstanding objections. The settlement hierarchy set out in the Local Plan remains and Kineton is still denoted as a 'second tier' settlement, albeit the smallest of the 8 'main rural centres'. In his Interim Conclusions, the examining Inspector indicated that¹;

There appears to be a broad measure of support for a distribution that identifies Stratford-upon-Avon and the 8 Main Rural Centres as sustainable locations. ... Whilst the proposed distribution would see around 49% of new dwellings directed to these 9 towns, which is slightly below the 55% of the District's existing population that they accommodate, the housing strategy essentially perpetuates the existing balance. There is no obvious reason why the existing pattern should be called into question and so I consider that it is appropriate to focus at least 49% of the housing requirement into these 9 existing settlements.

I consider that it would be an unnecessary complication to formally distinguish between different types of Main Rural Centre, such as primary and secondary. ... the distribution between the Main Rural Centres is uneven in any event. The distribution to Main Rural Centres might be said to be about right, but there remains scope to increase the amount. In my view it is material that they presently house more than 33% of the resident population and generically [that] the 8 Main Rural Centres appear to be a highly sustainable location.

- 4.15 He also noted that nearly half of the dwellings granted planning permission since 2011 or on allocated sites within the 'main rural centres' were in either Alcester or Southam, although that appeared to be consistent with the employment allocations. And, that the latest SHLAA (2012) identified several potential housing sites associated with those settlements unaffected by the sort of constraints where specific policies in the Framework might indicate that development should be restricted, so justifying the suggestion that scope might remain to increase the amount of housing accommodated by 'main rural centres'.
- 4.16 There are 4 policies in the emerging Core Strategy² cited in the reasons for refusal; policy CS.1 deals with sustainable development, policy CS.5 addresses landscape issues, policy CS.8 focusses on the historic environment and policy CS.25 is directed at transport and communication matters. It is agreed that all those policies warrant at least 'moderate' weight, since all are broadly consistent with the Framework³. The operative parts of each policy that appear to have influenced the reasons for refusal are:

Policy CS.1

The Council supports and will apply the principle that planning to secure a high quality environment, managed economic growth and social equity are of equal importance. 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. Development should be located and designed so that it contributes towards the maintenance of sustainable communities within the District. ...

Planning applications that accord with the policies in the Core Strategy (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies in the Core Strategy that are relevant to the application, the Council will grant permission unless material considerations indicate otherwise, taking into account whether any adverse impacts of granting permission would significantly

¹ Document SR.E

² Document 13

³ Documents 34 and 35

and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole; or specific policies in the Framework indicate that development should be restricted.

- 4.17 The policy thus aims to incorporate the presumption in favour of sustainable development as set out in the Framework. The Proposed Modifications published in March 2016 incorporate a reference to reusing previously developed land, but do not affect the elements reproduced above.

Policy CS.5

The landscape character and quality of the District will be maintained by ensuring that development takes place in a manner that minimises and mitigates its impact and, where possible, incorporates measures to enhance the landscape. Development should have regard to the local distinctiveness and historic character of the District's diverse landscapes. Development should protect landscape character and avoid detrimental effects on features which make a significant contribution to the character, history and setting of a settlement or area. Measures should be incorporated into development schemes to enhance and restore the landscape character of the locality.

- 4.18 In this case, an assessment of the likely visual impacts of the proposal on the local landscape and its wider setting has been undertaken (as the policy requires) and a Landscape and Visual Impact Assessment has been submitted. The Proposed Modifications recast this policy in a positive stance and make it less insistent on the submission of a Landscape and Visual Impact Assessment¹. However, the operative tests and its general requirements largely remain.

Policy CS.8

The District's historic environment will be protected and enhanced for its inherent value and for the enjoyment of present and future residents and visitors. Through a partnership approach, the Council will seek opportunities to promote the historic environment as a catalyst for enhancing the vitality of the District.

Priority will be given to protecting and enhancing the wide range of historic and cultural assets that contribute to the character and identity of the District, including:

1) designated heritage assets such as Listed Buildings, Conservation Areas, Registered Gardens, the Battle of Edgehill Historic Battlefield, Scheduled Monuments, and sites of archaeological importance, and their settings

2) non-designated heritage assets and their settings

Where proposals will affect a heritage asset, including involving its harm or loss, they will only be permitted in exceptional circumstances. Applicants will be required to undertake and provide an assessment of the significance of the asset using a proportionate level of detail relating to the likely impact the proposal will have on the asset's historic interest. In assessing whether exceptional circumstances exist, the following factors will be considered:

3) The impact of the harm or loss of the heritage asset on the structure or setting of any other heritage asset, including the character and appearance of a Conservation Area

- 4.19 Assessments of the impact of the scheme on the registered battlefield site at Edgehill have been undertaken both in visual terms through the Landscape and Visual Impact Assessment and in terms of understanding the significance of the battle itself through the Heritage Assessment². However, the Proposed Modifications recast this policy to reflect the guidance in the Framework. The policy now is proposed to read as:

Policy CS.8, as currently proposed to be modified

Where proposals will affect a heritage asset, applicants will be required to undertake and provide an assessment of the significance of the asset using a proportionate level

¹ Documents 42 and 43.3&4

² Documents 42 and 45

of detail relating to the likely impact the proposal will have on the asset's historic interest.

Proposals which would lead to substantial harm to, or total loss of significance of, designated heritage assets will only be permitted where substantial public benefits outweigh that harm or loss and it is demonstrated that all reasonable efforts have been made to sustain the existing use or find reasonable alternative uses.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm must be justified and weighed against the public benefits of the proposal, including securing its optimum viable use. For non-designated heritage assets, proposals will be assessed having regard to the scale of any harm or loss and the significance of the heritage asset.

Where harm or loss of a heritage asset can be fully justified, as part of the implementation of the proposal the District Council will require archaeological excavation and/or historic building recording as appropriate, followed by analysis and publication of the results.

- 4.20 The impact of a scheme is to be assessed in relation to its effects on the significance of a heritage asset and whether any damage is substantial or less than substantial. There is no explicit reference to the setting of such an asset, although the setting might contribute to the significance of an asset and the statutory provisions would also apply.

Policy CS.25

Development will only be permitted if the necessary mitigation is provided against any unacceptable transport impacts which arise directly from that development.

- 4.21 Many of the measures required in seeking to avoid 'unacceptable transport impacts' have been undertaken¹ including, the submission of a Transport Assessment, measures to minimise car-borne travel, an indication of the necessary works to accommodate the scheme, provisions to secure appropriate contributions towards local public transport services and support for community transport initiatives, the provision of new and improved pedestrian and cycle routes and the preparation of a Travel Plan. Modifications are proposed to this policy, but they do not affect the element set out above.

The evidence base

- 4.22 The main part of the appeal site was assessed in the SHLAA 2012². It was deemed to be in an attractive location for developers where sale values would be expected to be sufficient to support likely planning obligations and the requirements for affordable housing. There were no ownership or physical constraints and development on about half of the site was expected to deliver about 70 dwellings. However, because its development was deemed to be contrary to policy, the site was considered to be 'unsuitable', albeit with future housing potential. It was concluded that 'the site could offer a suitable location for development and could contribute to the creation sustainable mixed communities, subject to a change in policy'.
- 4.23 The Landscape Sensitivity Study³ included the appeal site in zone K05; the zone was deemed to be of 'medium' sensitivity to housing development, in landscape terms. The main sensitivities of that part of the zone encompassing the appeal site were listed as the stream corridor, the associated ridge and furrow fields, the minor ridge skyline to the north east and the openness of the countryside to the north and east. The recommendation was that 'there is potential for housing development ... along Banbury Road between the college and the new housing estate [Walton Fields], but

¹ Document 49

² See also documents 25 and 34

³ Document 2.C

no further north than this estate to ensure that the settlement edge is stepped and well below the minor ridge top'. Hence, the whole area does not have the same level of sensitivity and the Study identifies where housing development would not cause significant change to the character of the landscape and where it would.

The Kineton Neighbourhood Development Plan

- 4.24 The Kineton Neighbourhood Development Plan was submitted to Stratford-on-Avon District Council in June 2015 and has undergone a formal consultation and independent examination, the latter resulting in a report and recommendation from the examiner (dated January 2016) that the Plan proceeds to a referendum, subject to certain further modifications. The appeal site is not allocated for housing in the current version of the Plan and was specifically excluded from the Plan as a housing site following early consultation with the local community¹.
- 4.25 The Plan aims to accommodate some 200 dwellings, of which about 100 are indicated to have been built or permitted since 2011. Since permissions exist to accommodate 107 dwellings on the site currently under construction at Southam Road alone², that must entail an underestimate. Nevertheless, 4 sites are allocated to provide for a further 111 homes over the Plan period, while policies H1 and H2 support the redevelopment and reuse of land within the settlement.
- 4.26 Two of the allocated sites are associated with the village itself and 2 are associated with Little Kineton. In Kineton the 2 sites would accommodate some 86 dwellings. Land is allocated to the north of Warwick Road for up to 78 homes (policy SSB1). This site was discounted for future development within the SHLAA 2012 due to its impact on the surrounding landscape³. Indeed, the Landscape Sensitivity Study deemed it to be of high to medium sensitivity, describing it as having 'strong hedgerow boundaries' a sense of 'enclosure' and being 'divorced visually from settlement by the well treed dismantled railway line'. It was seen as 'part of the unspoilt and fairly tranquil wider hill and valley landscape to the north of the settlement [and] with its intrinsic sensitivity as permanent pasture' it was assessed as being 'sensitive to housing development [which] would adversely affect the area's character and would clearly visually extend the settlement northwards'. It is also constrained by an area of 'landscape significance', designated in the Neighbourhood Plan, and it may affect a local site incorporating a priority habitat of nature conservation interest. Land to the south of Banbury Road (opposite the ribbon development just beyond the appeal site) is allocated to accommodate 8 dwellings (policy SSB2). This site lies close to the River Dene and may be within the green corridor along the Dene Valley where policy AS.5 (of the emerging Core Strategy) seeks to preserve the open character of the landscape; it was rated as being of high to medium landscape sensitivity in the Landscape Sensitivity Study⁴. However, my understanding is that it was an allocation originally made in the Local Plan, though it was not considered as a suitable location for growth in the SHLAA 2012⁵.
- 4.27 The 2 sites allocated for housing in Little Kineton are rather divorced from Kineton itself⁶. These sites would provide for some 25 dwellings. Land is allocated for 15 dwellings to the north east of the hamlet beside the sports field and the registered

¹ Documents 20, 22 and 23

² Document 38.2

³ Document 37

⁴ Document 37

⁵ Document 23.5

⁶ Document 37

battlefield site (policy SSB3). And, a site adjacent to Walnut House, towards the south west extremity of the hamlet, is allocated for 10 dwellings.

The Examiner's Report into the Neighbourhood Plan

- 4.28 The Parish Council are now working with Stratford-on-Avon District Council to agree the modifications required by the examiner. Recent communications indicate that the Neighbourhood Plan was to go before a District Council Cabinet meeting in early April 2016 where the councillors would be asked to approve the Plan for referendum. This has not happened. Moreover, the Examining Inspector has recommended amendments, required to meet the 'basic conditions', which affect the approach of the Neighbourhood Plan to the provision for housing in the village. In relation to policy H1 she indicates that housing numbers are to be set as a minimum of 200 dwellings, thereby removing an implied 'cap' on residential development, and that the restriction on new housing beyond the settlement boundary should be deleted. She explains that, as written, 'the policy restricts housing development outside the settlement boundary unless that development would be supported by another policy. This is unnecessary as the Plan will be read as a whole and does not provide for the necessary flexibility in responding to changing circumstances'. A reference (in policy H2) to a presumption against the development of greenfield land, unless exceptional circumstances are demonstrated, is also to be deleted¹.
- 4.29 Amendments are 'recommended' to policy E2, dealing with landscapes, vistas and skylines. It is suggested that the 'green fingers' are deleted from the Proposals Map and the policy re-drafted in terms of identifying 'important views', so that the policy does not preclude development but ensures that development respects views that are important. One such view is identified across the appeal site².

Government policies

- 4.30 The National Planning Policy Framework (2012) endorses a 'presumption in favour of sustainable development', which is to be seen as a golden thread running through both plan-making and decision-making with economic, social and environmental dimensions. Planning applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Framework is one such material consideration and the 'weight' to be given to policies in Development Plans should depend on their degree of consistency with it (paragraph 215). Relevant policies for the supply of housing should not be considered 'up-to-date' if a 5-year supply of deliverable housing sites cannot be demonstrated (paragraph 49). And, where the Development Plan is absent, silent or relevant policies are 'out-of-date', the presumption in favour of sustainable development means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework, taken as a whole, or unless any of its specific policies indicate otherwise (paragraph 14).
- 4.31 It is now clear (from the recent Court of Appeal judgement in *Suffolk Coastal District Council v Hopkins Homes Limited and SoS and Richborough Estates Partnership LLP v Cheshire East Borough Council and SoS*) that 'relevant policies for the supply of housing' should be interpreted in the 'broad' sense as any 'relevant policies affecting the supply of housing' or, indeed, 'restricting' the supply of deliverable housing sites. Explicit examples are offered, including '*policies for the Green Belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas*

¹ Documents 20, 22 and 23, but also see document SR.E which explains that the anticipated April meeting has not materialised

² Documents 20 and 22

of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development'. That must relate to development on the appeal site beyond the edge of Kineton and encompass 'saved' policies PR.1 and DEV.1. And, in as far as the emerging policies may restrict development on the appeal site, regard must also be had to the judgement even though it is agreed that such policies broadly reflect the advice in the Framework. It follows that, if a 5-year supply of deliverable housing sites cannot be demonstrated, relevant 'saved' and emerging policies must be regarded as being, in effect, 'not up-to-date'

- 4.32 The judgement also clarifies that 'not being up-to-date' is a reason for policies being 'out-of-date' for the purposes of applying the decision-making mantra set out in paragraph 14 of the Framework. Hence, in the context of this appeal, the presumption in favour of sustainable development means that permission for this scheme should be granted unless either any consequent adverse impact would significantly and demonstrably outweigh the benefits (assessed against the advice in the Framework as a whole) or specific policies in the Framework indicate that development should be restricted. However, that does not provide *carte blanche* to necessarily disregard a policy in a time-expired plan or even to discard a policy which is deemed to be 'out-of-date'. The statutory requirements, both to have regard to the Development Plan and to make decisions in accordance with it unless material considerations indicate otherwise, remain. The task is to set those statutory requirements against the other material considerations that apply in order to arrive at an appropriate balance in favour or against the scheme, always bearing in mind that the advice in the Framework is itself an important material consideration.
- 4.33 The Framework advises that, in order to significantly boost the supply of housing, Councils should undertake a series of tasks. They should:
- use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
 - identify and update annually a supply of specific deliverable sites sufficient to provide a 5-year supply of housing with an additional buffer of 5% to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery the buffer should be increased to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;
 - identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;
 - for market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the Plan period and set out a housing implementation strategy describing how a 5-year supply would be maintained to meet the housing target; and
 - set out their own approach to housing density to reflect local circumstances.
- 4.34 Further advice is offered by the Planning Practice Guidance. Household projections are just the starting point in estimating overall housing need and should be tempered by considerations relating to the relevance of past trends, market signals, future policies, employment projections and the like. In addition, the historic local delivery of housing is suggested as likely to be more robust if a longer term view is

taken, capable of encompassing peaks and troughs in the housing market cycle. It is also asserted that any under-supply of housing should be dealt with in the first 5 years of the Plan, where possible: if that is not possible the 'duty to cooperate' should be invoked.

- 4.35 The Framework also indicates that one important component of 'sustainable development' is that schemes in accordance with the Development Plan should be approved and that a key 'core principle' is that decisions should be genuinely plan led, empowering local people to shape their surroundings. The 'core principles' (together with subsequent paragraphs) set out aims requiring places in which people live their lives to be enhanced, high quality design to be secured and the intrinsic character and beauty of the countryside to be recognised. And, there are exhortations that proposals should properly reflect local character, reinforce local distinctiveness and provide a good standard of amenity for all.

Richborough Estates

5. The Case for the Appellants

Introduction

5.1 The main issues entail considerations of¹:

- how the 'saved' Development Plan policies should be interpreted,
- whether the scheme would be seen as an incongruous intrusion into the countryside or merge with existing patterns of development,
- whether the proposal would impinge on a proper appreciation of the registered battlefield site at Edgehill,
- whether the traffic generated from the estate would result in unacceptable conditions within the village,
- the relevance of the emerging Kineton Neighbourhood Development Plan, and
- whether a 5-year supply of deliverable housing sites can be demonstrated.

The Development Plan

5.2 The policies in the Development Plan need to be understood in their context. Although the policies are 'saved', the Core Strategy is now well advanced on its path to adoption and a key element of that strategy is to promote substantial development within the 'second tier' settlements identified as 'main rural centres'. Kineton is one such centre. The examining Inspector supports the identification of those 8 'main rural centres', endorses their function as sustainable locations, considers that a distinction between them would be unnecessary and recognises that potential additional 'unconstrained' housing sites associated with them are listed in the SHLAA (2012), so offering scope to increase the housing accommodated there².

5.3 Yet, the distribution of housing between the 'main rural centres' is far from even. The bulk of the 3,311³ dwellings to be accommodated in those settlements are in Southam (about 31%) and some 57% are distributed fairly evenly between Alcester, Bidford-on-Avon, Shipston-on-Stour and Wellesbourne (roughly 14% each). But, barely 8% are to be located in the remaining 3 villages of Henley-in-Arden, Studley and Kineton, the latter accommodating just 3%. While Henley-in-Arden and Studley are constrained by surrounding Green Belt and 'special landscape' designations, Kineton is largely surrounded by ordinary countryside, save for the registered battlefield to the south east. Moreover, Alcester is also constrained by the Green Belt and by a 'special landscape' and Bidford-on-Avon lies in the Vale of Evesham 'area of control'. The opportunities offered at Kineton are thus overlooked in the emerging Strategy, for it is intended to accommodate far less than what might reasonably be expected to be its fair share. A more equitable distribution amongst all 8 'main rural centres' would imply that Kineton would be suitable to accommodate roughly 400 new homes over the Plan period, excluding the unallocated 'windfall' allowance. That is about twice the number currently envisaged in the emerging Neighbourhood Plan⁴.

5.4 It follows that there is likely to be a need to release additional sites in Kineton, either within the village or as an addition to the settlement. Indeed, the

¹ Document 25

² Documents 4, 12, 25, 34, 37 and SR.E

³ Figures taken from the Core Strategy Proposed Modifications, July 2015: they include an unallocated 'windfall' allowance of 110 dwellings.

⁴ Documents 25 and 37 - as currently drafted the Neighbourhood Plan is designed to accommodate 'around 200' dwellings

recommended amendments to the emerging Neighbourhood Plan are designed to accommodate just such additional provision. Not only is policy H1 altered so that a minimum of 200 dwellings is to be catered for, but also the restriction on new housing beyond the settlement boundary is to be deleted. In addition, a presumption against the development of greenfield land, unless exceptional circumstances are demonstrated, is also to be removed. If such amendments materialise, then the appeal site must be a suitable location to accommodate the anticipated additional housing need. Of course, all greenfield development must entail change. But here the evidence base demonstrates the appropriateness of this location. First, the Landscape Sensitivity Study explicitly identifies the Banbury Road frontage of the appeal site as suitable, in landscape terms, to accommodate housing. Second, the SHLAA 2012 finds that the site is not restricted by physical or ownership constraints and could offer a suitable location for development, potentially contributing to the creation sustainable mixed communities, as the Framework extols¹.

- 5.5 In those circumstances, the environmental effects of the scheme cannot be assessed properly in a vacuum. Regard must be had to the countervailing social and economic benefits due to providing open market and affordable housing at a 'main rural centre', as the emerging Core Strategy requires².
- 5.6 Seen in that light it is perverse to only partially apply the relevant 'saved' policies. So, although policy PR.1 seeks to prevent schemes that would damage or destroy features which contribute to the distinctiveness of the local area', it also aims to set any damage against 'significant public benefits'³. There is nothing particularly distinctive about the appeal site and the emerging Neighbourhood Plan is now recommended simply to identify views over the land that would not preclude development but rather ensure that development respects views that are important. This is not a bar to all development north of Banbury Road⁴. Moreover, since both the SHLAA and the Landscape Sensitivity Study condone some development on the appeal site, the damage done by the appeal scheme can only be incremental. On the other hand, its benefits would be significant. It would contribute to the housing required in a sustainable location and in a place specifically categorised as one suitable to accommodate a significant proportion of new dwellings⁵. Hence, on balance, the scheme must comply with policy PR.1.
- 5.7 It is difficult to see how the scheme would conflict with policy DEV.1, since the proposal is made in 'outline' and the criteria applied here are largely matters of detail. Nevertheless, where illustrative details have been submitted they largely comply with the policy. And, the test of whether or not the site would be assimilated within the village raises similar considerations to those raised by policy PR.1. The claim is that the scheme would comply with this policy⁶.
- 5.8 The new or improved access arrangements to the proposed estate have been designed as an integral part of the overall layout and their design incorporates appropriate dimensions, visibility splays and non-vehicular facilities to ensure the safety of all road users, as policy DEV.4 requires. The additional traffic generated by

¹ Documents 2.C, 25 and 37, see also section 4

² Documents 25 and 37

³ Section 4

⁴ Documents 22 and 37

⁵ Documents 25 and 37

⁶ Documents 25 and 37

the scheme would be well within the theoretical capacity of the road network, even using the generation rates favoured by the Parish Council. The only issue is the congestion that can occur during peak periods due to the traffic (buses and cars) to and from the High School. However, although evident, such congestion cannot constitute a 'severe' traffic problem. First, the Highway Authority does not regard the use of the adjacent highway network as unsafe or unsatisfactory and the proposed access arrangements have been subjected to a successful safety audit. Second, the Core Strategy and policy CS.15 promotes Kineton as suitable for additional housing and employment despite the existing blockages that occur; it is a 'main rural centre'. Third, additional housing is allocated to the village in the Neighbourhood Plan. Fourth, traffic management measures, particularly preventing some on-street parking in the vicinity of the site, could address the congestion that now occurs, for the benefit of all. It follows that the proposal not only offers a means to ease traffic problems currently experienced in the village, but also that those problems do not, as a matter of principle, act as a bar to additional housing in Kineton¹. The scheme would thus comply with policy DEV.4.

- 5.9 The test required by policy EF.4 is whether the scheme would have a detrimental impact on the historic landscape character. The assessment submitted demonstrates that the scheme would have a negligible impact on anything of significance to the registered battlefield site. All of it would be some 120m from the northern boundary and the nearest part of it would lie between existing dwellings. Historic England raised no objection to the scheme and the Council's Conservation Officer indicated that the impact would be negligible; the Battlefield Trust were not sufficiently concerned to make any response. Even so, the policy is not quite in line with the Framework. A balanced assessment is required setting even substantial harm against substantial benefits (paragraph 133) and, similarly, where there is less than substantial harm, a commensurate level of benefits might warrant development (paragraph 134). Hence, although the proposal would comply with policy EF.4 as written, it would certainly be consistent with approach advocated in the Framework².
- 5.10 The claim is that the scheme would accord with the relevant policies in the Development Plan³ and thus should have been granted planning permission 'without delay', in accordance with officers' recommendation⁴. But, it is also agreed that policy STR.2 (which deals with the provision of housing) is out-of-date because it is time-expired, relates to a housing requirement derived from a now revoked Regional Plan and imposes a 'cap' on planning permissions, which is inconsistent with the Framework⁵. It follows that, irrespective of whether a 5-year supply of deliverable housing sites can be demonstrated, the test that applies here must entail the presumption in favour of sustainable development involving the grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Assimilation or intrusion

- 5.11 The site is not identified as any special landscape nor is it subject to any special protection. It is simply a field within a wider rural landscape at the edge of the

¹ Documents 25, 49 and 50

² Documents 25, 45 and 46.5&6&8

³ Document 35

⁴ Document 13

⁵ Document 34

village. It is inevitably influenced by adjacent uses and buildings. To the west there are roadside cottages, the large school buildings and the playing fields, adorned with goal posts, floodlights and fences. To the east there are dwellings at Walton Fields, along the Banbury Road and a further half dozen to be built behind Orchard House. The Landscape Sensitivity Study identifies the site as the only area of 'medium' sensitivity around Kineton, everywhere else being more sensitive to development in landscape terms. The Study also suggests that the lower parts of the site could accommodate residential development, while the SHLAA indicates that the site would be potentially suitable for housing¹.

- 5.12 Kineton is a 'main rural centre'; it is therefore a suitable location for new housing in principle. Yet the objections to the scheme are flawed. Although the proposal would result in buildings extending beyond the Banbury Road and up hillside, development is already underway at a similar height (85-90m AOD) on the Bloor Homes site beside Southam Road. Although the scheme would extend the village, it would avoid adding to the ribbon development along the Banbury Road by extending the nuclear centre of the place. Moreover, the proposed estate would extend no further eastwards or northwards than existing development².
- 5.13 For those reasons, the visual influence of the site is largely confined to Banbury Road. Only the appeal site is evident with views to the local ridge restricted by intervening buildings at the High School and at Walton Fields. The scheme would not break the skyline towards the small local ridge and, even in middle distance in views from the registered battlefield, the development would be seen within the context of the village, the estate simply adding to elements already evident in the landscape. Its assimilation into the landscape would be reinforced by the limitation on the height of the dwellings on the upper slopes, together with the planting and 'green infrastructure' intended³.
- 5.14 The failure to utilise the upper parts of the appeal site must necessitate the allocation of additional housing sites elsewhere. Additional sites are allocated in the Neighbourhood Plan. But, the housing sites identified there are all located within landscapes of high, or high to medium, sensitivity, according to the Landscape Sensitivity Study. That is especially so for the largest allocated site beyond the current north western edge of the village and the natural boundary created by the dismantled railway line to the west of Southam Road. There is nothing to indicate why that site would be preferable as a location for housing to the appeal site⁴.
- 5.15 Hence, there is no good reason relating to the landscape or to urban design to explain why the appeal site should not be developed. The conclusion must be that the proposed estate would be assimilated into the village.

The battlefield

- 5.16 The appeal site lies outside the registered battlefield, on the far side of the River Dene and the Banbury Road and some 120m from the northern boundary of the registered site. Hence, the proposal cannot impinge on the battlefield itself, though it might affect its setting. But, 'setting' is not a heritage asset, nor is it a heritage designation. The importance of 'setting' is in what it contributes to the significance of the heritage asset and for that, 'documentation is crucial both to the location of

¹ Sections 2 & 4 and documents 25, 37, 42 and 43

² Documents 25, 37, 42

³ Documents 42 and 43

⁴ Documents 25 and 37

battles and to understanding their significance'. In this case no documentary evidence (including the single musket ball found in excavations at the Orchard House development, roughly 110m to the east) indicates that any action took place at the appeal site. All the documentary evidence shows that all the significant action was on the other side of the River Dene¹.

- 5.17 The guidance from English Heritage explains², in relation to battles fought during the Civil War that:

Our understanding of these engagements is generally much better than it is of earlier ones, for three reasons. Firstly a much greater number of detailed written accounts and visual records exist, although many were produced with a propagandist slant and should be taken, necessarily, at face value. Secondly, our understanding of the nature of the historic landscape of this period is generally far better than for earlier periods, allowing greater topographical precision in the interpretation of what happened where. Thirdly, recoverable battlefield debris - above all, lead musket balls and other projectiles- becomes relatively commonplace. Taken together, these things mean that it is possible to begin to chart the detailed course of many individual battles.

- 5.18 Interpreting those sources of information has led to the location for the battle of Edgehill being securely known and 'the area where the troops drew up, deployed, and fought while in battle formation' being defined on the ground. Hence, the general boundary to the battlefield can be identified. Although the appeal site lies beyond the registered battlefield, it does lie within the wider setting of the battle and it is possible that fighting, peripheral to the main action, may have spilled out into the enclosures at the edge of the village. However, there is little dispute among historians as to the location or extent of the battlefield, since there are several largely non-conflicting eyewitness reports which contribute to the historical value of the registered site, promoted, perhaps, by the plethora of prominent people who fought in the engagement; King Charles I, Robert Devereaux, the Earl of Essex, Prince Rupert, Sir Jacob Astley, John Hampden and Oliver Cromwell. Several senior and junior commanders on both sides wrote memoirs (Ramsay, Fiennes and Bulstrode, but also there is a brief account by the young Duke of York - the future James II)³.
- 5.19 Moreover, in spite of the disturbance caused by the construction of the Defence Storage and Distribution Facility (across the middle of the battlefield), it remains possible to appreciate how the terrain and topography influenced the course of the battle. Given the wealth of documentation, key surviving landscape elements can still be identified which help to 'explain why events unfolded as they did'. Much of this landscape, including the ancient enclosures and the ridge and furrow cultivation in the open area over which the battle was principally fought, still survives with the same field boundaries that were present in 1642. Hence, the northern and eastern boundaries of the site were also boundaries at the time of the battle⁴.
- 5.20 Edgehill was the first large scale military encounter on English soil of the post-medieval period. It was probably crucial in convincing the parliamentary commanders, including Oliver Cromwell, about the necessity of raising a well-trained, professional and rigorously disciplined permanent army rather than relying on local militias. The battle was bloody but fairly inconclusive. This was partly because, having swept the parliamentary cavalry and several infantry regiments

¹ Documents 25, 45, 46 (particularly 46.2 and 46.11), 47 and 48

² Document 46.2

³ Document 45

⁴ Documents 45, 46 and 48.4&5

from the field, the royalist cavalry took no further part in the action, engaging either in harrowing the parliamentary baggage train at what is now Little Kineton or pursuing individual stragglers. The parliamentary infantry in the centre of the field repelled several royalist attacks and then, with the aid of cavalry reinforcements, pushed the royalists back to the foot of Edgehill, where their advance was eventually halted. The engagement was broken off as night fell and the armies retired to 'safe havens', Charles to Oxford and Essex to Warwick¹.

- 5.21 The western end of the battlefield where Prince Rupert's cavalry pursued the routed parliamentary horses to Kineton and Little Kineton is readily accessible by public footpaths and the Battlefields Trail links the battlefield to registered sites at Cropredy Bridge (Civil War 1644) and Edgcote (Wars of the Roses 1469). There are 2 commemorative monuments within the registered battlefield some 2km to the east and south east of the appeal site².
- 5.22 The appeal site can be glimpsed from the western side of the battlefield (not far from Little Kineton) and the upper slopes are evident from several footpaths across the western portion of the registered site³. The appeal site still reflects the pattern of ancient enclosures recorded at the time of the battle and, in serving to funnel the main action into the more open fields to the south, may have helped to define the northern boundary of the battle⁴. The probable course of the routed cavalry drawn up on the parliamentary left wing, pursued by Prince Rupert's horses, may have been just across the River Dene. Some of this action could have spilled into the site itself and it is possible that skirmishing peripheral to the main action may also have extended into the enclosures around Kineton, including into the appeal site; fighting between bodies of dragoons reportedly occurred within these enclosures⁵. Nevertheless, being peripheral to the main fighting, the site is unlikely to harbour significant buried evidence associated with the battle. The geophysical survey identified nothing of archaeological potential beyond the ploughed out remains of medieval ridge and furrow⁶. No other remains (prehistoric to early medieval) are recorded within the site, although a prehistoric and a Romano-British settlement lie about 350m to the north west and 600m to the east, respectively⁷.
- 5.23 The conclusion must be that, being peripheral to the battle, the appeal site cannot form part of the essential setting of the battlefield nor can it contribute much to an understanding of the battle or its significance. Inter-visibility does not of itself facilitate understanding of the battle. After all, much of Kineton is visible from the battlefield, including the existing estates and the High School buildings, but neither fosters a special link to, or appreciation of, the battlefield site. Indeed, it is the Battle of Edgehill rather than Kineton because that is where the battle took place and because the River Dene separates Kineton from the battlefield; the Banbury Road and the associated ribbon development now accentuates that separation. Prince Rupert's charge was within the battlefield and the pursuit was focussed largely on attacking the parliamentary baggage train drawn up across the river at Little Kineton. It was not directed towards Kineton and the swollen waters of the river would have severely impeded such paths of pursuit; and, the reference to

¹ Documents 45, 47 and 48

² Documents 45 and 46.7

³ Documents 43.4, 44, and 48.15-18

⁴ Document 48.4&5

⁵ Documents 45, 46, 47 and 48

⁶ Document 46.11

⁷ Documents 45 and 46.5&6

Chadshunt, whatever its provenance, would suggest some pursuit northwards, well away from the appeal site¹. For all those reasons, the scheme would not impinge upon appreciation of the battlefield.

Traffic

- 5.24 The Framework seeks to ensure that safe and suitable access to the site can be achieved for all people and both 'saved' and emerging policies are consistent with that approach. Paragraph 32 indicates that schemes should only be prevented on transport grounds where the residual cumulative impacts are severe.
- 5.25 In this case the existing farm access is to be improved to provide a 6m wide carriageway into the site beside a 3m wide footway and cycleway with visibility splays of 2.4m by 65m. The arrangement would require a Traffic Regulation Order to prevent on-street parking along the Banbury Road frontage and the final design would be subject to a section 278 agreement with the Highway Authority. The arrangements have been assessed and subjected to a safety audit and, taking account of other committed development, they engender no objection from the Highway Authority. Based on TRICS data from a couple of surveys undertaken at Maresfield (near Uckfield, East Sussex) trip generation rates of roughly 0.5 and 0.6 trips per dwelling (in the morning and evening peak hours respectively) predicted 46 and 55 additional vehicle movements in the AM and PM peaks from the proposed estate of 90 dwellings².
- 5.26 That additional traffic was distributed on to the network in accordance with existing flows, increased to accommodate predicted traffic growth and committed development. Key junctions and links were assessed and found to operate without any undue delays or queues and well within capacity, so that the proposal would not seriously exacerbate existing problems. The illustrative layout demonstrated that sufficient capacity could cater for the parking required for up to 90 dwellings. Moreover, given the location of the site within about 400m of all the facilities within the village and bus routes serving Stratford-on-Avon, Royal Leamington Spa and Banbury, prospective residents would enjoy a sustainable location and not be wholly dependent on car-borne travel. In addition, the scheme would offer contributions to improve public transport services and facilities encourage more sustainable travel and safeguard the possibility of a link by-passing the centre of the village to the north west³.
- 5.27 ATC data was used to record speed as well as traffic volumes in order to provide data to design the access and visibility splay. It was supplemented by manual counts at key junctions to ascertain the likely variations in traffic flows within the village. Based on the combined results from all ATC sites the peak hour flows within the village as a whole were found to be 07.00-08.00 and 16.00-17.00. This was when the cumulative traffic flow was highest⁴.
- 5.28 It is agreed that TRICS data can be collected from as many sites as possible. But the sites must be reasonably representative of the proposed development. In this case a similarly sized development of houses at an East Sussex village was used, but other developments containing flats or apartments were excluded, since trip generation rates there would tend to be lower. And, although peak trip rates from

¹ Documents 25 and 45

² Documents 49, 50.1 and 50.2, see also D&A and section 3

³ Documents 14, 49, 50.1 see also section 3

⁴ Documents 49 and 50.1 as a response to document 23.2

the development occurred at a different time to the cumulative peak within Kineton, the assessment was based on adding the peaks together to create a 'worst case' scenario¹.

- 5.29 The width of the carriageway into the village was measured in several locations and found to be generally 6.1m wide save for a wider section in Banbury Street and a limited 'pinch-point', 5.5m in width, before the bend past the fish and chip shop. Roadside parking limits the effective width of the carriageway still further so that it is impossible for 2 cars pass. Drivers tend to slow down and wait for buses and wider vehicles to negotiate such obstructions, which can cause queuing and congestion during peak hours and can sometimes encourage drivers to mount the pavement in order to pass. Only one large vehicle, such as a school bus or tractor, can bring everything to a halt; there up to a dozen buses to and from the High School at the start and end of the school day².
- 5.30 However, the occasional grid-lock and the occurrence of intermittent congestion during the day does not mean that the traffic from additional development cannot be accommodated. The capacity of the network in Kineton can be compared with the theoretical capacity of a 6.1m wide UAP4 'urban road', which has many of the characteristics evident in the streets through the village. This is described as a 'Busy high street carrying predominantly local traffic with frontage activity including loading and unloading: it is subject to 30mph speed limits, has more than 2 side roads per kilometre and offers unlimited access to houses, shops and businesses: parking and loading are unrestricted; there are frequent surface pedestrian crossings and bus stops at the kerbside'³. In fact, the roads through the village present fewer impediments to the free flow of traffic as formal pedestrian crossings are absent. Yet the 2-way capacity of a 6.1m wide UAP4 road is 1250vph. In comparison, the highest 2-way flow anywhere in the village⁴ in 2020, with the addition of the traffic from the proposed scheme and all the committed proposals is estimated to be 620vph, less than half the theoretical capacity available. Moreover, the estimated increase in traffic would fall well within the range of existing, observed day to day variations on all affected routes; the additional development traffic would thus be less than the variation that already normally occurs from day to day on local roads. It follows that it would almost be unnoticeable. It would certainly not be the cause of severe traffic problems⁵.
- 5.31 Many of the objections to the scheme are misconceived. The existing impediment of on-street parking does cause severe traffic congestion at certain times. But, road narrowing is also a recognised form of traffic calming helping to control vehicle speeds and movement, as the effect of parked cars outside the High School confirms. Coping with the existing congestion is really a matter of managing the on-street parking. It does not warrant a ban on development. In any case, the Neighbourhood Plan allocates sites for new housing schemes. All those schemes must generate additional traffic. Moreover, because they are located at the periphery of the village and, all but one, away from the High School, they are likely to generate additional vehicular trips to the school, particularly in comparison with the appeal site, which lies well within walking distance. (There is little difference in relation to the distance to the primary school.) The development of the appeal site

¹ Documents 49 and 50.1 as a response to document 23.2

² Documents 49 and 50.1

³ Document 23.C

⁴ At Warwick Road to the west of the junction between Banbury Street and Southam Street junction

⁵ Document 49

and the allocated sites thus has similar implications for road conditions within the village, with the proviso that the appeal site is in a substantially more sustainable location¹.

The Neighbourhood Plan

- 5.32 All agree that 'some weight' can be attributed to the Kineton Neighbourhood Development Plan². But, whatever that weight should be, the claim is that the appeal proposal would not breach the relevant policies that apply. Although, as written, the scheme might have fallen foul of policy H1 (dealing with housing supply), policy E2 (addressing landscape, vistas and skyline), policy D10 (concerned with heritage assets) and policy IN5 (covering matters of highway safety and transport), incorporating the recommendations of the Examiner would remove any conflict that might have arisen³.
- 5.33 The recommendations are that policy H1 should be re-written so that a 'cap' of 200 dwellings should be a 'minimum' provision and the prohibition on new housing beyond the settlement boundary should be removed, as should the presumption against development on greenfield land. Policy E2 now seeks to accommodate 'important views' rather than prohibit proposals affecting identified views and the explicit prohibition of development at Walton Fields is recommended for removal. The actual wording of policy D10 would not prevent the appeal proposal, since it refers to schemes being 'within' or 'immediately adjacent' to the registered battlefield site, whereas the appeal site is some 120m distant. And, policy IN5 is to be altered so that an investigation into the desirability of some one-way system should not delay development and the reference to 'serious vehicular congestion and safety issues' is to be stated as an opinion, or removed unless justified by evidence. The appeal proposal would comply with all these policies as recommended for amendment⁴.
- 5.34 There are also practical impediments to the development of the 4 housing sites allocated in the Neighbourhood Plan. Some are environmental. The land to the north of Warwick Road has previously been discounted, due to its impact on the surrounding landscape. Moreover, the Landscape Sensitivity Study deemed it to be of high to medium sensitivity, describing it as having 'strong hedgerow boundaries' a sense of 'enclosure' and being 'divorced visually from settlement by the well treed dismantled railway line'. It also impinges on an area of 'landscape significance', as designated in the Neighbourhood Plan, and a local site incorporating a priority habitat of nature conservation interest. The land to the south of Banbury Road lies close to the River Dene and currently adjacent to the green corridor subject to the protection of the Core Strategy (policy AS.5); it was rated as being of high to medium landscape sensitivity in the Landscape Sensitivity Study. Both the sites at Little Kineton are rather divorced from Kineton itself⁵.
- 5.35 Other impediments relate to access arrangements. Apart from the site to the south of Banbury Road, all the allocated sites would generate trips through the village centre to reach the High School and all would necessitate journeys through the

¹ Documents 49 and 50.5, responding to document 23.2

² Documents 23, 24, 25 and 34

³ See section 4

⁴ Documents 25 and 37, see also section 4

⁵ Document 37 and section 4

centre to visit the facilities and services there¹. In those circumstances, the appeal site must be as 'sustainable' as the allocated sites, if not more so.

- 5.36 But, the allocated site to the north of Warwick Road enjoys only a 12m road frontage (at its western end) beside a parapet wall to a bridge over the dismantled railway. As the parapet wall is about 1.45m high and set back just 1.2m from the carriageway, it restricts pedestrian movement and reduces visibility to just 14m or less in either direction. Moreover, neither a proper bell-mouth nor appropriate visibility splays could be constructed within the frontage of the allocated site. Similarly, at its eastern end, a bridge over the dismantled railway also impedes access. To the north of the bridge the carriageway reduces to about 4.3m in width and the footways across the bridge are narrow, being just 0.9m and 0.7m wide, as well as being awkwardly configured. And, due to a sharp bend in Southam Road, forward visibility towards a vehicle waiting to turn right into Lighthorne Road is restricted to some 36m. Such constraints may prevent development or require additional land to achieve a suitable access, as the Highway Authority have already indicated².
- 5.37 Both the sites allocated in Little Kineton would offer poor pedestrian links to the centre of Kineton itself. Footways are narrow (just 1.1m wide in places), often exist on only one side of the carriageway (necessitating road crossings) and are sometimes cobbled. Possible improvements are impeded by the proximity of dwellings to the carriageway, the width of roadside verges and the presence of ponds³.
- 5.38 Taking those matters into account, there can be no guarantee that development on the sites allocated in the Neighbourhood Plan could be expected to materialise imminently, if at all. The proposed scheme would thus offer a realistic and sustainable alternative that would accord with the Plan, as currently recommended for alteration⁴.

The 5-year housing supply

- 5.39 Much is agreed. The housing requirement over the Plan period is 14,480 dwellings, derived from the 'objectively assessed housing need' at the time of the Hearing, though this is now raised to 14,600 homes after the completion of the examination hearings. The current 'shortfall' is agreed, as is the application of a 20% buffer to both the estimated shortfall and the annual requirement. Lapse rates are agreed. It is also agreed to exclude several categories of site from the supply, including additional windfalls, allocations in emerging Neighbourhood Plans and allocations in the emerging Core Strategy without planning permission. The methodology, the level of completions and other matters are also agreed. The annual requirement over the 5-year period is agreed to be 1,210, though that would now be 1,234 to take account of the increased requirement over the Plan period⁵.
- 5.40 The dispute relates to the supply side of the equation. First the 5-year period is rolled forward from April 2015 to January 2016 in advance of a complete up-date of all the components involved in the calculation. Second, there are doubts about when dwellings are likely to be delivered on some sites and the rate at which such

¹ Document 49

² Documents 49 and 50.5

³ Documents 37 and 49

⁴ Document 25

⁵ Document 36 and section 4

delivery might occur. Research has indicated that the Council has often been over-optimistic in assessing the time taken from the grant of planning permission to the first delivery of dwellings; too much credence has been given to responses from developers and too little time estimated for the discharge of pre-commencement conditions or the provision of infrastructure. And, the rate of development has often been based on exceptional past performances and the existence of multiple outlets rather than a realistic assessment of company production rates or the limitation imposed by a single builder operating on a single site. Again, research has shown that 40dpa is a reasonable maximum rate of delivery from a single builder operating on a single site¹.

- 5.41 Applying those limitations to the available sites identified by the Council results in a reduction of the supply estimated. For those sites where construction has started or where construction has not started but a full planning permission is in place, the reductions are modest (roughly 5% and 3%, respectively). But, for sites benefitting only from an outline planning permission or only a resolution to grant permission, it is estimated that, in both cases, a reduction of over 26% should be applied. The result is to remove nearly 1,000 dwellings from the likely supply and to reduce the available provision from an estimated 5.13 years to something sufficient to provide for only 4.3 years².
- 5.42 The estimated 5-year provision advanced by the Council has fluctuated over the last couple years from assertions of plenty to the repeated realisations of famine³. After claiming provision for 6.4 years in October 2015, they agreed in appeals at Tiddington⁴ and Long Itchington⁵ that insufficient land existed to cater for the requirement over the 5-year period. And, in December 2015, a statement of common ground for an appeal at Stockton accepted that a 5-year supply of housing land could not be demonstrated⁶. Such vacillation must undermine the credibility of the assertions made. Even now, the evidence proffered here has been tested by other Inspectors and found wanting. At Tiddington the delivery rates used by the Council for both the Long Marston Phase 1 site the land west of Shottery were deemed to be based on the unrealistic expectation of 2 to 3 sales outlets on each site and optimistic start dates. At Long Itchington, similar findings were made, although at Shottery it was the rate of output rather than the number of outlets that were found to be excessive; in addition, optimistic delivery rates were found to affect the contribution from 4 of the sites listed below.
- 5.43 The different estimate of supply proffered here largely rests on different expectations from the following 10 sites⁷:
- Land west of Banbury Road, Southam. Although this site is 'under construction' by Bloor Homes, delivery is at a rate of 40dpa but assumed to commence in year 2 of a 5-year period commencing from April 2015. This results in a reduction of 76 dwellings.
 - Harbury Cement Works, Bishop's Itchington. This site benefits from outline planning permission. The housing trajectory issued in January 2016 indicates that just

¹ Documents 40, 41.11&15&16&18&19

² Documents 36 and 40

³ Document 40

⁴ Document SR.D.2

⁵ Document SR.D.3

⁶ Document 40

⁷ Document 36

50 dwellings are likely to be delivered by 2020 within the 5-year period from April 2015, reducing the provision by 35 dwellings.

- Napton Brickworks. This site benefits from outline planning permission, but that is for live-work units on a site that contains contamination and an SSSI. Hence, the scheme is likely to need revision and is unlikely to be deliverable within 5 years, resulting in a reduction of 65 dwellings.
- Land west of Shottery. There is outline planning permission for 800 dwellings, link roads and a local centre. But, there are onerous conditions, infrastructure requirements and issues of land acquisition that may entail a new application. It is assumed that 40dpa could be delivered by year 3 in the 5-year period from April 2015, resulting in a reduction of 275 dwellings.
- Land north of Allimore Lane, Alcester (northern site). There is outline planning permission for 160 dwellings, infrastructure and open space. It is assumed that 40dpa could be delivered by year 3 in the 5-year period from April 2015, resulting in a reduction of 40 dwellings.
- Land north of Allimore Lane, Alcester (southern site). There is outline planning permission for a maximum of 190 dwellings, infrastructure and open space. No 'reserved matters' application has yet been submitted. The housing trajectory issued in January 2016 indicates that 120 dwellings are likely to be delivered by 2020 within the 5-year period from April 2015, reducing the provision by 70 dwellings.
- Land at Arden Heath Farm, Loxley Road. There is outline planning permission for up to 270 dwellings served by 2 access roads, open space and structural landscaping. The site still has to be acquired by the prospective developer. It is assumed that 40dpa could be delivered by year 4 in the 5-year period from April 2015, resulting in a reduction of 82 dwellings.
- Land north of Campden Road, Shipston on Stour. There is outline planning permission for 143 dwellings, infrastructure and open space. The developer indicates that the first completions are likely in the first quarter of 2018. It is assumed that 10 dwellings could be delivered in 2017/18 and, thereafter, 40dpa, resulting in a reduction of 21 dwellings.
- Land east and west of Ettington Road, Wellesbourne. There is outline planning permission for up to 350 dwellings, open space and landscaping. No 'reserved matters' application has yet been submitted. The housing trajectory issued in January 2016 indicates that delivery is likely to occur in years 4 and 5 in the 5-year period from April 2015. Assuming 40dpa would produce 80 dwellings, reducing the provision by 120 dwellings.
- Long Marston Airfield (phase 1). There is outline planning permission for up to 400 dwellings, employment provision, a 'community hub', open space and landscaping. No 'reserved matters' application has been submitted, though there is a draft section 106 Agreement. It is considered that 2 years is optimistic to resolve all the outstanding matters and pre-commencements conditions. There is only one developer involved (Cala Management Limited), so assuming 40dpa, the site would produce 80 dwellings within the 5-year period, reducing the provision by 290 dwellings. The developer is not a volume house builder and is likely to seek to maintain the high value and development opportunities offered by the site.

5.44 It is thus clear that a 5-year supply of deliverable housing sites cannot be demonstrated, from which it follows that relevant policies for the supply of housing cannot be considered 'up-to-date'. In those circumstances, the Courts have now clarified that relevant policies are also 'out-of-date'. In those circumstances, the presumption in favour of sustainable development must apply and, in this case, that would entail planning permission being granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework, taken as a whole¹.

The planning balance and conclusion

5.45 As the proposal accords with the Development Plan, it should be granted planning permission without delay. Even if it does not, it should benefit from the presumption in favour of sustainable development. In any case, the environmental harm identified, such as it is, is outweighed by the social and economic benefits of a scheme located at the 'main rural centre' of Kineton in accordance with the spatial distribution of development put forward in the emerging Core Strategy and policy CS.15. If the absence of a 5-year supply of housing is demonstrated, then the need for development is enhanced. If that is not the case, then there is no harm in a scheme that not only accords with the emerging Core Strategy, but also would not infringe any element of the emerging Neighbourhood Plan, as recommended for alteration².

5.46 The benefits of allowing the proposal include³:

- contributing to the supply of housing against a significant shortfall and providing 35% of the units as affordable housing;
- delivering housing to meet existing needs in a sustainable location and in accordance with the settlement hierarchy on a site identified as one potentially suitable for housing in the evidence base;
- utilising a site with the least landscape sensitivity around Kineton;
- retaining existing hedgerows and enhancing landscape buffers;
- using lower grade agricultural land and providing a net biodiversity gain;
- improving bus services to both Leamington and Stratford, thereby enhancing the sustainability of Kineton for existing and future residents;
- providing construction and supply sector jobs throughout the development;
- creating increased expenditure in the local area from prospective residents, thereby enhancing the viability of local services and facilities;
- adding to Council revenue through Council tax payments and the New Homes Bonus;
- supporting sustainable growth;
- creating a high quality and well-designed built environment;

¹ Documents 25 and 40, and also section 4

² Document 25

³ Documents 25, 37, 39 and 40

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- providing appropriate planning contributions to ensure the on-going availability of services and facilities;
 - providing open space and play areas within the scheme for the benefit of existing and future residents;
 - delivering the dwellings proposed within 5 years, so making an immediate contribution to alleviate housing need;
 - safeguarding land for a link road between Southam Road and Banbury Road, so helping to deliver Core Strategy objectives in relation to the strategic allocation at the Gaydon and Lighthorne Heath scheme and complementing the permission at the Bloor Homes development on Southam Road.

5.47 The possible adverse effects are suggested as¹:

- harm to the landscape, but officers considered that such harm would be limited and local: subsequently evidence indicates that the development would not break the existing ridgeline when viewed from key locations;
- harm to the settlement, but officers considered that, with suitable landscaping and appropriate design, the scheme could be accommodated on the appeal site without adversely affecting settlement edge or the wider countryside setting;
- harm to the battlefield, but the conservation officer assessed such damage as, at worst, negligible in relation to the elements of significance to the battlefield;
- harm to traffic conditions, but this is not supported by any technical evidence or by the Highway Authority or by officers, and no 'severe impact' is demonstrated.

5.48 The balance is thus firmly in favour of the scheme, so that planning permission should be granted.

¹ Documents 13, 25 and 37

6. The Case for Stratford-on-Avon District Council

Introduction

6.1 The key issues entail¹:

- the treatment of emerging policies and the Development Plan,
- whether the scheme would appear incongruous in the landscape or merge reasonably well with development nearby,
- whether the proposal would impinge appreciably on the appreciation of the registered battlefield or its setting,
- whether a UAP4 road is an appropriate analogy to provide an assessment of traffic conditions in Kineton,
- whether the emerging Kineton Neighbourhood Development Plan now provides an appropriate reason for withholding planning permission, and
- whether a 5-year supply of deliverable housing sites can be demonstrated.

The Development Plan

- 6.2 It is agreed that policy STR.2 (which deals with the provision of housing) is out-of-date because it is time-expired, relates to a housing requirement derived from a now revoked Regional Plan and imposes a 'cap' on planning permissions, which is inconsistent with the Framework. It follows that, irrespective of whether a 5-year supply of deliverable housing sites can be demonstrated, the test that applies here must entail the presumption in favour of sustainable development involving the grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. But, the statutory requirements, both to have regard to the Development Plan and to make decisions in accordance with it unless material considerations indicate otherwise, remain. In this case, 'saved' policies consistent with the Framework continue to apply².
- 6.3 Policy PR.1 seeks to prevent schemes that 'would damage or destroy features which contribute to the distinctiveness of the local area' and, in this case, the reasons for refusal assert that the proposal would cause unacceptable harm to the character of the landscape and to visual amenity. The aim to ensure that development respects the quality and character of landscapes and settlements echoes 'core principles' and important elements in the Framework. In particular, the advice extols the enhancement and improvement of places in which people live their lives, aims to foster high quality design and a good standard of amenity for all and to have regard to the intrinsic character and beauty of the countryside. Moreover, 'good design' is seen as fundamental to 'sustainable development' and indivisible from good planning, contributing 'positively to making places better for people'. Compliance with policy PR.1 is thus a means to 'establish a strong sense of place', respond 'to local character and history' and reflect 'the identity of local surroundings'. It is the intrusion of the scheme into the landscape beyond the village and over the slopes above existing development that would contravene the requirements of this policy, as well as policy DEV.1 and, in relation to the historic landscape, policy EF.4. For the same reason the scheme would undermine the continuation of similar aims in emerging policies CS.1, CS.5 and CS.8³.

¹ Document 24

² Documents 4, 24 and section 4

³ Documents 4, 24 and section 4

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- 6.4 Policy DEV.4, and emerging policy CS.25, aim to ensure, amongst other things, that the safety of all road users and pedestrians is not impaired by new development or unacceptable transport impacts are avoided. This too is consistent with the Framework. Because the proposal would add to the traffic on the road network close to the High School, it would seriously exacerbate road conditions just where serious congestion is already evident¹.
- 6.5 The examining Inspector has indicated his support for the identification of the 8 'main rural centres', endorsing their function as sustainable locations. However, although he considers that a distinction between them would be unnecessary, he does not indicate that the distribution of housing between them should necessarily be equal. Quite the reverse. He recognises that the distribution between the 'main rural centres' is uneven and that the distribution to them 'might be said to be about right', even though scope for increases remains. Moreover, the emerging Core Strategy (as submitted) indicated, in the explanation to policy CS.15, that the intention is to make varying provision in each 'main rural centre' 'reflecting the specific constraints and opportunities that apply and the importance of retaining their individual character and distinctiveness'².

Assimilation or intrusion

- 6.6 The Landscape Sensitivity Assessment places the site within a pattern of small to medium scale regular fields amongst hedgerows and scattered trees rising from the valley slopes of the River Dene to a local ridge. The ridge forms the edge of the Feldon Lias landscape, which extends higher sylvan ridgelines forming a backdrop to the local skyline. The assessment indicates that there is potential for housing along Banbury Road between the college and the cul-de-sac at Walton Fields, but no further north than the latter to ensure that the settlement edge is 'stepped and well below the minor ridge top'. Hence, the possibility of extending development along the Banbury Road in a linear fashion does not condone an expansion up the slopes to the local ridge line. The assessment is very clear. Outside those areas identified as only having a 'medium' sensitivity to development, schemes could potentially effect a significant change to the character of the landscape. That would be so here. The proposal would result in new housing intruding across the verdant slopes and contrasting with the linear pattern of development within the valley. It would noticeably extend the settlement to the east, breaking the skyline on the local ridge and ending in a discordant and abrupt linear edge, exposed and prominent to the south and east. Moreover, large parts of the estate would appear isolated from the settlement, separated by the intervening expanse of playing fields and the enveloping countryside. The scheme would thus result in a moderate to major impact on the landscape with moderate to major significance for its character; the impact would be significant, long term and adverse³.
- 6.7 Those harmful effects are illustrated by the submitted views⁴. From the southern side of the Banbury Road (view SW1)⁵, the site is seen as a verdant gap between existing development extending to a rural skyline of small fields enclosed by neat hedges and hedgerow trees. This must be a valued vista as a seat provides a vantage point to survey the scene from the wide roadside verge, just where a footpath emerges across the River Dene and the network of paths across the

¹ Documents 6 and 24

² Documents 12, 24, SR.E and section 4

³ Documents 2, 3 and 24

⁴ Document 3

⁵ Document 3 photo 1

battlefield. The scheme would obliterate this scene. It would be prominent and remove any views of a rural skyline. It would alter the character of the settlement here by transforming the intermittent linear pattern currently evident with a block of an estate extending to the skyline. The effect would be very damaging¹.

- 6.8 Further east, roughly 600m along Banbury Road, where a footpath skirts the battlefield to emerge on to the road (view SW2)², the fringes of Kineton (including the school buildings) are evident filtered through intervening hedges and trees. Houses on the lower slopes would largely be seen behind or against existing development. But, on the higher slopes the estate would appear exposed and somewhat isolated, projecting well beyond the current edge of the village and protruding in front of the school playing fields forming part of, or being just below, the local skyline. Some mitigation might be possible, although the buffer planting indicated would require alterations to the illustrative layout. But, those harmful effects would be evident not just from the chosen viewpoint, but also from several sections along the footpath. Similarly, views from the south on footpaths across the battlefield, some 350m to 450m distant (views SW3 and SW4)³ demonstrate that dwellings on the lower slopes would be seen amongst existing buildings at the High School and along Banbury Road, but on the higher slopes the estate would protrude above the local ridge and be evident against the distant sylvan ridgeline at Itchington Holt. It would appear prominent and incongruous, intruding into 'green space' to both east and west and creating an uncharacteristically abrupt edge to the settlement here, in spite of the landscaping proposed. From all these viewpoints the effect of the scheme would be significant, long term and adverse⁴.
- 6.9 Further into the battlefield site from 700m to just over 1km distant (views SW5, SW6 and SW7)⁵, the fringes of Kineton appear to follow the lower valley slopes in the vicinity of the appeal site, but rise across the hillside to the north and west. On the lower slopes the proposed estate would be evident beside the High School and the cul-de-sac at Walton Fields. But, as the dwellings begin to cover the higher ground they would intrude across the local ridge and would be seen against the distant ridge at Itchington Holt. Again, the scheme would create an incongruous intrusion into the 'green space' at the edge of the settlement and form an edge to Kineton, damaging significantly the relationship between the village and its surrounding landscape evident from the footpaths across the battlefield⁶.
- 6.10 It is clear from the 'visualisation' at viewpoint 4⁷ that the development proposed on the adjacent site at Brooklands Farm (the Rosconn scheme) would also be prominent and have adverse landscape effects, substantially extending the settlement, albeit at a lower level. Taken together, the 2 estates would create a new stepped edge to the village, prominent and intrusive on the upper slopes from the south and east and alien both to the landscape and the form of this settlement.
- 6.11 It is true that the site is not identified as any special landscape nor is it subject to any special protection. But, it can still be regarded as a 'valued landscape', in the context of paragraph 109 of the Framework. The location of this site at the edge of the village, its inter-visibility with the battlefield and the well-used footpath network,

¹ Document 2

² Document 3 photo 2, see also document 44

³ Document 3 photos 3&4, see also document 44

⁴ Document 2

⁵ Document 3 photos 5,6&7, see also document 44

⁶ Document 2

⁷ Document 43.4.4, compare with document 44.1, a similar but not identical viewpoint

as well as its topography, all contribute to its value¹. Moreover, in a previous appeal at Stockton² an Inspector indicated landscape to be an important consideration finding that policy PR.1 was broadly consistent with the Framework, that the Landscape Sensitivity Study was a useful tool and that, the Secretary of State had explained³ that ‘valued’ landscapes and ‘designated’ landscapes were not one and the same thing. A Ministerial letter of 27 March 2015 confirmed that:

While National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts rightly enjoy the highest degree of protection, outside these designated areas the impact of the development on the landscape can be an important material consideration. [And, as the Framework advises] plans and decisions should take into account the different roles and character of different areas, and recognise the intrinsic character and beauty of the countryside – to ensure that development is suitable for the local context.

- 6.12 In contrast, the landscape evidence from the appellants is neither credible nor robust. Initially, no direct photograph over the appeal site from Banbury Road was available with only oblique views along the roadside beyond adjacent buildings purporting to provide suitable vantage points from which to assess the impact of the scheme. The ‘worst case’ was thus avoided, so rendering the assessment partial and inaccurate. Moreover, the view was described as a ‘fleeting moving view’, which might relate to drivers of motor vehicles on Banbury Road, but could not possibly reflect the perception of those traversing the well-used footpath link to the battlefield site or pedestrians walking along the pavements into or out of the village or to those enjoying the view across the appeal site from the seat opposite. Such receptors would be expected to be highly sensitive to the visual impact of the scheme. To practically ignore them fails to follow the relevant guidance and thus lacks credibility. And, there are other views that are somewhat fortuitous, hiding the appeal site behind development (viewpoint 4), or hedges (viewpoint 5) or foliage (viewpoints 7 and 8)⁴. And, the magnitude of change seems to be suppressed with the presence of existing buildings at the edge of the village being used to diminish the impact of the development. The assessment is incomplete, inconsistent and understates the effects⁵.
- 6.13 It follows that the conclusions derived from the appellants’ assessment of the landscape and visual impact of the scheme cannot be relied upon. The visual influence of the site is not largely confined to Banbury Road, but is demonstrably evident over wide area of countryside up to 1km distant to the south and east. The buildings on the upper slopes of the site would break the skyline of the local ridge in spite of the height limitation proposed. And, from the middle distance within the registered battlefield, views of the scheme would be seen to significantly extend the village into the surrounding countryside. The estate would not be assimilated into the landscape, but would be evident as a somewhat isolated block of development ending in an uncharacteristically straight line. The proposal would thus be intrusive and damaging to the character of the settlement and the surrounding landscape⁶.

¹ Document 24

² Document 2.E

³ APP/C1625/A/13/2207324

⁴ All in document 43.4

⁵ Documents 2 and 3

⁶ Documents 2, 3 and 24

The battlefield

- 6.14 The site lies outside the registered battlefield. But, it is common ground that the site lies within the setting of the battlefield¹. As English Heritage indicate, the site is probably at the northern limits of the battle and, being enclosed, may have contributed to the bulk of the fighting taking place to the south². This, with its visual connection to the battlefield, is deemed to bring the site within the setting of the battlefield³. The whole of the battlefield is a heritage asset. And, as the Framework indicates, a 'registered battlefield' is an asset of the 'highest significance'. It advises that substantial harm or loss of such an asset 'should be wholly exceptional', though, 'less than substantial harm' should be weighed against any public benefits. Great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. It is agreed that the proposal would not cause substantial harm to the battlefield. But the Framework advises that the significance of an asset can be lost through alteration or development within its setting. So, the test here must be whether the proposal would alter the setting of the battlefield sufficiently to adversely affect the significance of that heritage asset⁴.
- 6.15 There is evidence that the appeal site was part of an ancient enclosure, the remnants of which are still reflected in current field patterns. Accounts of the battle indicate that a minor skirmish or other fighting, peripheral to the main action, may have spilled out into the enclosures at the edge of the village. And, although the focus of those engagements was the parliamentary baggage train around Little Kington or stragglers escaping through the enclosures further south, the enclosures in the vicinity of the appeal site may also have influenced the fighting that took place. Certainly, the advice from English Heritage indicates that the site may well have seen some troop activity and played a significant role in the battle as the armies dispersed after the main engagement. There is also some evidence of a crossing over the River Dene further east and the mere absence of roads on some of the very early maps does not prove that other tracks did not exist, some of which may have been useable by elements of either army. Such features might have combined to make the appeal site more accessible than previously thought⁵.
- 6.16 The development of what has always been an open field on rising land visible from large tracts of the battlefield must have a negative impact on the 'legibility of the landscape and therefore hinder the understanding of the battle and how it progressed'. And, although that might well constitute less than substantial harm to the significance of the battlefield, it does not equate with no harm at all. There must be a range of harm perpetrated by damage that is 'less than substantial' and such harm to an asset of the highest significance should be weighed against the benefits of the scheme⁶. The claim is that considerable weight should be accorded to such harm.

Traffic

- 6.17 The Highway Authority accepted that the traffic impact of the scheme was acceptable, in spite of the congestion at peak hours¹. The Council take a different

¹ Documents 24 and 25

² Document 7.10

³ Document 6

⁴ Document 24

⁵ Documents 6, 7.10, 23.3, 24 and 48

⁶ Documents 6 and 24

view and consider that the congestion, together with the associated risks, already constitute a 'severe' traffic impact that the proposal would only exacerbate². Their judgment is that the resulting residual cumulative impact would be severe enough to warrant prevention of this scheme, in accordance with the advice in the Framework and contrary to the requirements of 'saved' and emerging policies³.

- 6.18 The traffic data is not disputed. Nor is the analogy between the potential capacity of the village street and a UAP4 urban road necessarily invalid. Rather, the claim is that there is a mismatch between the theoretical capacity, so derived, and the experience of villagers at peak hours. In those circumstances, reliance ought to favour actual experience rather than theory, especially where such theorising has been devised for a different purpose and applies in a different context. In Kineton there is severe congestion during the 'school run' largely caused by school buses having to negotiate a narrowing of the village streets by parked cars. Indeed, during the site visit all witnessed a virtual grid-lock through the village for about half an hour during the morning school run. The traffic generated by the proposed estate would increase the traffic in the vicinity of the High School by about 24%, thereby exacerbating an already severe traffic problem. That is likely to foster more inconsiderate behaviour, with drivers confronting each other in the narrowed carriageway or mounting the pavements to squeeze past parked vehicles. Such conflicts would occur when primary school children would be wending their way to school along the narrow pavements towards the opposite end of the village, so exacerbating road hazards. The cumulative effect would be severe⁴.
- 6.19 Of course, the emerging Neighbourhood Plan allocates sites to accommodate additional housing. However, none of those sites would generate traffic close to the High School, even though all might accommodate some children of the appropriate age. In any case, it is the impact of the appeal proposal that is at issue here.

The Neighbourhood Plan

- 6.20 The Council consider that some weight can be given to the emerging Neighbourhood Plan. But, although considerable progress has been made, relevant matters are not yet resolved. One matter that appears to be largely resolved relates to the important views identified across the appeal site and the need for development to be designed to take them into account⁵. This is consistent with the evidence from the Landscape Sensitivity Study⁶ and can be taken as a further barometer of the site's 'value'. On the other hand, the *Woodcock*⁷ judgement shows that relevant policies for the supply of housing in an emerging Neighbourhood Plan can also be 'out-of-date' if a 5-year supply of housing land cannot be demonstrated, although it does not follow that an out-of-date policy necessarily attracts little or no weight; that remains a matter of judgement as *Crane*⁸ demonstrates.

¹ Documents 50.1 and 50.2

² Document 6

³ Document 24

⁴ Documents 6, 23.2 and 24

⁵ Document 22

⁶ Document 2.C

⁷ Document 28

⁸ Document 30

The 5-year housing supply

- 6.21 As the appellants indicate, much is agreed; there is no need to repeat those matters here. The dispute relates to the 5-year period, commencement of delivery on some sites and the rate at which delivery might occur¹.
- 6.22 But, predicting the future supply of housing is an inexact process, entailing best estimates and professional judgement; complete precision is impossible, some variation is inevitable and modest differences should not matter². The estimated commencement and rate of delivery used by the Council is derived from surveys and consultation with the development industry. Moreover, the approach adopted in establishing the future provision for housing is cautious. This relates not just to the adoption of a 20% buffer and a 10% lapse rate, but also to the omission of a 'windfall' allowance, the exclusion of suitable and deliverable sites identified in the SHLAA 2012 without planning permission and the exclusion of Core Strategy allocations where applications have been received but permission has not yet been granted. The potential provision from those sources is estimated at well over 1,500 dwellings during the 5-year period. In addition, no reliance is placed on sites allocated in emerging Neighbourhood Plans or the result of any renegotiation at Maudslay Park. And, the 'interim' position portrayed through rolling forward the estimates by 9 months from the end of March 2015 to the end of December, omits the supply from smaller sites granted planning permission under delegated powers in the 3rd quarter, thereby under-estimating the potential provision. It is on this basis that the available provision is calculated to be sufficient for 5.13 years³.
- 6.23 The disputed estimates of supply relate to different expectations from the following 10 sites:
- Land west of Banbury Road, Southam. The site is 'under construction' by Bloor Homes. Even assuming the appellant's delivery rate of 40dpa, this site would produce 200 dwellings over the 5 year period from December 2015 rather than over the 4 years from April 2015, reducing the estimated reduction from 76 to 36 dwellings. Also, the assumption that delivery could average 47dpa is not unreasonable, given the rates achieved at over half a dozen sites within the District. The estimated provision of 236 dwellings should stand.
 - Harbury Cement Works, Bishop's Itchington. This site benefits from outline planning permission. Although the housing trajectory issued in January 2016 indicates that just 50 dwellings were likely to be delivered by 2020, rolling the calculations forward by 9 months to the end of December 2015 adds to the potential provision. Not only has a preferred house builder been chosen, but also a pending application might add an additional 80 dwellings to the 200 already permitted. The estimated provision of 85 dwellings over the 5-year period should stand.
 - Napton Brickworks. This site benefits from outline planning permission for live-work units. There are ecological and contamination constraints. But, negotiations are now underway and house builders have expressed an interest in the site. There is no reason why development on this site could not deliver 65 dwellings over the plan period, as forecast.

¹ Document 36 and sections 4 and 5

² Document SR.D.2

³ Documents 8 and 36

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- Land west of Shottery. There is outline planning permission for 800 dwellings, link roads and a local centre. There are 2 outlets on this site (Bloor Homes and Hallam Land) and a section 278 Agreement is almost complete. First completions are now expected in 2017/18. Even at 40dpa from 2 outlets, the site would deliver 320 dwellings over the remaining 4 year period, a reduction of just 75 dwellings rather than the 275 assumed by the appellants. The assumption that delivery could average almost 50dpa from 2 outlets is not unreasonable, given the rates achieved at over half a dozen sites within the District. The estimated provision of 395 dwellings over the 5-year period should stand.
 - Land north of Allimore Lane, Alcester (northern site). There is outline planning permission for 160 dwellings, infrastructure and open space. The reserved matters application is expected to be submitted imminently. It is assumed that 40dpa could be delivered by year 2 in the 5-year period from December 2015, resulting in no reduction in the delivery of all 160 dwellings.
 - Land north of Allimore Lane, Alcester (southern site). There is outline planning permission for a maximum of 190 dwellings, infrastructure and open space. The reserved matters application is expected to be submitted imminently. It is assumed that roughly 48dpa could be delivered by year 2 in the 5-year period from December 2015, resulting in no reduction in the delivery of all 190 dwellings. The delivery rate is not unreasonable, given the rates achieved at over half a dozen sites within the District.
 - Land at Arden Heath Farm, Loxley Road. There is outline planning permission for up to 270 dwellings served by 2 access roads, together with provision for open space and structural landscaping. The promoter expects to bring the site to the market this year; it is in a strong market location. A reserved matters application is expected in 2017 and delivery of 40-50dpa is assumed, resulting in the delivery of up to 150 dwellings in the 5-year period, entailing a reduction of just 12 dwellings.
 - Land north of Campden Road, Shipston on Stour. There is outline planning permission for 143 dwellings, infrastructure and open space. The developer will be selling the site to house builders, so that the delivery assumed is cautious and could even be exceeded.
 - Land east and west of Ettington Road, Wellesbourne. There is outline planning permission for up to 350 dwellings, open space and landscaping. Pre-application discussions of reserved matters are underway and an application is expected shortly. A start on site is anticipated for early 2017 with some 50dpa delivered over the remaining 4 years from December 2015, achieving the estimated provision of 200 dwellings over the 5-year period. There is expected to be 2 branded outlets here from Persimmon Homes and Charles Church.
 - Long Marston Airfield (phase 1). There is outline planning permission for up to 400 dwellings, employment provision, a 'community hub', open space and landscaping. No 'reserved matters' application has yet been submitted, although there is a draft section 106 Agreement. The delivery of 370 dwellings over the 5-year period was supported by the house builder (Cala Homes) at the Core Strategy and they have achieved commensurately high

delivery rates on a site in Bromsgrove; the strong market in the District would allow high delivery rates here.

- 6.24 The Framework indicates¹ that 'sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 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'. There is not such clear evidence here. On the contrary, the evidence is often supported by the development industry; they agree that the assumptions for the larger sites are generally appropriate and that the delivery rates assumed are largely reasonable². Indeed, a substantial proportion of the difference between the Council and the appellants is derived from their refusal to acknowledge the 'interim' calculation undertaken in rolling forward estimates by 9 months from the end of March 2015 to the end of December. A realistic assessment of the current position is that a 5-year supply of deliverable housing site can be demonstrated³.
- 6.25 However, in this case the precise provision for housing over the relevant 5-year period does not matter much, for it is agreed that, as policy STR.2 is out-of-date it must follow that the relevant test entails the presumption in favour of sustainable development involving the grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The existence of a 5-year supply of housing simply affects the 'planning balance' in favour of preventing this scheme⁴.

The planning balance and conclusion

- 6.26 In those circumstances, it is necessary to set out the balance of benefits against the adverse impacts⁵. It is accepted that the benefits of allowing the proposal include:
- providing construction and supply sector jobs throughout the development, albeit over a relatively short building period and not necessarily for local people;
 - offering social, environmental and economic benefits in being located in a sustainable location and providing market and affordable housing;
 - delivering a new ecological enhancement area to the north of the proposed estate;
 - the provision of land to accommodate a potential link road between Banbury Road and Southam Road to ease traffic congestion at peak times, along with pedestrian links.
- 6.27 However, the scheme would entail several damaging consequences:
- it would contravene 'saved' policies in the Development Plan and undermine emerging policies in the Core Strategy, thus failing to follow a 'plan-led' approach to development;

¹ See footnote 11

² Document 8

³ Document 8

⁴ Documents 5 and 24

⁵ Document 5

-
- it would intrude into the landscape and result in an incongruous addition to the village, thereby resulting in environmental damage that would render the scheme 'unsustainable';
 - it would exacerbate existing congestion; and
 - it would impinge on the setting of the registered battlefield.

6.28 Given the substantial harm due to the impact of the scheme on the landscape, traffic congestion and the setting of the battlefield, the policies in the Development Plan indicate that the appeal should be dismissed. And, as the scheme has been found to be unsustainable it should not benefit from the presumption in favour of sustainable development. The harm perpetuated by the proposal would thus significantly and demonstrably outweigh the benefits associated with the scheme. Moreover, the provision of the additional housing is not so pressing now that a 5-year supply of housing sites can be demonstrated. The balance is thus firmly against the scheme, so that the appeal should be dismissed¹.

Richborough Estates

¹ Documents 5 and 24

7. The Case for Kineton Parish Council

Assimilation or intrusion

7.1 The Parish Council concurs with the Council that the scheme would intrude into the landscape. The proposal would not comply with policy E2 of the emerging Neighbourhood Plan. On the contrary, it would introduce prominent new housing on ground rising to a local ridge and above existing buildings, so intruding into an 'important view', as identified by the local community and in the Plan. The Examiner visited the village and saw for herself that these views, and the general setting of the village, were important to the unique character and topography of the settlement. The appellants are wrong. The site does not provide a 'fleeting view' up the slope to the ridge line. The view is enjoyed recreationally by walkers, cyclists, joggers and horse riders and by those resting on the seat on the opposite verge of Banbury Road¹.

Agriculture

7.2 The Parish Council believes that the agricultural assessment submitted by the applicants is flawed. The assertion that the site should be classified as Grade 3b is not borne out by the evidence produced. The figures for the national average crop yields do not tally with the published DEFRA average UK crop yields; the former are significantly higher. Even so, the yields from the appeal site are only marginally lower (though in the case of barley, higher) than the national averages quoted. And, in relation to the DEFRA figures, the yields from the appeal site are generally greater. This hardly justifies the assertion that '*the land produces poor yields compared to the national average*'. In any case, some allowance ought to be made for regional differences and other variables affecting yields, such as the expertise of the farmer. Yields in relation to wheat crops are rather lower in the West Midlands than they are in several other regions; the yield from the appeal site in 2012 exceeded the average regional yield. On the basis of such evidence, it is more likely that the site should be classified as Grade 3a, and thus constitutes some of the 'best and most versatile agricultural land' in the country².

7.3 Policy E1 of the Neighbourhood Plan seeks to protect the 'best and most versatile agricultural land' and, although alterations are recommended to make it less draconian, it would still aim to resist schemes unless they could be shown to be necessary and no lower grade land was available³. The proposal would be contrary to that policy.

The battlefield

7.4 The Edgehill battlefield is an important heritage asset and the Parish Council, together with the people of Kineton, are proud and privileged to have it on their doorstep. In spite of the evidence, direct involvement of the appeal site in the battle remains inconclusive. It may have formed part of a route across the river and on to Chadshunt: and, it may have been the site of a minor skirmish on the periphery of the battle. But, whatever its role, English Heritage (now Historic England) confirm that the 'registered battlefield' has a visual and associative landscape connection with the appeal site, which not only lies within the setting of the battlefield, but also may have been the site of a minor skirmish. It is clear that the setting of a heritage

¹ Documents 2, 20, 22, 23 and 42

² Documents 26 (index), 27.10 and the agricultural statement submitted with the application

³ Documents 20, 22 and 23

asset can be very important in the understanding of that asset and contribute crucially to its value¹.

- 7.5 The proposal would permanently damage the setting of the battlefield by introducing urban development where there is clear inter-visibility to and from the appeal site. That could be contrary to policy D10 of the Neighbourhood Plan, which seeks to minimise the impact of development within or immediately adjacent to the 'registered battlefield'².

Traffic

- 7.6 Kineton experiences significant congestion during the morning and evening peak hours. And, even the appellants accept that the centre of the village can be gridlocked at these times. Congestion illustrates a lack of capacity. From which it follows that the additional traffic generated by the appeal proposal could not be accommodated without exacerbating traffic problems. Moreover, although the site is adjacent to the High School, it is more than 1 km from the Primary School. Parents and young children from the appeal site would have to negotiate the narrow pavements beside the congested village streets, perhaps avoiding the occasional vehicle mounting the pavement to squeeze past traffic obstructions. Or, due to the distance and danger, take the car to school, so adding to the congestion³.
- 7.7 Of course, the Neighbourhood Plan also envisages land for new residential development. But, the allocated sites, most of which are endorsed by the Examiner, would engender different traffic patterns. The site allocated under policy SSB1 for 78 dwellings is on the north western periphery of the village, so that few additional vehicle trips along Banbury Street and Banbury Road might reasonably be expected and those children attending the High School might well walk. In contrast, the proposed estate would exacerbate capacity problems within the most restricted and congested part of the village. For those reasons it would be contrary to policy IN5 of the Neighbourhood Plan⁴.
- 7.8 The opposite view, supported by the appellants and the Highway Authority, is based on a flawed analysis. First, the ATC traffic data on Banbury Road was taken from a position east of the High School, thereby failing to record a significant proportion of the higher flows towards the centre of the village to the west (on Banbury Road and Banbury Street) or the vehicles turning into, or out of, the school. Second, the analysis focusses on peak morning flows at 7.00-8.00hrs which, although correct for the network as a whole (due to Southam Road serving as a link to the Motorway), does not coincide with 8.00-9.00hrs peak flows at the appeal site. Third, the trip generation rates are low and based on an unrepresentative comparison. A trip rate of just 0.51 per household during the morning peak hour is about 20% below the rate of 0.61 used for the adjacent site at Brooklands Farm. Moreover, the one comparison site used from the TRICS data base (Maresfield in East Sussex) bears little resemblance to Kineton in terms of population, public transport facilities or rural isolation. Fourth, the existing flows are underestimated and misinterpreted. The 5 day average combined traffic flow on Banbury Road during 7.00-8.00hrs is given as 173. But, the traffic recorded between 8.00-9.00hrs was 193 vehicles. And, the manual counts at key junctions indicated that Banbury Road and Banbury

¹ Documents 7.9&10, 23, 23.3 and 45

² Documents 20 and 22, but see also the relevant part of section 5

³ Documents 23 and 23.2

⁴ Documents 20, 22, 23 and 23.2

Street accommodated some 290vph between 8.00-9.00hrs, including 5 HGVs and some 20 buses. But the analysis appears to ignore such details¹.

- 7.9 Nor are the deficiencies of the road network properly recorded or assessed. Although the restricted width (just 5.5m) in Banbury Street close to the fish and chip shop is recognised, the additional impediment of parked cars is not. Their presence further restricts the effective carriageway to just 3.5m, inadequate to accommodate any 2-way traffic, especially flows containing HGVs and PSVs. In addition, a steep gradient and a bend accentuate such difficulties. Similarly, although much of Banbury Road is about 6.1m, there are places where it narrows to 5.9m or 6m. Hence, on-street parking can again prevent 2-way traffic narrowing the effective carriageway to 3.9 or 4m. The result is regular congestion on Banbury Street, sometimes amounting to grid-lock during the peak periods. Manoeuvres may entail vehicles reversing into roadside gaps or larger vehicles mounting the pavement. Indeed, *'flow breaks down with speeds varying considerably, average speeds drop significantly, the sustainable throughput is reduced and queues are likely to form'*². Moreover, *'a particular example of material impact would be a worsening of congestion. In congested areas, the percentage traffic impact that is considered significant or detrimental to the network may be relatively low (possibly below the average daily variation in flow)'*³. In this case, even the 46 additional trips estimated by the appellants would represent a 24% increase on Banbury Road and the 40 additional trips through the junction at Banbury Road and Banbury Street would amount to a 14% increase. Such increases are forecast just where, and when, traffic is already at a 'standstill'⁴.
- 7.10 Congestion can also cause traffic hazards. Two accidents are recorded in the last 5 years. The first occurred in 2011 on Banbury Street and involved a bus colliding with a pedestrian standing at the edge of the narrow pavement. The second occurred in 2013 and involved a coach travelling along Banbury Street (which stopped and reversed to make way for oncoming traffic) colliding with a motorcyclist following behind⁵.
- 7.11 The claim that the road network would be able to accommodate the additional traffic because it is only operating at about 50% of its theoretical capacity is disputed. The analogy with a UAP4 urban road is not appropriate; it is modelled on high streets in London with a minimum width of 6.1m. Banbury Road is a 'B' road through rural areas with restrictions below 6.1m in width. The equivalent section of the guidance for rural roads refers to 7.5m as the minimum width for the capacity models proffered⁶. Moreover, even if the stretch of Banbury Road adjacent to the scheme does have a theoretical capacity of 1,250vph, it would not be achievable due to the congestion and the restrictions at junctions elsewhere and the need to accommodate significant turning manoeuvres at the High School. In addition, capacity is affected by the frequency of side roads, accesses and parking, or by gradients above 5-6%, by pinch-points below 6.1m and by the actual composition of the traffic. Such details, and the concerns raised by residents, have not been properly addressed⁷.
- 7.12 It is inaccurate to describe the site as being in a 'sustainable' location and wrong to describe Kineton as a 'town'. The site is not within convenient walking and cycling

¹ Documents 23.2 and 27.10

² A description of congestion in the Design Manual for Roads and Bridges

³ Document 23.2.B

⁴ Documents 23.2 and 27.10

⁵ Document 23.2

⁶ Document 23.2.D

⁷ Documents 23.2, 27.10 and 31

distance of the village centre or to an especially wide range of services. On the contrary, the emerging Core Strategy insists that the scale of development in Kineton is intended to be limited, given the comparatively modest provision of shops and services¹. Although the site is just 30m from the High School (measured along Banbury Road), it is about 500m from the post office, 530m from Greenhill's shop, 570m from the butcher's, 750m from the church, 850m from the nearest doctor's surgery and 1.2km from the primary school; there is no longer a bank or cash point within the village. The centre may be within the recommended maximum walking distance, but it lies well beyond 500m, given as the preferred desirable distance to such facilities². Nor are the public transport links especially convenient. Although a bus stop is provided on Banbury Road in the vicinity of the site, it is served by 2 buses each day in each direction. Most buses stop beside the church, 6 going to Leamington and 7 going to Stratford and Banbury³.

The Neighbourhood Plan

- 7.13 The Kineton Neighbourhood Development Plan has involved 3 years of hard work and over 18 weeks of formal public consultation. It has now been scrutinised by an independent examiner. Her report to the Qualifying Body (the Parish Council) and the District Council was submitted on 11 January 2016 recommending the amendments necessary to satisfy the 'basic conditions' for the Plan to go forward to a referendum, as well as other alterations that might improve aspects of the Plan. The next step is for the Parish Council and the District Council to consider how the Plan might best accommodate the recommendations made and to publish a 'referendum version' of the Plan. It was anticipated that the 'referendum version' of the Plan might have been submitted to the District Council towards the end of February, considered at a cabinet meeting in March and published for the referendum in April or May 2016. As yet, however, the initial stages of that process have not materialised⁴.
- 7.14 The Government attaches great importance to the Neighbourhood Plan process and the Framework indicates that they provide 'a powerful set of tools for local people to ensure that they get the right types of development for their community'; this chimes with a 'core principle' that planning should be genuinely plan-led and empower local people to shape their surroundings. This is reflected in the decision of the Secretary of State in dismissing an appeal in Lydney, Gloucestershire partly because the residential scheme being considered there would have conflicted with the emerging Lydney Neighbourhood Plan. That Plan had progressed through the independent examination, but had not yet reached the referendum stage⁵. The Kineton Neighbourhood Development Plan is in the same position and thus should attract the same 'moderate weight' accorded to the Lydney Plan by the Secretary of State. Yet, the appellants still claim that the allocations for housing in the Kineton Neighbourhood Plan are unsuitable⁶. In fact, only one site (allocated under policy SSB3) has been recommended for omission, and that is for legal reasons. All the other 3 sites, including that for 8 dwellings under policy SSB2 initially allocated in the Local Plan Review⁷, have been endorsed in the examiner's report⁸. Moreover, these allocations are the result of assessing the suitability of 9 sites around the

¹ Document 12

² Document 23.2

³ Document 23.2.E

⁴ Documents 20, 22, 23 and SR.D.4

⁵ Document 23 (appeal ref. 2218921)

⁶ Document 37

⁷ Document 23.5

⁸ Document 22

village, including the appeal site. The choice of which sites to allocate for residential development ought to be one for the local community to decide¹.

- 7.15 The appeal proposal, being beyond the boundary of the settlement and on greenfield land, would contravene the requirements of policy H1, as originally written. It would not do so if the recommended alterations were to be implemented. However, this is one of the issues being discussed with the District Council. Planning policies identifying settlement boundaries are neither new nor uncommon. And, many plans adopt such an approach to managing patterns of development, including an adopted Neighbourhood Plan at Winslow. It may not be necessary to abandon the imposition of a 'settlement limit' in the final version of the Plan².

The planning balance and conclusion

- 7.16 The proposal would permanently intrude into the landscape beyond the village, in spite of the landscaping proposed. It would thus conflict with the environmental dimension of 'sustainable development'. The site is not allocated for housing in the Neighbourhood Plan and is likely to conflict with its eventually adopted policies, so that allowing the appeal would seriously undermine the aims and requirements of the Plan which, in accordance with previous decisions, should be afforded 'moderate weight'.
- 7.17 There would be benefits. The proposal would provide housing (including affordable housing), though not necessarily in accordance with the strategy envisaged by the local community. There would also be economic benefits. But, many would only be temporary and, although residents would be likely to make some use of the local facilities, the village is really a 'commuter settlement'. Indeed, the Bloor Homes scheme beside Southam Road attracted no interest in the business units originally permitted there, a subsequent permission allowing additional housing there. And, although the ecological enhancement area would offer ecological improvements, some might be undermined by the provision of the mooted link road, albeit impeded by a ransom strip beyond the appeal site³.
- 7.18 In those circumstances, the planning balance is against the scheme and the appeal should be rejected.

¹ Document 23

² Document 23

³ Document 23

8. The Case for Warwickshire County Council

Education¹

- 8.1 The school age population in Warwickshire has been affected by a recent upturn in the annual number of births after a decline experienced some years ago. As a result there is pressure on primary school places, while many secondary schools have current surpluses that are likely to be filled as the larger primary cohorts enter secondary schools. As a result an additional 1,745 primary places were provided between 2010 and 2012 and a further 1,995 since 2012; a total of 3,740 additional places over the last 5 years or so. In secondary schools, there is currently some surplus capacity, but numbers are expected to grow from September 2015 and reach a peak in 2022; additional places (to accommodate the larger primary cohorts) are likely to be required from September 2017.
- 8.2 Such changes are likely to affect the provision for those aged over 16, although recent legislation requiring 17 and 18 year olds to continue in education or training must accentuate the need for additional provision. Similarly, those demographic changes will have an impact on pre-school provision and recent legislative changes requiring sufficient places for eligible 2 year olds must exacerbate the need for further facilities; some 40% of 2 year olds qualified for this scheme in 2014, entailing the provision of a further 1,200 places. An increased entitlement for 3 to 4 year olds involving up to 30 hours a week for working parents from September 2017 will also require further investment and growth. Special school numbers have increased by 10% since 2010 and increasing numbers of pupils have to be placed in facilities outside the county at considerable cost. And, planned growth within the county is expected to increase the size of the school population by around 25%.

The need for contributions

- 8.3 A contribution towards increased education facilities is sought when the predicted impact of a new housing development creates a shortfall in provision. The current capacity and forecast demand are compared. Where additional pupils may be partly accommodated, the contributions requested are adjusted accordingly. Some flexibility is required to meet parental preferences, to enable in-year transfers and to help families send all their children to the same school. Hence, a surplus of roughly 4% is sought. Moreover, the existence of a surplus may or may not be permanent and it may be required to accommodate larger cohorts of children moving through the school. And, because there is a statutory duty to meet parental preference wherever possible, there can be no guarantee that a particular 'catchment area' will serve as the only source of pupils for a particular school. This means that families moving to a new development may find that places have been taken by children from further afield. There is no mechanism available to move children attending a school beyond their 'catchment area' back to their local school. The sufficiency of provision thus has to be assessed over a reasonable area, normally taken as within 2 miles for primary pupils and within 3 miles for secondary pupils.

Contributions required from the appeal scheme²

Primary

- 8.4 On that basis a scheme for 90 homes on the appeal site would be expected to generate a demand from 8 children aged 0-4, of which 2 might require 'funding' for nursery or pre-school provision. The additional demands generated by the

¹ Document 17, appendix 4 (at tab 12)

² Documents 14, 16 and 17, appendix 4

legislative changes indicated above would also have to be catered for. Pre-school provision is dispersed and Kineton has one pre-school provider with a limited number of places available. The pressure on places is expected to heighten as development proceeds over the next couple of years and in response to the provisions of the Childcare Bill. Hence, a contribution is requested towards increasing nursery funded provision within the Kineton area.

- 8.5 Similarly, the appeal scheme would create a demand from some 15 additional primary pupils. However, there is currently capacity in the local primary school to accommodate those pupils, taking account of the developments permitted in the area, although not including those schemes yet to benefit from planning permission. Contributions are thus required amounting to £23,374 for additional pre-school provision only; sufficient capacity exists to accommodate pupils at the local primary school or those of primary school age with special educational needs.

Secondary

- 8.6 The scheme would be expected to generate a demand for secondary school places from 16 children and 2 places for those over 16. There is currently some capacity at the High School, which is designed to accommodate an intake of 150 and has 827 pupils on the school roll¹. However, there is a need to decommission several temporary classrooms for health and safety reasons and due to the long term viability of such teaching spaces. As a result, the net capacity is expected to be reduced from 1,090 to 968. But, due to the expected pupil yield from housing elsewhere and the effects of demographic changes, there is now anticipated to be pressure on pupil places from September 2018 and further capacity will be required.
- 8.7 The appellants suggest that sufficient capacity would exist if the proportion of pupils from outside the county could be reduced; roughly 10% of pupils in year groups 7 to 11 live in homes beyond it. This would mainly affect pupils at the standard points of transfer during year 7, as pupils currently in schools cannot be removed. However, this is likely to happen in any event due to the anticipated demand for places in Shipston, Southam and Stratford-on-Avon. Currently 135 pupils in years 7 to 11 from the Kineton catchment area attend non-selective schools in these towns, while just 60 pupils from these catchment areas attend Kineton High School. Hence, the expectation is that the existing population is likely to utilise the places currently taken up by pupils from outside the county; those places will not be available to accommodate pupils from new housing development.
- 8.8 As part of the programme to add capacity to the High School to accommodate potential pupils from new housing development in the area, several rooms in the main school building will need to be refurbished to provide general teaching classrooms. A contribution is requested towards the cost of this refurbishment². Contributions are required amounting to £160,699 for secondary school places (11-16 years) and £31,588 for post-16 places; nothing is required for those of secondary school age with special educational needs.

Total

- 8.9 The total educational contribution sought thus amounts to £215,661.

¹ Document 18

² Documents 14, 15 and 17, appendix 4

9. The Case for the South Warwickshire NHS Foundation Trust¹

Current arrangements and performance

- 9.1 South Warwickshire NHS Foundation Trust is the major provider of acute and community health services to the population of South Warwickshire, from both Stratford-on-Avon and Warwick Districts. Facilities include Warwick Hospital, providing the majority the acute services (such as A&E, diagnostic and pathology functions, maternity and special baby care, surgery, intensive and coronary care) and Stratford-on-Avon Hospital – a community hospital offering care relating to minor injuries, outpatients, radiology and intermediate care. The acute facilities at Warwick and Stratford Hospitals would be used by the prospective occupants of the appeal scheme.
- 9.2 Over the past 5 years over 71% of South Warwickshire residents have chosen the Trust for their first outpatient appointment and the Trust has delivered over 73% of those requested admissions, including admissions for specialised services. In 2013/14, over 79% of patients registered at the Little Thatch and the Kineton Surgeries (the closest GP practices to the proposed development site) chose the Trust for their first outpatient appointment, including specialised services, and the Trust delivered over 80% of those requested admissions. The calculations in the formula used to assess developer contributions are based on the current share of South Warwickshire patients using the services delivered by the Trust and assume the same share of patients from the new development.
- 9.3 The Trust has an annual turnover of about £220m. Of this about £116m relates to activities qualifying for National Tariff funding, either as a direct payment (£55m) or under a block contract (£61m). The remainder is delivered through community service contracts and other NHS service contracts which do not contain any allowance for capital costs. The tariff reduces by 1.5% per year equating to a requirement for the Trust to find annual efficiency savings of around 4.5%. The National Tariff includes 65% for staffing costs, 21% for other operational costs, 7% for drugs, 2% for the clinical negligence scheme and 5% for capital maintenance. The Trust is paid for the services it delivers subject to satisfying the quality requirements set out in the NHS Standard Contract, linked to the timely delivery of care and intervention and to the best clinical practice. Any failure in achieving the required standard attracts a fine. Moreover, although payments are made in respect of each eligible activity delivered, they are subject to an annual ceiling; any additional activity beyond that ceiling attracts no payment. The activities subject to block grant contracts do not accommodate growth during the year. Currently, the contract is agreed annually and the ceiling activity is based on the outturn during the preceding year.
- 9.4 In the appeal relating to land off Dovehouse Drive, Wellesbourne, the Inspector considered the contribution requested by the Trust to be unnecessary because he interpreted 'a time limited funding gap which arises as it is paid retrospectively' to mean that the Trust could recover the additional expenditure necessary in the following year². That is wrong³. None of the additional expenditure incurred can be recovered. The annual funding is based solely on the outturn activity during the previous year.

¹ Documents 14, 16 and 17, appendix 7 (at tabs 23-30)

² Ref: APP/J3720/A/14/2216615

³ Documents 17, appendices 7.2-7.6

9.5 As a Foundation Trust, there is no routine eligibility for capital allocations from either the Department of Health or local commissioners to provide new capacity to meet additional healthcare demands. The Trust is expected to generate surpluses for re-investment in maintaining local services. It can also request a loan from the Department of Health's Independent Trust Financing Facility to fund capital development proposals. Loan applications are subject to borrowing limits, approval procedures and interest payments (currently at 3.09%). In the cited appeal decision the Inspector considered that the Trust could secure a loan for a short period of time because it would recover the monies spent. But, as a loan would be subject to borrowing limits, interest payments and external authorisation, it would be an unacceptable way of funding additional expenditure due to new development, particularly because it would result in additional costs on an already stretched budget. Charitable donations also provide funds and these are managed under the Charities Act. Essentially, this requires that charitable funds are not used to pay for items of equipment or facilities which are needed to deliver day-to-day services.

Evolving strategy

- 9.6 The Trust is planning to accommodate the healthcare needs of an ageing population and future population growth; it has sought approval for a loan to contribute towards the capital costs. A capital programme budget of £6m for 2013/14 provided for theatre refurbishment, digital radiology, IT and replacement sterilisation equipment, amongst other things. There was also an unfunded capital request for £3.27m for 2013/14, now carried forward against planned schemes for 2014/15. But, it is not sensible to plan on a piecemeal basis. Hence, the infrastructure required to provide the healthcare needs of the anticipated population growth across the whole area is assessed comprehensively. The strategy incorporates the increasing transition of healthcare from hospital to the community, together with the impact of an aging population.
- 9.7 Based on 2013/14 demand, the Trust estimates that future population growth of 11% would generate a hospital demand equivalent to 15,000 admissions and 53,000 outpatient appointments per year, requiring about 160 acute hospital beds, 16 outpatient clinic suites together with associated diagnostic and intervention facilities, maternity and support service infrastructure. The Trust proposes to meet these infrastructure requirements through 3 development projects, including 2 new ward blocks at Warwick Hospital (providing about 96 beds) and a new Stratford Hospital (providing some 50 beds, 16 new outpatient clinic suites, associated diagnostic and intervention facilities and support service infrastructure). These proposals are estimated to cost in excess of £64m. However, the Trust is not seeking section 106 contributions towards this infrastructure.
- 9.8 Although the number of acute beds is barely $\frac{2}{3}$ of what it was 25 years ago, the number of emergency admissions has increased by 37% over the last 10 years and is at an all-time high. The Trust's hospitals are now at full capacity with limited opportunities for improvement. And, while services currently comply with the quality requirements, there are insufficient resources or space to accommodate the anticipated population growth without jeopardising the quality of the service delivered, thereby raising the spectre of future sanctions. It is clear that a key factor is the availability of beds. Maximum bed occupancy of 85% is evidenced to result in better care for patients and better outcomes, enabling patients to be placed in the right bed, under the right team and to get the right clinical care for the duration of their hospital stay. Where that is not possible, the patient would be admitted and treated in the best possible alternative location and transferred as space became available, but each ward move would increase the length of stay for

the patient and is known to have a detrimental impact on the quality of care. Consequently, when hospitals run at occupancy rates higher than 85%, patients risk more delays to their treatment and are more likely to encounter sub-optimal care and significant risks.

Contributions required from the appeal scheme

9.9 The utilisation of acute bed capacity exceeded the optimal 85% occupancy rate for the majority of 2013/14. The problem would be exacerbated by an increase in population not matched by an increase in bed spaces available at the Hospital. Hence, any new residential development has the potential to further strain the current acute healthcare system. During 2013/14, the Trust accommodated 1 in 5 residents of South Warwickshire at A&E, 1 in 5 were admitted to hospital, nearly 1 in 10 had an operation and the equivalent of 100% attended an outpatient appointment, with 4 out of 5 having a radiological examination or scan. This is equivalent to an average resident generating 2.4 acute hospital interventions per year. The existing infrastructure for acute and planned health care is unable to meet the additional demand likely to be generated from the appeal scheme. As a consequence there would be an adverse impact on the timely provision of care risking the imposition of financial penalties under the 'payment by results' regime. The only way to comply with the NHS quality requirements would entail contributions from the developer towards the cost of providing the necessary additional capacity during the first year of occupation of each dwelling. The detailed calculations are set out, based on residents generating an annual average of 2.4 acute interventions each.

- Developer Contribution = Development Population x % Activity Rate per head of Population x Cost per Activity

9.10 The proposal entails the erection of 90 dwellings, resulting in some 207 residents¹ and some 500 interventions. The contribution requested is thus directly related to the development proposals and is fairly and reasonably apportioned in scale and kind. Without the contribution the scheme would not be acceptable in planning terms because the consequence would be that there would be inadequate healthcare facilities available to support it, which would adversely impact on the delivery of healthcare for others served by the Trust. It is also necessary that those contributions are made during the first year of occupation of each dwelling, for otherwise there would be no commissioner funding to meet the healthcare demands in the first year of occupation, such funding being based only on the outturn activity incurred during the previous year. The contribution requested is £93,596.87 to provide the additional facilities. This should all be received on the implementation of the planning permission to ensure that the infrastructure would be delivered to accommodate the needs of prospective residents.

¹ 2011 census

10. The cases for local people

*Cllr Christopher Mills*¹

- 10.1 There is serious traffic congestion in Kineton and, should this development go ahead, the strain on Banbury Street, Banbury Road and Southam Street would be almost intolerable. We are told by the Highway Authority that parking on Banbury Road can be removed by painting yellow lines at the entrance to the site. But, that would merely displace the problem elsewhere. We are told by the developers and the Highway Authority that the impact of the scheme would be minimal. But, the bottlenecks at the centre of the village and in Southam Road occur at the best of times. Most vehicles leaving the proposed estate would be likely to traverse the centre of the village on their way to the M40, thereby exacerbating the existing situation and perpetuating the sort of chaos witnessed at the site inspection. And, although a second entrance for emergency vehicles has not been made a requirement for the appeal proposal, just such a provision was the subject of a planning condition in relation to a comparable scheme.
- 10.2 There are serious concerns about the impact of this scheme on the local landscape and on the setting of the village; the open nature of the site, together with the trees and hedgerows along its borders, makes an important contribution to the pleasant rural setting of the eastern part of Kineton. Indeed, the site is closely related, and of a similar character, to the fields to the south. The appeal site is visible from many local viewpoints and from various local footpaths and provides a soft and attractive edge to the village, contributing to the enjoyment and experience of those using the local footpath network. The erection of 90 dwellings in this field would destroy its open nature and its important contribution to local character. In spite of the landscaping proposed, and the limited height of the dwellings intended, the scheme would appear prominent in the local landscape, particularly during the winter months, and cause unacceptable harm to the rural setting of the village. It would not be assimilated into the village but would result in a harsher and more intrusive edge to the settlement. Although the site is not part of a rare or special landscape and is deemed to be of only medium sensitivity to development, it forms part of the wider open countryside and makes a significant contribution to the landscape character of the local area, as the *Landscape Sensitivity Study*² indicates.
- 10.3 For those reasons the proposal would be in conflict with 'saved' policy PR.1 of the Local Plan Review and paragraph 109 of the Framework. Both aim to protect and enhance valued landscapes and require that any identified harm to the rural character and setting of the village should be given significant weight. Such harm would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole, from which it follows that the scheme would not constitute sustainable development and the presumption in favour of sustainable development would not apply. A similar stance has been supported by an Inspector in dismissing an appeal at Rogers Lane, Ettington. But, at Kineton the damage could be greater as there is also an application for a further 33 dwellings on an adjacent site. Not surprisingly, I have received no letter of support relating to the appeal scheme. The Government is keen to give local communities a say in local development; this should not be ignored.

¹ Document 33

² Document 2.C

Ian Davies, presented by Kneal Johnson¹

- 10.4 I wish, with other residents, to provide you with a local perspective on this appeal in addition to the written submission from some 56 households. We have heard reference to many planning policies and assessment models (dealing with road capacity, heritage settings, housing numbers and education contribution calculations) and there have been many references to Prince Rupert. But, what is important to local people is the future of the village, its character, the quality of life, and how we can influence these so that the right decisions are made. We are not against new housing development, but it must be in the right place. The nearly finalised Neighbourhood Development Plan stipulates where those right locations are, as determined by local people through extensive consultation over many years.
- 10.5 The proposal would be inappropriate in size and topography, as it would result in an incongruous and unacceptable urbanised incursion into open countryside which would be seen from many viewpoints. The site is not within the established settlement boundary and the scheme would result in an inappropriate hard edged urban extension of the village. Moreover, it would be on the wrong side of the village, exacerbating the daily level of unacceptable traffic congestion. Such congestion is due to a combination of traffic volume, traffic type, travel patterns, narrow roads and on-street parking, the effects of which cannot be mitigated. We do not expect developers to resolve the current problem but we also do not expect the situation to get worse with additional traffic, however limited, emerging from inappropriate sites and from over-large developments. We are concerned about the safety of villagers, particularly youngsters. We do not believe that there are traffic models which can factor in all those aspects. What we do know is that we have a unique set of circumstances along Banbury Road and Banbury Street with which no other village in Stratford District or Warwickshire has to contend and which frequently results in gridlock. The Highway Authority does not know how to model this unique set of circumstances and therefore responds inadequately.
- 10.6 We consider that the registered battlefield is a key component in the character and heritage of the village. Urbanising the village edge opposite the battlefield would impair that relationship permanently. Moreover, the Parish Council and local people have been working hard for 3 years to produce the Kineton Neighbourhood Development Plan. This is now almost completed. Yet, the appeal scheme would conflict with so much of the Plan, in terms of content, principles and policies, so that approving the proposal would make a mockery of everyone's efforts. Although the scheme would deliver some benefits, they would be nowhere near sufficient to outweigh the harmful effects of the proposal.

Julian Hartless²

- 10.7 I was for 20 years the Project Manager of major highway schemes for Buckinghamshire and Oxfordshire County Councils, including managing the preparation of large scale traffic modelling to support planning and grant applications.
- 10.8 I have a number of issues with the Traffic Statement³ submitted in support of the appeal since it does not adequately address the traffic problems arising from the development and hence does not offer any mitigation measures to address them. In particular:

¹ Document 32

² Documents 31 and 31.1

³ Document 50.1

- The trip rates are derived by reference to the wrong region, which should be the West Midlands rather than East Sussex, and the development range should be 88-90, rather than 68-80.
- The selected location should not be 'edge of town', as Kineton is a village: the only acceptable location should be 'free standing'.
- Populations of 5,001 to 25,000 are within 6 miles (Wellesbourne) and of 25,001 to 50,000 (Stratford-on-Avon, Banbury, Warwick and Leamington) within 15 miles rather than 5 miles as stated.
- Car ownership should be 2-3 cars per household, as on existing estates.
- There are no travel plans.

10.9 The AM Peak seems low. On measuring the flows from Shortacres and the Green Farm End estate (of a similar size) 38 vehicles were counted leaving and 12 arriving, resulting in 50 movements rather than the 46 estimated. As the proposed scheme may well attract young professional families, flows may well be greater still; they should be recalculated.

10.10 Restrictions in the carriageway are recorded on Bridge Street, Southam Street, Warwick Road, and Banbury Street and, with on-street parking, those roads effectively provide single carriageway working during the AM and PM peak periods. Reference is made to TA 79/99 and an analogy with a UAP4 urban road is used to estimate a 2-way capacity of 1,250vph. But, that guidance also indicates that '*The capacity of the lower width of roads will be significantly reduced by parking and temporary width restrictions*' and that '*The lowest widths are unlikely to be suitable for bus routes or significant volumes of heavy goods vehicles*'. Hence, the capacity derived cannot be taken as representing potential peak capacity flows in Kineton because there are a dozen or so school buses and a scheduled bus service and because the effective width of the carriageway is restricted by parked cars and is, in any case, lower than those set out in TA 79/99.

10.11 Parked vehicles can limit traffic capacity and research from the USA indicates the magnitude of such effects (reproduced in the table below¹). Parked cars require 2.4m of space, and delivery lorries need over 3m. During the AM peak, most of the parking areas in Banbury Street are taken up with cars and delivery vehicles to the shops. So, the length of road from Manor Lane beside the fish and chip shop and up to the Manor Way junction has a greatly reduced width. From the table below this reduction could reduce the capacity by up to 575 pcu's (passenger car units). This is clearly too large a reduction, implying that there is no reasonable way to estimate the AM peak capacity through the village.

Figures taken from table 2 Effect of parked Vehicles on Capacity (Ministry of Transport U.S.A 1965)

Parked vehicles per km (both sides together): No. of vehicle	3	6	31	63	125	312
Effective loss of carriageway width: m	0.9	1.2	2.1	2.55	3.0	3.6
Loss of capacity at 25kmph (pcu.hr)	200	275	475	575	675	800

10.12 Nevertheless, the Transport Statement indicates that the measured AM peak on this section of Banbury Street is 337vph. At this time there is much queuing and often stationary traffic for over 10 minutes, so demonstrating that Banbury Street must be operating at or near its maximum AM peak capacity. The proposed development

¹Document 31.1

would be adding at least 50 pcu's, representing a 14.8% increase on an already seriously constrained network. This large increase in peak flow will add to the congestion, seriously inconveniencing existing village inhabitants.

10.13 The conclusion must be that the Transport Statement is not fit for purpose because it does not properly calculate the traffic arising from the proposed development, does not properly describe the road network in Kinton and does not allow for the large number of buses using the routes at peak times. Because it does not properly estimate the impact of the development on the road network, it fails to offer appropriate mitigation measures to offset the impact of the scheme. And, the Transport Statement is a key part of the environmental study required to accompany the planning application, that study must be incomplete, so that the application should be rejected¹.

Richborough Estates

¹ Document 31

11. Written Representations

In respect of the application

11.1 In response to the consultation exercise, the Council received a total of 37 representations, 35 raising objections (including 1 from CPRE) and 2 expressing support for the scheme¹. The 35 objections raised the following concerns:

- The access arrangements would be detrimental to highway and pedestrian safety due to unsatisfactory visibility splays.
- The increased traffic would impair highway safety and exacerbate the cumulative impact of congestion due to coaches visiting the school and other traffic through the village to local facilities; the traffic from committed and emerging development must also be accommodated; and, the lack of on-street parking compounds traffic congestion.
- The mooted relief road from the Bloor Homes scheme will not mitigate the traffic impact and there is no guarantee that such a road would be built - relief should be constructed as part of this proposal.
- The Transport Statement is flawed and does not consider traffic impact during High School traffic peak periods or realistic traffic levels generated by the proposal. Variations in traffic flows are ignored and TRICS data is used inappropriately.
- The access into Walton Farm has not been taken into account together with the storage of farm machinery.
- Failure of the Highway Authority to adequately assess the highway implications including deficiencies in the Transport Statement.
- The scheme would intrude into the landscape rising to the east and forming a significant and attractive backdrop to the village (being sited north of Walton Fields) and be contrary to the provisions of the Landscape Sensitivity Study 2011, which is part of the Core Strategy evidence base.
- It would be contrary to Kineton Neighbourhood Development Plan that seeks to maintain views in and out of the village in the context of rural landscape.
- The roof-scape of the housing would intrude unacceptably above the skyline, failing to address the sloping nature of the site.
- If the adjacent site at Brooklands Farm gains approval, a further 33 dwellings could result in the cumulative impact of 123 houses here. This would harm the rural edge, character and appearance of the village and undermine its traditional character along Banbury Road, contrary to District Design Guide.
- The scheme would represent overdevelopment and an inappropriate layout and density, with small plots failing to reflect the surrounding patterns of development.
- The scheme would be unsustainable due to the lack of local employment opportunities and its use of a greenfield site beyond the currently defined boundary of the village. More appropriate brownfield locations exist within the village. The scheme would not accord with the social, economic and environmental dimensions set out in the Framework and would involve the loss of the best and most versatile agricultural land.
- The site and access are close to existing properties and would be harmful to the amenity of occupants due to air, light and noise pollution from increased traffic associated with the proposal.

¹ Document 13

- The proposal is contrary to, and exceeds the housing distribution strategy of the emerging Core Strategy (which should be given significant weight); the site is not allocated nor does the scheme entail the redevelopment or the re-use of suitable land within the built up area boundary. Kineton has already exceeded its allocation of new housing required by 2031 and with the substantial development proposals for Gaydon, further housing is not necessary within Kineton. Moreover, if the council has a 5-year housing land supply (as indicated by the examining Inspector) there is no presumption to approve applications such as this.
- Proposal is also contrary to the village plan and the Kineton Neighbourhood Development Plan (now at an advanced stage). The latter supports 4 smaller and more appropriate developments spread out through the village. This site is not one supported by the community. The Neighbourhood Plan should be afforded significant weight in decision making: the proposal is premature and would undermine the preparation and delivery of the Neighbourhood Plan. Having regard to Localism Act and the strength of local opposition, the proposal should be rejected.
- Proposal would have an adverse impact on flood risks within the site and the locality; the drainage and flood risk strategy is inadequate.
- Insufficient infrastructure is available to support the development, in relation to the local highways, drainage and sewerage provision, public transport, health facilities, local schools and shops.
- The proposal would harm the setting of the Edgehill registered battlefield and long distance views from footpath network within it.
- The ecological survey information is insufficient to demonstrate that the proposal would not harm protected species (newts).
- Insufficient public consultation and community engagement has been undertaken by the applicant.
- If planning permission is granted then new off road parking should be provided by the applicant to ease existing problems associated with on-street parking near to the application site.

11.2 The 2 representations in support of the scheme pointed out that:

- Part of the site is identified in the Landscape Sensitivity Study 2011 as a possible location for development and the land parcel of which it is a part is deemed to be of lower sensitivity than the sites proposed in the draft Kineton Neighbourhood Development Plan. It is closer to the village, and therefore more sustainable, than the 4 allocated sites so that, if further housing is required within Kineton, then this is the most suitable location.
- If the application is approved, then it must provide for a link road through to Southam Road in order to reduce traffic through the village; such a relief road would be a positive effect of the proposal.
- Expansion at Gaydon and elsewhere will further increase demand for housing within Kineton.

In respect of the appeal

11.3 There were 17 letters of objection received before the start of the Inquiry from local people, local organisations, the local councillor, the Parish Council and a potential developer of an alternative site¹. All the concerns raised are reflected in the submissions made by the people who spoke at, or wrote subsequently to, the Inquiry. Those matters are reported in the previous section and each representation is indexed and summarised at documents 26 and 27.

¹ Documents 26 (index) and 27

12. Conclusions

Introduction

- 12.1 The appeal site and its surroundings are described in section 2 and the main features of the proposal, including the conditions and section 106 Agreement, are outlined in section 3. The numbers in square brackets below are references to previous paragraphs in this report.
- 12.2 The key issues entail:
- the treatment of emerging policies and the Development Plan,
 - whether the scheme would be seen as an incongruous intrusion into the countryside or merge with existing patterns of development,
 - whether the proposal would impinge on a proper appreciation of the registered battlefield at Edgehill or its setting,
 - whether the traffic generated by the proposed estate would result in unacceptable conditions within the village,
 - the relevance of the emerging Kineton Neighbourhood Development Plan,
 - whether a 5-year supply of deliverable housing sites can be demonstrated, and
 - whether the economic, social and environmental benefits of the scheme would outweigh any damage identified.
- 12.3 The list of conditions discussed at the Hearing is set out in document 34 and the considerations relating to the compliance of the section 106 Agreement with the CIL Regulations are put forward in documents 15, 16 and 17. The appropriate form of those conditions and the 'compliance' of the Agreement are considered at the end of this section.

The Development Plan

- 12.4 The Council accept that policy STR.2 is out-of-date; it is time-expired, invokes the provisions of a revoked Regional Plan and imposes a 'cap' on planning permissions. Hence, whether or not a 5-year supply of deliverable housing sites can be demonstrated, the presumption in favour of sustainable development must apply and planning permission granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. However, I agree that the statutory requirements, both to have regard to the Development Plan and to make decisions in accordance with it unless material considerations indicate otherwise, remain. And, whatever doubts might previously have existed, that stance is now confirmed by the Court of Appeal judgement in *Hopkins Homes & Richborough Estates*. [section 4, 5.5, 5.10, 6.2]
- 12.5 In this case, it seems to me that 'saved' policies consistent with the Framework continue to apply. Policy PR.1 seeks to prevent schemes that would damage local 'distinctiveness' without providing significant public benefits. Considerations include the quality and character of landscapes and settlements and echo some of the 'core principles' in the Framework that foster high quality design, aim to achieve a good standard of amenity for all and acknowledge the intrinsic character and beauty of the countryside. Compliance with policy PR.1 is thus primarily a means to 'establish a strong sense of place', respond 'to local character and history' and reflect 'the identity of local surroundings'. Policies DEV.1 and EF.4 pursue a complementary line and the continuation of similar aims is expressed in emerging policies CS.1, CS.5 and CS.8. In the same way policy DEV.4 and emerging policy CS.25, reflect the guidance in the Framework by aiming to ensure that development does not

unacceptably impair the safety of all road users. So, although these 'saved' policies may be part of an out-of-date Plan, they are designed to further aims that are endorsed by the Framework and which the emerging policies in the Core Strategy are intended to pursue. Of course, whether this scheme would comply or conflict with those policies is a matter to be assessed in subsequent sections. But, their potential relevance is clear. It follows that the scheme must be assessed in relation to those policies and against other material considerations, as the Framework indicates. [section 4, 5.6-5.10, 6.3, 6.4]

- 12.6 A key element of the emerging Core Strategy is the promotion of substantial development within 'second tier' settlements identified as 'main rural centres'. Kineton is one such centre and the examining Inspector has indicated his support for the concept and the function of such places as sustainable locations. However, I can find no support for the assertion that each 'main rural centre' should accommodate a similar share of the dwellings distributed to 'second tier' settlements. On the contrary, although the examining Inspector deems the distribution of new housing between the 'main rural centres' to be about right, he recognises that it is uneven. Moreover, the emerging Core Strategy indicates that the intention is to make varying provision in each 'main rural centre' 'reflecting the specific constraints and opportunities that apply and the importance of retaining their individual character and distinctiveness'. In those circumstances, it seems reasonable to interpret the limited allocation of new dwellings envisaged in Kineton as intentional and in line with the aims of the housing distribution envisaged in the Core Strategy. There may yet be reasons to increase the allocation to be accommodated in Kineton. But, there are not yet cogent arguments to indicate that equalising the distribution of dwellings between the 'main rural centres' is likely to be one of them. [section 4, 5.2-5.5, 6.5]
- 12.7 The appellants suggest that the Landscape Sensitivity Study and the SHLAA point to the appeal site as suitable to accommodate development, particularly if additional housing is required in Kineton. It is true that the former identifies the Banbury Road frontage of the appeal site as suitable, in landscape terms, to accommodate housing. But, the assessment is precise. It explains that there is potential for housing along Banbury Road between the college and the cul-de-sac at Walton Fields, but no further north than the latter; it does not condone the construction of dwellings up the slopes to the local ridge line. And, although the SHLAA finds that the site is not restricted by physical or ownership constraints, it clearly states that the site lies outside the settlement boundary and that its future potential for housing must be subject to further consideration through the plan-making process. Hence, I consider that this part of the evidence base does not endorse the development actually proposed. [section 4, 5.4, 5.6, 6.6]

Assimilation or intrusion

- 12.8 The site is not identified as any special landscape nor is it subject to any special protection. It is an open field at the edge of the village beside and above roadside cottages, the High School buildings, the goal posts and floodlights of the associated playing fields, the new cul-de-sac at Walton Fields and the ribbon development along Banbury Road. But, it can still be part of a 'valued landscape', as the Ministerial letter of 27 March 2015 indicates. It forms a prominent verdant expanse at the edge of the village, heralding the approach of open countryside and providing a local vista up the slopes to a sylvan ridgeline; it is evident across parts of the battlefield and from the well-used footpath network there; and, a carefully positioned seat, together with an 'important view' identified in the emerging Neighbourhood Plan (policy E2), testifies to the existence of an appreciated view across its open slopes. Although the Landscape Sensitivity Study indicates a potential for housing along

Banbury Road, it clearly confines this potential to land between the college and the cul-de-sac at Walton Fields. Development is to extend no further north than the latter to ensure that the settlement edge is 'stepped and well below the minor ridge top'. Outside that area the evidence indicates that schemes could result in a significant change to the character of the landscape. In this case, the proposal would result in the new estate intruding across the open verdant slopes and, in spite of the modest height limit, the dwellings would be seen breaking the skyline on the local ridge from several vantage points. The development would create a discordant and abrupt linear edge, exposed and prominent to the south and east in spite of the indicative landscaping, its block-like configuration contrasting with the linear pattern within the valley. Moreover, large parts of the estate would appear isolated from the settlement, separated by the intervening expanse of playing fields to the west and by the enveloping countryside to the west. For those reasons, I agree with the Council that the scheme would result in a moderate to major impact on the landscape and the settlement entailing moderate to major significance for the character of the landscape and an incongruous extension to the village alien to the pattern of development there; the impact would be significant, long term and adverse. [section 2, 5.11-5.14, 6.6-6.11, 7.1, 10.2, 10.3, 10.5, 11.1]

- 12.9 Those harmful effects would be all too evident. From the southern side of the Banbury Road a verdant gap and views towards a rural skyline would be obliterated. Some 600m eastwards, and from rural footpaths, the dwellings on the higher slopes would appear exposed and somewhat isolated, projecting beyond the edge of the village, separated from the built elements of the settlement by the school playing fields. And, in intermediate views from footpaths across the battlefield, houses on the higher slopes would be seen to protrude above the local ridge and be evident against the distant sylvan ridgeline of Itchington Holt; the estate would intrude into the green spaces to the east (farmland) and to the west (the school playing fields) creating an uncharacteristically abrupt edge to the settlement. Similar perceptions would be apparent from vantage points further into the battlefield, roughly 700m to 1km distant. The cumulative impact of the development with the adjacent site at Brooklands Farm would exacerbate those harmful effects. Taken together, the 2 estates would create a new stepped edge to the village, prominent and intrusive on the upper slopes from the south and east and alien both to the landscape and the form of this settlement. [section 2, 5.11-5.13, 6.7-6.10, 7.1, 10.2, 10.3, 10.5, 11.1]
- 12.10 I find the opposing view to be neither credible nor accurate. The visual influence of the site is not largely confined to Banbury Road, but is demonstrably evident over a wide area of countryside up to 1km distant to the south and east. The buildings on the upper slopes would break the skyline of the local ridge in spite of the height limitation proposed. And, from the middle distance within the registered battlefield, views of the scheme would be seen to significantly extend the village into the surrounding countryside. True, development is already underway at a similar height on the Bloor Homes site beside Southam Road. But, that estate relates to a different part of the village; it is separated from the appeal site by the expanse of the intervening playing fields and it extends across a local plateau rather than up to a local ridge. Moreover, these inaccurate assertions are based on partial and flawed assessments. Leaving aside the odd initial selection of fortuitous views, I consider that the assessments often appear to ignore the perceptions relevant to the most sensitive receptors and hence to suppress the magnitude of change. I agree with the Council that the analysis is incomplete, inconsistent and understates the effects of the scheme. [5.13, 6.12, 6.13]

12.11 Taking all those matters into account, I consider that the estate would not be assimilated into the landscape, but would be evident as a somewhat isolated block of development providing an uncharacteristically straight line to the edge of the settlement. The proposal would thus be incongruous, intrusive and damaging to the character of the settlement and the surrounding landscape, contrary to 'saved' policies PR.1 and DEV.1 and the aims of the emerging Core Strategy.

Agriculture

12.12 The disagreement about whether the appeal site should be classified as Grade 3a or 3b was not pursued at the Hearing. There are clearly differences in the figures cited. However, the classification is intended to apply nationally and the different grades are defined not just on the basis of soil structure, quality and yields, but also incorporating climate, slope, wetness and droughtiness. The classification is intended to be independent of the skill and competence of the farmer. Hence, for the purposes of this appeal, I think that the land should remain as Grade 3. [7.2, 7.3]

The battlefield

12.13 The site is some 120m from the northern boundary of the registered battlefield site. Hence, the proposal cannot impinge on the battlefield itself, though it might affect its setting. It is agreed that the proposal would not cause substantial harm to the battlefield. But the Framework advises that the significance of an asset can be lost through alteration or development within its setting. So, the test here must be whether the proposal would alter the setting of the battlefield sufficiently to adversely affect the significance of that heritage asset. [5.16, 6.14]

12.14 There is little dispute among historians as to the location or extent of the battlefield; several largely non-conflicting eyewitness accounts of the battle exist, some prompted by the plethora of prominent people who fought there, and substantial archaeological research (including the distribution of musket balls and artillery shells) indicates the location of the main actions. Hence, the location for the battle of Edgehill is securely known and the area over which it was fought, including the troop deployments and main engagements, can be defined on the ground. [5.17-5.19]

12.15 But, there is evidence that the appeal site was amongst ancient enclosures and some accounts suggest not only that such impediments may have served to funnel the main action into the more open fields to the south beyond the River Dene, but also that the routed parliamentary cavalry may have made their escape through the Kineton enclosures; fighting between bodies of dragoons is reported to have occurred there. Nevertheless, the distribution of musket balls, and most accounts, clearly demonstrates that the main focus of those engagements was the parliamentary baggage train stationed around Little Kineton or stragglers escaping through the enclosures further south. And, although it remains possible that some troop activity may have occurred in the vicinity of the appeal site during the course of the battle, or as the armies dispersed after the main engagement, the geophysical survey of the appeal site identified nothing of archaeological potential beyond the ploughed out remains of medieval ridge and furrow; no other remains (prehistoric to early medieval) are recorded within the site. To my mind that rather indicates that the peripheral skirmishes may have taken place elsewhere. And, perhaps the finding of only a single musket ball on the Orchard House development site, roughly 110m further to the east, confirms that view, whatever the provenance of that musket ball eventually turns out to be. [5.18-5.23, 6.15, 6.16, 7.4, 10.6, 11.1]

12.16 The appeal site is seen from the edge of Little Kineton and the upper slopes are evident from several footpaths across the western portion of the registered site. It

may partially reflect the pattern of ancient enclosures recorded at the time of the battle and it certainly presents a pleasant verdant slope at the edge of the village perceived from the battlefield. But its role as an element in an attractive vista does not make it an important element in the setting of the battlefield or one whose alteration would affect the significance of that heritage asset. The evidence indicates to me that the skirmishing around Kineton probably took place elsewhere, perhaps within enclosures already submerged beneath the estates around the village core. After all, much of Kineton is visible from the battlefield, including the existing estates and the High School buildings, but neither fosters a special link to, or appreciation of, the battlefield site. For those reasons, I consider that the proposal would not alter the setting of the battlefield sufficiently to adversely affect the significance of the registered battlefield site. Hence, I doubt that the scheme would conflict with 'saved' policy EF.4 or seriously undermine the aims set out in emerging policy CS.8. [5.18-5.23, 6.15, 6.16, 7.4, 10.6, 11.1]

Traffic

- 12.17 There is no dispute that there is significant congestion in Kineton during the morning and evening peak hours sometimes, as during the site inspection, to the extent of grid-lock within the village. The dispute is whether the cumulative residual effect of the proposal would be severe. The congestion clears and the grid-lock dissipates. There is no surveyed evidence on the severity or duration of such events, although residents and the Parish Council offer clear perceptions. However, on the day of the site inspection the duration was about half an hour and required some traffic management and negotiation from those caught up in the chaos in order for the grid-lock to clear. And, there is photographic evidence of children negotiating the narrow pavements beside congested village streets. [5.24, 5.30, 6.17, 7.6, 10.1, 10.5, 11.1]
- 12.18 Outside those peak hours, there can be little doubt that the traffic from the scheme could be accommodated safely. An appropriate access and (with the help of a Traffic Regulation Order) visibility spays would be provided, together with a footway and cycleway; sufficient parking would be accommodated; key junctions would operate without undue delay; the scheme would be within reasonable walking distance of most facilities and services within the village and within the maximum distance considered acceptable to the primary school; bus stops would be nearby, or within the village, and the scheme would offer contributions to improve public transport services and facilities, encourage more sustainable travel and safeguard the possibility of a link through to Southam Road. And, although I agree with the Parish Council that Maresfield is not a direct comparator for Kineton and that the trip generation rates should probably be higher (closer to 0.6 trips per dwelling), I doubt that such a variation would greatly alter the overall outcome of the analysis. [section 3, 5.25-5.31, 6.17, 7.7-7.12, 10.8-10.13, 11.1]
- 12.19 I am not convinced that the analogy with a UAP4 urban road is entirely appropriate. The advice in TA 79/99 is derived from surveys of traffic flows on urban trunk roads in Greater and Outer London and, although a UAP4 road is described as a busy high street and does have some similar features to Banbury Road, the streets through the village are neither 'urban' nor part of a 'trunk road'. On the contrary, the network through the village is essentially rural, awkward and sometimes restricted to well below 6.1m in width. Nor is it clear that the lack of parking and loading restrictions on those UAP4 urban roads surveyed actually reflected the sort of unrestricted parking and loading that occurs within Kineton. In any case, whatever the theoretical capacity of the network through the village might be, it is evident that there are times during the day when it fails to accommodate the traffic seeking to use it without incurring congestion and sometimes grid-lock. Hence, in practical

terms the question must be: would the proposal seriously exacerbate that situation?
[5.29, 5.30, 6.17, 7.11, 10.8-10.13, 11.1]

12.20 In the end, I find that it is not possible to be certain. I agree with the appellants that much could be done by managing the unrestricted parking and loading provisions within the village, but that would entail a far more comprehensive approach than just restricting on-street parking along the frontage of the appeal site. Nothing is mooted, and I can envisage no mechanism, that could secure such a scheme as a consequence of the appeal proposal. I have no doubt, if all the 45-55 additional trips from the proposed estate were to enter the network and mimic existing travel patterns, that peak hour congestion would get worse. But there is nothing to quantify how the incidence or duration of such congestion might increase. More importantly, I rather doubt that drivers from the appeal site would rigidly stick to existing travel patterns if they were confronted with the sort of congestion experienced at the site inspection. They would actually have various choices. They would have some flexibility to alter the time of their journey. They might also choose to avoid the centre of the village entirely. Alternative routes evidently exist to all the obvious destinations beyond the village and although some may involve a longer journey of 4-5km that might well be preferable to sitting in a traffic jam for 15-20 minutes or so. Hence, I am not convinced that the proposal would undermine the advice in the Framework by resulting in a cumulative residual effect that would be severe. And, for the same reasons, I doubt that the scheme would seriously conflict with 'saved' policy DEV.4 or emerging policy CS.25. [5.25-5.31, 6.17, 7.7-7.12, 10.8-10.13, 11.1]

The Neighbourhood Plan

12.21 The Kineton Neighbourhood Development Plan must attract some weight. This is clear from the importance that the Government attaches to the Neighbourhood Plan process, from the Lydney decision and from the description in the Framework that such documents provide 'a powerful set of tools for local people to ensure that they get the right types of development for their community'; the Kineton Neighbourhood Development Plan is now at the same stage on its progress to referendum as that at Lydney, although the imminent emergence of the anticipated 'referendum version' has not yet materialised. [section 4, 5.32, 6.20, 7.13, 7.14, 10.6, 11.1]

12.22 The appellants claim that the appeal proposal would not breach the relevant policies in the Neighbourhood Plan as re-written to incorporate the recommendations of the Examiner. I think that they are right, save for 2 exceptions. First, although policy E2 would be re-written to ensure that the 'important views' identified 'can continue to be enjoyed' rather than prohibit any proposal impinging on such views, I do not see how the construction of the proposed estate would allow the key elements of the 'important view' identified across the appeal site to continue to be perceived, let alone enjoyed. On the contrary, and for the reasons set out earlier, I consider that the appeal scheme would introduce new buildings extending across prominent slopes rising to a local ridge and above existing buildings, effectively obliterating an 'important view' identified by the local community and in the Neighbourhood Plan. As the Parish Council point out, the Examiner visited the village and saw for herself that these views, and the general setting of the village, were important to the unique character and topography of the settlement. [5.32, 5.33, 6.20, 7.14, 7.15, 11.1]

12.23 Second, although policies H1 and H2 would be re-written to potentially accommodate suitable housing development beyond the settlement boundary and on greenfield land, I agree with the Parish Council that planning policies identifying settlement boundaries are not uncommon and feature in many adopted Plans.

Indeed, the recommendations would accommodate the designation of settlement boundaries around Kineton and Little Kineton, so that neither the form of such boundaries nor the development likely to be endorsed beyond them, can be guaranteed. Such matters are currently being discussed in the context of preparing the referendum version of the Plan. Hence, there remains a possibility that the appeal scheme might not sit four-square with the final version of the Neighbourhood Plan. [5.32, 5.33, 6.20, 7.14, 7.15, 11.1]

12.24 The appellants claim that the allocated sites for housing in the Kineton Neighbourhood Plan are unsuitable. They do have impediments. But, there is no cogent evidence that such impediments would prove insurmountable. All but one has been endorsed by the Examiner; the other 3 remain as allocations for housing. Importantly, the allocations are the result of assessing the suitability (as seen by the local community) of 9 sites around the village to accommodate housing, including the appeal site. This is the choice expressed by local people to ensure that they get what they perceive as the right types of development in the places that they consider right for their community. The ethos of 'neighbourhood planning' implies that the sites allocated for residential development ought to be a decision for the local community, unless cogent reasons indicate otherwise. They do not. Consequently, as things now stand, I consider that the appeal proposal could potentially be out of kilter with the distribution of development at Kineton envisaged in the emerging Neighbourhood Plan. [5.34-5.38, 6.20, 7.14, 7.15, 10.6, 11.1]

The 5-year housing supply

12.25 Estimating the existence or otherwise of a 5-year supply of housing is, necessarily, an inexact process. It relies on professional judgement, past experience and research. And, although the robustness of professional judgements, the relevance of past experience and the applicability of research may all vary, it is unlikely that all preferences are always in favour of one party rather than another. Hence, precise arithmetic differences may not tell the whole story. Even less so, because the identification of a 5-year supply of deliverable housing sites is not just an end in itself, but part of a suite of measures set out in the Framework 'to boost significantly the supply of housing' and to ensure that a Local Plan meets the full objectively assessed need for all types of housing in the housing market area. [section 4, 6.22]

12.26 The Inspector examining the Core Strategy (as modified) set out his view (for consultation purposes only) that sufficient deliverable sites could be identified (even omitting completions during the first quarter of 2016) to provide for the housing required over the next 5.4 years. Of course, it is not yet certain that such a view would withstand the consultations and objections in the examination process and I am aware that other Inspectors have supported a different stance in deciding recent appeals within the District. Nevertheless, this 'interim' view indicates to me that the Council are approaching the task along the right lines and have devoted much effort to identifying a 5-year supply of housing sites. [section 4]

12.27 There is no dispute about the housing required over the Plan period, although the figure used by the examining Inspector marginally exceeds the one used at the Hearing by about 100 or so. But, that makes no appreciable difference to the calculations. The dispute relates to the supply side of the equation. The Council believe that they can identify sufficient housing sites to provide for 5.13 years. The appellants consider that nearly 1,000 of those dwellings would be unlikely to materialise within the relevant 5-year period and reduce the available provision to only 4.3 years. Where construction has started or where a full planning permission is in place, the reductions are modest (roughly 5% and 3%, respectively). The bulk

of the difference (about 26% in both cases) relates to sites benefitting from only an outline, or a resolution to grant, planning permission and that mainly affects the supply from 10 identified large sites. [5.39-5.41, 5.43, 6.22, 6.23]

- 12.28 There are 2 main sources for the differences identified. First, the appellants do not agree that the 5-year period should be rolled forward from April 2015 to January 2016 (end of December 2015) in advance of a complete up-date of all the components involved in the calculation, anticipated for April 2016. Their insistence that the supply over the 5-year period should be measured from April 2015 rather than January 2016 contributes to the differences identified in 8 out of the 10 major sites specifically considered at the Hearing. Since the actual supply of housing must be changing continually, both in response to market conditions, the efforts of the Council and the grant of planning permission (either by the Council or on appeal), this seems an unnecessarily pedantic and bureaucratic stance, unless serious inaccuracies are inherent in rolling forward the figures and calculations. Because all the figures are collected and collated by the Council, often on a monthly basis, I see no reason why there should be inherent inaccuracies in the exercise. And, although the Framework advises that the supply of deliverable housing sites should be updated annually, neither that document nor the Guidance (NPPG) insists that such updates should only be annual events. In this case, the 'interim' position portrayed omits only a modest element in the supply derived from smaller sites granted planning permission under delegated powers in the 3rd quarter. In all other respects, I consider that it provides an accurate assessment of the up-dated provision. In those circumstances, the reasons for tying the calculations to figures that are 9 months old and not up-to-date seem far from compelling. [5.43, 6.22-6.24]
- 12.29 Second, there is disagreement about the commencement, and rate, of delivery on some sites. The Council derive their estimates from surveys and consultation with the development industry as well as past and recent experience. The appellants suggest that too much credence has been given to responses from developers and too much optimism has influenced the discharge of pre-commencement conditions or the provision of infrastructure. It is alleged that exceptional past performance rates and the enthusiastic assumption of multiple outlets on the larger sites has confounded more realistic assessments based on company production rates and the output of a single builder operating on a single site. [5.40, 5.42, 5.43, 6.23, 6.24]
- 12.30 No doubt some of those criticisms are justified. But, I think that the appellants dismiss the responses elicited from the development industry too easily. After all, those are the people who have first-hand experience of the constraints, viability and difficulties entailed in operating on each individual site and whose task it is to build and sell dwellings in the relevant housing market area. Their general agreement with the assumptions for some of the larger sites should count for something, as should the explicit endorsement of the house builder at the Core Strategy involved in developing the Long Marston site. Moreover, these are some of the main recipients of the outcome entailed in allocating sites for housing so that, as a matter of practice and policy, their responses ought to command some credence. That is not to say that those responses should not be tempered by tests of realism. But, substituting company average production rates for the responses from those with detailed knowledge on the ground runs the risk of suppressing the effects of local circumstances and local conditions. That may be unreasonably pessimistic in a place like Stratford-on-Avon where the local housing market is quite strong, thereby fostering the over-allocation of housing land. Similarly, discounting recently achieved development rates as 'exceptional' may also misrepresent the provision for housing actually available. Disagreements about delivery rates affect the

contributions of 7 out of the 10 major sites specifically considered at the Hearing. [5.40, 5.42, 5.43, 6.23, 6.24]

- 12.31 Taking all those matters into account, I consider that the shortfall in the supply of housing sites is likely to be substantially less than that estimated by the appellants. It may be, on the basis of the assumptions employed, that the arithmetic provision does not provide for a 5-year supply of housing sites. But, if that is so, I consider that it would only be likely to be marginal. In reality it would be reduced still further by incorporating some of the potential supply sources omitted in the Council's estimate. This includes the supply from smaller sites granted planning permission under delegated powers in the 3rd quarter, some of the dwellings lost by assuming a 10% lapse rate and the omission of any 'windfall' allowance. In addition, all the Core Strategy allocations are excluded, including those where a planning application has been submitted. All those elements of supply could legitimately make some contribution to the supply of housing land over the next 5 years. [5.43, 6.22-6.24]
- 12.32 However, whether or not a 5-year supply of deliverable housing sites actually exists, it is clear that the Council are making considerable efforts to boost significantly the supply of housing. The evidence base indicates that the Core Strategy would seek to provide for the full, objectively assessed needs for market and affordable housing in the housing market area and it identifies key sites to deliver the housing strategy: the SHLAA identifies a supply of specific, developable sites for growth over years 6-10 and years 11-15: the housing trajectory illustrates the expected rate of housing delivery over the Plan period and a 'housing implementation strategy' sets out how a 5-year supply is intended to be maintained: and, emerging policies indicate how housing density might reflect local circumstances. Perhaps such on-going efforts have resulted in the recent vacillation in estimates of the 5-year provision for housing. Yet, whatever the reason, I do not see this as warranting the imposition of an additional 'buffer' above the 20% currently agreed to be applicable. On the contrary, it seems to me that there is little real urgency to accommodate the proposed development, given the likely provision for housing, the efforts already underway to achieve a 5-year supply of housing sites and the efforts to boost significantly the supply of housing here. [section 4, 5.42]

The planning balance and conclusion

- 12.33 The relevant test here involves the presumption in favour of sustainable development entailing the grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. There are clearly benefits associated with the scheme. These would include the provision of jobs, the social, environmental and economic benefits of a sustainable location beside a 'main rural centre', the provision of market housing with 35% of the units as affordable homes, the ecological enhancements to the north of the proposed estate, the safeguarding of land to accommodate a potential link road between Banbury Road and Southam Road, provision for enhanced bus services and public transport facilities, the New Homes Bonus and the provision of play areas, open space and landscaping for the benefit of all. I am not convinced, on the evidence available, that the scheme would severely exacerbate existing congestion, nor do I consider that it would impinge on the setting of the registered battlefield significantly enough to impair the appreciation of that heritage asset. The evidence on the agricultural quality of the appeal site was not tested at the Hearing and, on the basis of the evidence submitted, I am not convinced that it can be apportioned to either Grade 3a or 3b. [5.45-5.48, 6.26-6.28, 7.16-7.18]

12.34 However, the scheme would entail substantial damage of significance. It would contravene 'saved' policies in the Development Plan and undermine the latest versions of emerging policies in both the Core Strategy and the Neighbourhood Plan, principally by damaging the landscape beyond the village (which contributes to the distinctiveness of the place and is valued by local people) and by destroying the 'important views' identified across the appeal site. It would thus fail to follow a 'plan-led' approach to development. The proposal would also intrude into the landscape and result in an incongruous addition to the village, thereby resulting in permanent and prominent environmental damage to the character of the countryside and the settlement, the proposed estate appearing awkwardly out of kilter with the pattern of development as well as the character and appearance of the place. In my view those harmful effects would significantly and demonstrably outweigh the benefits of the scheme and undermine several of the aims set out in the Framework, thereby demonstrably outweighing the benefits when assessed against the policies in the Framework taken as a whole. I consider, therefore, that the balance is firmly against the scheme and that those 'saved' planning policies that still properly apply should prevail. [5.45-5.48, 6.26-6.28, 7.16-7.18]

12.35 However, should the Secretary of State come to a different view, I set out my observations on the necessary conditions and the section 106 Agreement below.

Conditions and the section 106 Agreement

Conditions

12.36 The conditions discussed at the Hearing are set out in document 34, together with the reasons for imposing them. The main effects of the conditions are described in section 3. They are intended to ensure that the development is carried out along the lines currently indicated, including the restriction on building heights on the higher parts of the site and the provision of 'green infrastructure'. They also secure satisfactory access and parking arrangements, provisions to minimise car-borne travel and the creation of footways and cycle-ways to the rest of the village and neighbouring development. Land is to be safeguarded for a future road and pedestrian link to form an 'eastern bypass' for school traffic, thereby allowing for a potential solution to the congestion experienced in Kinton. Schemes to mitigate the effects of the floodlighting at the High School, to prevent any exacerbation of flood risks, to provide for the 'sustainable drainage' of the site and to instigate a landscape and ecological management plan, including the ecological enhancement of the land to the north, are required. In addition, surveys and mitigation measures relating to badgers and great crested newts, an archaeological investigation and measures to control construction and construction traffic are sought. [section 3]

12.37 I consider that the form of the conditions set out in document 34 is appropriate and the reasons for imposing them justified; there is no need to reproduce them here. I need only explain that, although I consider that the limitation on the height of buildings on the upper slopes (condition 5) would fail to prevent the dwellings breaching the sky-line, it would reduce those intrusive effects, albeit only marginally. The conditions relating to badgers (condition 22) and great crested newts (condition 20) are precautionary, given the evidence of a badger at a nearby site and the finding of a newt in a nearby pond. Similarly, the need for further archaeological investigation, in spite of the paucity of finds from the geophysical survey, is warranted both by the proximity of known archaeological remains and by the finds from the adjacent site at Orchard House. On the other hand, I remain doubtful of the need to investigate and remediate contamination on the site (conditions 25 to both 29s). The estate would be built entirely on land that has only

been in agricultural use and although the area to the north includes the course an old railway, that area is only intended for ecological enhancement. [section2 and 3]

Section 106 Agreement

- 12.38 The provisions of the section 106 Agreement (document 14) is set out in section 3. As is now common, the Agreement includes a clause (at paragraph 6.3) to the effect that should the Planning Inspector or the Secretary of State conclude that any of the provisions in the Deed would be incompatible with Regulations 122 or 123 of the Community Infrastructure Levy Regulations 2010 (as amended), then that provision shall cease to have effect. The compliance of the provisions with Regulation 122 is carefully set out in document 16 and the compliance, where appropriate, with Regulation 123 explained in document 15. The justification for the scale of the contributions sought, together with the need for, and nature of, the infrastructure, services or facilities for which such contributions would be used, is explained in some detail in document 17; the information is organised into 8 appendices divided by 31 tabs. I do not need to repeat all that information here and, save for the points made below, I find all those contributions to be warranted and justified in accordance with the relevant CIL Regulation. [section 3]
- 12.39 Only 2 of the contributions raised any doubts and were thus discussed at the Hearing, namely those relating to the education contributions sought by Warwickshire County Council and those relating to the provision of healthcare sought by the South Warwickshire NHS Foundation Trust. [8.1-8.9, 9.1-9.10]
- 12.40 The contributions sought by the South Warwickshire NHS Foundation Trust are demonstrated to be similar in nature and scale to those previously supported by legal opinions and by Inspectors elsewhere and found to be compliant with the CIL regulations. In particular, the evidence indicates that the payments would be justified in circumstances (as here) where no retrospective payments would be available through the NHS funding system to recover the cost of local increases in the population served by the Trust. Thus the contributions are justified as necessary. [9.1-9.10]
- 12.41 However, the contributions sought by Warwickshire County Council towards educational provision are not so straightforward. The contribution towards pre-school and primary education is carefully explained, there being capacity at the primary school, but pressure on the limited number of pre-school places both from in response to the provisions of the Childcare Bill and as a result of new developments, including the appeal scheme. Contributions are thus sought to provide places for the 2 additional pre-school children likely to reside on the proposed estate, amounting to £23,374. I consider that those contributions are justified as necessary. [8.1-8.5]
- 12.42 The contributions sought towards secondary educational provision, although required to add the necessary capacity to the High School, also entail the refurbishment of several rooms in the main school building to provide general teaching classrooms. Very fairly, it is explained that this derives from an existing need to decommission several temporary classrooms for health and safety reasons and due to the long term viability of such teaching spaces. I am sure that there would be elements of this work that could be properly apportioned solely to meet the need to accommodate additional pupils from the proposed development. But, as currently presented, it is not possible to separate the sums required to carry out the refurbishment that would have been needed anyway and the sums required to cater

for the education of the children from the proposed estate. In those circumstances, the contributions sought cannot be CIL compliant. [8.1, 8.6--8.9]

Richborough Estates

13. Recommendation

13.1 I recommend that the appeal be dismissed.

David Cullingford
INSPECTOR

Richborough Estates

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Local resident
Local resident
Ward Councillor, Kineton Ward
Local resident

Richborough Estates

DOCUMENTS

- Document 1 Lists of persons present at the Inquiry.
- Document 2 Statement of landscape and visual matters and appendices ~ Simon White
 - Volume 1
 - A Stratford-on-Avon Design Guide
 - B Warwickshire Landscape Guidelines
 - C Stratford-on-Avon District Landscape Sensitivity Study (2011)
 - D Battlefield Trail booklet
 - E Appeal Decision; Stockton, April 2015, 2219604
 - F LVIA method
- Document 3 Statement of landscape and visual matters and appendices ~ Simon White
 - Volume 2
 - Figures
 - A Viewpoint locations
 - B Site levels and heights
 - Photos
 - 1 Banbury Road adjacent to the site
 - 2 Footpath east of site and north of Banbury Road
 - 3 PROW within the battlefield to the south
 - 4 PROW within the battlefield to the south
 - 5 PROW within the battlefield to the south
 - 6 PROW within the battlefield to the south
 - 7 PROW within the battlefield to the south
- Document 4 Statement and appendices ~ Matthew Taylor
 - 1 Decision Notice
 - 2 Recorded heritage assets within 1km of the battlefield
 - 3 5-year housing land supply, July 2015
- Document 5 Up-dated planning balance ~ Matthew Taylor
- Document 6 Statement and appendices ~ Cllr Christopher Saint
 - 1 Minutes of cabinet meeting, 22 June 2015, modifications to Core Strategy
 - 2 Cabinet report, 1 June 2015, modifications to Core Strategy
- Document 7 Background papers
 - 1 Cabinet report, 1 June 2015
 - 2 Cabinet report, recommendations
 - 3 Core Strategy, proposed Modifications 2015
 - 4 Kineton NDP submission draft
 - 5 Kineton NDP appendices
 - 6 Kineton NDP Draft Plans
 - 7 Photos, mainly traffic
 - 8 Nearby applications
 - 9 Edgehill Battlefield site plan
 - 10 English Heritage comments
- Document 8 Proof of evidence and appendices ~ John Careford
 - 1 Interim 5-year housing supply, 22 December 2015
 - 2 Schedule of housing sites, December 2015
 - 3 Appeal decision, Welford on Avon, October 2014, 2217495
 - 4 Stratford-on-Avon Core Strategy; Examining Inspector's Interim Conclusions, March 2015
 - 5 Home Truths, NHF, 2015

	6	West Northants Core Strategy; Examining Inspector's Report, October 2014
	7	Wainhomes (south west) Holdings Ltd v SoS and Wiltshire Council and Ralph and Sarah Cornell [2013] EWHC 597 (Admin)
Document	9	5-year housing supply, 31 December 2015, issued 29 February 2016
Document	10	Statement ~ Ian Gilder
Document	11	Appendices 1-9 ~ Ian Gilder
Document	12	Core Strategy, proposed Modifications 2015
Document	13	Planning Officer's report
Document	14	Section 106 Agreement draft
Document	15	CIL compliance statement under Regulation 123
Document	16	CIL compliance statement under Regulation 122
Document	17	Appendices 1-31 to CIL compliance statement under Regulation 122
Document	18	Kineton High School; pupil forecasts
Document	19	Update in relation to section 106 contributions for South Warwickshire Foundation NHS Trust
Document	20	Kineton Neighbourhood Development Plan; submission draft
Document	21	Kineton Neighbourhood Development Plan; Basic Conditions Statement, June 2015
Document	22	Kineton Neighbourhood Development Plan; Independent Examiner's Report
Document	23	Kineton Parish Council; Closing submissions ~ Neal Pearce
	1	Kineton Parish Council; Initial objection
	2	Kineton Parish Council; Submissions on transport
	A	Manual for Streets; extract
	B	DCLG Guidance on Transport Assessments
	C	TA 79/99
	D	TA 46/97; Annex B
	E	Bus timetables
	3	The Battlefields of England; extract
	4	Ecological response from Warwickshire County Council
	5	Local Plan Review; allocations in Kineton
Document	24	Notes of closing submissions ~ Gary Grant
Document	25	Closing submissions ~ Jeremy Cahill
Document	26	Inspector's index of written representations in respect of the appeal
Document	27	Written representations in respect of the appeal
Document	28	Woodcock Holdings Ltd v SoS and Mid Sussex DC [2015] EWHC 1173 (Admin)
Document	29	The Queen (on application of Charles Jones) v English Heritage v City of York Council, Persimmon Homes plc and Hogg Builders (York) Ltd [2014] EWHC 2259 (Admin)
Document	30	Ivan Crane v SoS and Harborough DC [2015] EWHC 425 (Admin)
Document	31	Written submissions ~ Julian Hartless
	1	Impact of bus stop on urban traffic characteristics, JSTS Vol.5 No.2
Document	32	Written submissions ~ Ian Davies
Document	33	Written submissions ~ Cllr Christopher Mills
Document	34	Statement of Common Ground ~ general and suggested conditions
Document	35	Policy ~ agreed position
Document	36	Statement of Common Ground ~ housing land supply
Document	37	Statement ~ planning ~ Kathryn Ventham
Document	38	Appendices to statement ~ planning ~ Kathryn Ventham
	1.	Officer's Report to Planning Committee (East)

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2. Land East of Southam Road: Approved Site Layout (14/00755/REM)
 3. Orchard House, Kineton: Approved Site Location Plan (14/02761/OUT)
 4. Orchard House, Kineton: Report to Planning Committee (East)
 5. Brooklands Farm, Kineton: Illustrative Layout (Ref: 14/02872/OUT)
 6. Stratford-on-Avon Strategic Housing Land Availability Assessment (2012)
 7. Landscape Sensitivity Study 2011
 8. Site Location Plan
 9. Officer's Report to Planning Committee (East): Land East of Southam Road, Kineton (Ref: 12/02609/OUT)
 10. Land East of Southam Road: Approved Design Code (Ref: 12/02069/OUT)
 11. Land at Gaydon Lighthorne Heath: Illustrative Masterplan (Ref: 15/00976/OUT)
 12. Facilities Plan
 13. Five Year Housing Land Supply Calculation Summary - as of 31 March 2015
 14. Appeal Decision: Land south of Cirencester Road, Fairford, 22 September 2014, 2213318
 15. Appeal Decision: Land off Dovehouse Drive, Wellesbourne, 24 November 2014, 2216615)
 16. Examination of the Stratford-on-Avon Core Strategy: Inspector's Interim Conclusions, 19 March 2015
 17. Representations to the Formal Submission Consultation of the Kineton Neighbourhood Development Plan, prepared by Barton Willmore LLP, September 2015
- Document 39 The overall planning balance ~ Kathryn Ventham
- Document 40 Statement – housing land supply ~ Kathryn Ventham
- Document 41 Appendices to statement – housing land supply ~ Kathryn Ventham
- Volume 1
- 1 Tables Summarising Residential Appeals in Stratford District from January 2012
 - 2 SDC 5 Year Housing Land Supply Paper, 22 December 2015
 - 3 SDC Sites Schedule Accompanying Housing Land Supply Paper
 - 4 Email from SDC to Barton Willmore, January 2016
 - 5 Extracts from SoCG relating to appeals at Long Itchington and Stockton
 - 6 Appeal Decision; Burghfield Common, Berkshire, July 2015, 2228089
 - 7 Appeal Decision – Saxmundham, July 2015, 2221769
 - 8 Barton Willmore Response to Core Strategy (December 2015)
 - 9 Appeal Decision – Arden heath Farm, Stratford, December 2015, 3004380
 - 10 Relevant Extracts from PPG
 - 11 Graph Demonstrating Delivery Against Requirement
 - 12 SDC Housing Implementation Strategy (October 2015)
 - 13 High Court Judgement - Wainhomes (SW) Holding Ltd vs SoS and Wiltshire Council et al [2013] EWHC 597 (Admin)
- Volume 2
- 14 Appeal Decision - Sims Metal, Long Marston, July 2014, 220234

	15	Analysis of Slippage in Draft Allocations
	16	Delivering Large Scale Housing Developments Within Stratford District (September 2015)
	17	Appeal Decision - Picket Piece, Andover, June 2011, 2140962
	18	Extract from National Housebuilder Annual Reports
	19	Illustration of 'Starts On Site' and Delivery Rates
	20	Appeal Decision - Crewe Road, Alsager, May 2014, 2203282
	21	Analysis of SDC Pipeline
	22	Updated Housing Trajectory Figures (January 2016)
Document	42	Statement – Landscape and Visual ~ Ben Wright
Document	43	Appendices to Statement – Landscape and Visual ~ Ben Wright
	1	Decision Notice
	2	LVIA methodology
	3	Visual assessment
	4	Illustrative visualisations
	5	Response to Kineton Parish Council
	6	Stratford-on-Avon District Landscape Sensitivity Study (2011)
	7	Officer's Report to Planning Committee (East)
	8	Development Context Overview
Document	44	Additional Visualisations – Landscape and Visual ~ Ben Wright
	1	Viewpoint A; existing, the scheme and building heights
	2	Viewpoint B; existing, the scheme and building heights
	3	Viewpoint C; existing, the scheme and building heights
	4	Viewpoint D; existing, the scheme and building heights
	5	Viewpoint E; existing, the scheme and building heights
Document	45	Statement – Heritage ~ Alan Ford
Document	46	Appendices to Statement – Heritage ~ Alan Ford
	1	Desk-based assessment
	2	Battlefields, English Heritage, April 2012
	3	The Queen (on application of The Forge Field Society, Martin Barraud and Robert Rees v Sevenoaks DC and West Kent HA et al [2014] EWHC 1895 (Admin))
	4	Consultation, SDC Conservation Officer
	5	Consultation, English Heritage
	6	Consultation, Planning Archaeologist, Warwickshire CC
	7	Battlefields Trail, leaflet
	8	The Setting of Heritage Assets, Historic England
	9	Managing Significance in Decision Taking in the Historic Environment, Historic England
	10	Bedford BC v SoS and Nuon UK Ltd [2013] EWHC 2847 (Admin)
	11	Geophysical Survey Report
Document	47	Supplementary Statement – Heritage ~ Alan Ford
Document	48	Appendices to Supplementary Statement – Heritage ~ Alan Ford
	1	Extract from Morden's Map of Warwickshire 1695
	2	Extract from Beighton's Map of Warwickshire 1728 showing the battlefield at Edgehill
	3	Extract from Yates's Map of Warwickshire 1789
	4	Interpretation of the Great Kineton inclosure award of 1792
	5	A map of Kineton estate 1806
	6	Lidar imagery of the Edgehill battlefield
	7	Map of Edgehill battlefield showing distribution of bullets recovered superimposed over historic landscape character (Foard and Morris 2012)

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- 8 Map of Edgehill battlefield showing bullets recovered from base 10m transect survey compared with existing landscape elements (Foard and Morris 2012)
 - 9 Map of Edgehill battlefield showing bullets recovered from 10m transect surveys 2004 - 2007 and potential location of burials
 - 10 Map of Edgehill battlefield showing bullets recovered from 10m and 2.5m resurveys in 2008 (Foard and Morris 2012)
 - 11 The Battle of Edgehill (opening dispositions)
 - 12 The Battle of Edgehill (opening moves)
 - 13 The Battle of Edgehill (closing stages)
 - 14 Map of Edgehill battlefield showing Foard's posited re-orientation of the battle lines with finds distributions from 10m transects (Foard and Morris 2012)
 - 15 The River Dene to the south of the Site
 - 16 View south across Site towards the western end of the battlefield across which the Royalist horse pursued the routed Parliamentarian horse and supporting commanded shot
 - 17 View north towards the Site from the western edge of the battlefield where the Royalist horse pursued the routed Parliamentarian horse and supporting commanded shot
 - 18 View east from the area between Kineton and Little Kineton across the open ground across which the Royalist horse pursued the routed Parliamentarian horse and supporting commanded shot. The main fighting occurred approximately where the distant tree line can be seen with Edgehill beyond.
 - 19 View west across the battlefield from the Castle Public House on Edgehill. Possibly the most panoramic view possible of an English battlefield
 - 20 View west from Edgehill overlooking Radway showing components of historic landscape likely to have existed in 1642
 - 21 View west from Edgehill overlooking Kings Leys Barn showing components of historic landscape likely to have existed in 1642
- Document 49 Statement – traffic ~ Jeremy Hurlstone
- Document 50 Appendices to Statement – traffic ~ Jeremy Hurlstone
- 1 Transport Statement and appendices A-D
 - 2 Correspondence with the Highway Authority
 - 3 Kineton Village Appraisal, 2003
 - 4 Comments on draft Kineton Neighbourhood Development Plan
 - 5 Comments by Warwickshire CC on draft Kineton Neighbourhood Development Plan

PLANS

- Plans A Application Plans
 - 1 Site location: 1:2500, SL-P-02
 - 2 Access: 1:1000 & 1:200, 141001, rev.A 2.4x65 visibility splay
 - 3 Access: 1:1000 & 1:200, 141001, 2.4x120 visibility splay
- Plan B Illustrative layout and landscaping: 1:1250, 5537/LM01, rev.G
- Plan C Ecological enhancement
- Plan D Visualisation viewpoints
- Plan E Visualisation viewpoints and additional viewpoints
- Plan F Designations, constraints and viewpoints

SUBSEQUENT REPRESENTATIONS

- SR A Request for Recovery, Kineton Parish Council, 9 March 2016, email 17 March 2016
- SR B Appeal decision, Knights Lane, Tiddington, March 2016, 3017900, email 17 March 2016
- SR C Reference to musket ball found during archaeological investigations at Brooklands Farm, email from Kineton Parish Council on 4 March 2016 and received on 11 March 2016
- SR D Email from Kathryn Ventham on 12 April 2016 (received on 13 April 2016) including:
 - 1. Further submissions on HLS
 - 2. Appeal decision, Knights Lane, Tiddington, March 2016, 3017900
 - 3. Appeal decision, Stockton Road, Long Itchington, March 2016, 3009042
 - 4. The absence of the Kineton Neighbourhood Development Plan from the agenda of the Cabinet meeting on 11 April 2016
- SR E String of emails, 29 February 2016 to 11 April 2016 relating mainly to HLS, the Knights Lane appeal decision and the Core Strategy Inspector's interim findings (for subsequent consultation) that the Core Strategy is sound (subject to modifications) and that a 5-year supply of housing exists, as at 31 March 2016
- SR F Letter from Kathryn Ventham responding to the musket ball on the Brooklands Farm site, 20 April 2016, received by email 21 April 2016

Richborough Estates



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.