



Department for
Communities and
Local Government

Our Ref: APP/N4720/W/15/3004034

Ms Amanda Beresford
Shulmans LLP
10 Wellington Place
Leeds
LS1 4AP

22 December 2016

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL BY
BARRETT, DAVID WILSON HOMES AND THE RAMSDEN PARTNERSHIP
LAND AT BRADFORD ROAD, EAST ARDSLEY, LEEDS
APPLICATION REF: 13/05423/OT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of K D Barton BA(Hons) DipArch DipArb RIBA FCIArb, who held a public local inquiry between 23 February and 1 March 2016, into your clients' appeal against the decision of Leeds City Council ("the Council") to refuse your clients' application for outline planning permission for residential development of up to 370 dwellings including associated works, and access off Bradford Road, East Ardsley, Leeds, in accordance with application ref: 13/05423/OT, dated 22 November 2013. In addition, to avoid repetition and make efficient use of inquiry time, the matter of Housing Land Supply (HLS) in Leeds was heard in conjunction with two other appeals between 19 and 21 April 2016, with closing submissions on 29 April 2016.
2. On 29 May 2015, 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 proposal is for a residential development of over 150 dwellings, on a site over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and outline planning permission granted, subject to the conditions set out in IR Appendix C, pages 71-74.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. He has decided to allow the appeal and grant outline

planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. As described by the Inspector at IR1.1-1.2, amendments were made to the application at the application stage and during the inquiry so that it now reads "outline application comprising land for a maximum of 299 residential dwellings with 2 hectares of land reserved for the development of up to a two form entry primary school and all associated works, public open space, and access from Bradford Road". The Secretary of State notes that this is the basis on which the evidence has been given, the report has been written and the recommendation has been made. He is therefore satisfied that no interests will be prejudiced by making his decision on that basis.
6. Furthermore, as mentioned in paragraph 1 above, the Secretary of State is satisfied that, in order to avoid repetition and make efficient use of Inquiry time, it was appropriate to hear the matter of HLS in Leeds in conjunction with two other appeals (APP/N4720/W/14/3001559 Leeds Road, Collingham and APP/N4720/W/15/3004106 Breary Lane East, Bramhope) on 19 – 21 April 2016.

Policy considerations

7. 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.
8. In this case the development plan comprises the Leeds Core Strategy (CS), adopted on 12 November 2014; and the saved policies of the Leeds Unitary Development Plan Review (UDPR) adopted in July 2006. The Secretary of State agrees with the Inspector that the most relevant policies are those referred to at IR8.3.1-8.3.18.
9. The Inspector refers at IR4.2 to the emerging Leeds Site Allocations Plan (SAP) and the fact that the appeal site is not currently allocated for housing in that plan although it is identified as having potential for future housing development. However, the Secretary of State agrees with the Inspector that, as the SAP is still an early stage, he can give it only limited weight in considering this appeal. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated Planning Guidance; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Main issues

10. The Secretary of State agrees with the Inspector that the main issues are those referred to at IR8.1.1.

Assessment of Housing Land Supply

11. Having carefully considered the Inspector's arguments at IR8.2.1-8.2.10, the Secretary of State agrees with him at IR8.2.11 that, on past performance, the buffer must be 20% - so that the 5-year HLS requirement across the City would be 31,898, or 6,379 units per annum (IR8.2.12). The Secretary of State notes the Inspector's comparison with recent levels of performance (IR8.2.13) before turning to the supply side as set out by the Inspector at IR8.2.14-8.2.25. He agrees with the Inspector at IR8.2.25 that the position on

supply is difficult as the SAP will not be adopted until at least December 2017, but that the available evidence based on the December 2015 draft of the SHLAA indicates that there is a serious shortfall of supply in the next two years, a heavy dependence on sites that do not have planning permission and reliance on sites that are currently in other use.

12. The Secretary of State has given careful consideration to the Inspector's analysis of the uncertainties relating to the potential supply of land at IR8.2.26-8.2.28 and he agrees that there are a number of differences between the parties as to delivery rates and lead-in times (IR8.2.29-8.2.38). Overall, he agrees with Inspector's conclusion at IR8.2.39 that the failure to produce an adopted SAP until at least December 2017 means that there is no policy set out to show how delivery of any houses, never mind the magnitude required, will actually take place; that the safety margin of 2,262 dwellings can soon be whittled away when realism is applied and that the Council has failed to demonstrate a robust 5 year HLS. The Secretary of State therefore agrees with the Inspector's conclusion that the solution is to deliver housing now, including much needed affordable housing (IR8.2.40.8.2.41).

Development Plan Policy

13. Having regard to the Development Plan position as set out in paragraphs 8 and 9 above and by the Inspector at IR8.3.1, the Secretary of State agrees with the Inspector at IR8.3.2 that, as there is no 5 year HLS, paragraphs 14 and 49 of the Framework must be applied. Therefore, while he agrees with the Inspector that UDPR policy N34 which designates the site as a Protected Area of Search (PAS) is a policy for the supply of housing, he also agrees with the Inspector's conclusion at IR8.3.2 that policy N34 cannot be considered up-to-date. He further agrees with the Inspector that, rather than being a restrictive policy, the purpose of Policy N34 was to safeguard land to meet longer term development needs so that, as it envisages development, the appropriate test to apply is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
14. For the reasons given at IR8.3.3, the Secretary of State agrees with the Inspector that no-one has been disadvantaged by his considering the revised reasons for refusal at the Inquiry. Furthermore, having regard to the discussion at IR8.3.4-8.3.7, the Secretary of State agrees with the Inspector's conclusion at IR8.3.8 that Policy N34 emerged in a different policy context - when the number of units required was far less than now; and that it is also now time expired and its use as a policy to prevent development would be contrary to the terms of the Framework taken as a whole. Having regard to the consideration of the matters at IR 8.3.9-8.3.13, the Secretary of State agrees with the Inspector's conclusion at IR8.3.13-8.3.14 that the appeal scheme would not undermine the implementation of the CS. He also agrees that, as the SAP is far from being at an advanced stage (IR8.3.15-8.3.18), it can be given only limited weight and the appeal proposal would not therefore be premature in that context.

Accessibility of proposed site to shops and services

15. For the reasons given at IR8.4.1-8.4.11, the Secretary of State agrees with the Inspector at IR8.4.12 that the site would be relatively well served with reasonable accessibility to shops and services so that accessibility would not justify dismissing the appeal and, with the mitigation proposed, the scheme would generally conform with the requirements of CS Policy T2.

Effect on the Highway Network

16. Having carefully considered the Inspector's findings at IR8.5.1-8.5.10, the Secretary of State agrees with his conclusion at IR8.5.9 and IR8.9.6 that, if there are no improvements in the interim, the queuing that currently takes place at the Thorpe Lane junction would be made slightly worse by the proposal but not to such an extent that it would justify refusal under the terms of paragraph 32 of the Framework.

Effect on the character and identity of East Ardsley

17. For the reasons given at IR8.6.1-8.6.7, the Secretary of State agrees with the Inspector's conclusion at IR8.6.8 and IR8.9.7 that the proposed scheme would be capable of maintaining the identity of East Ardsley as a distinct settlement and, if the development were to be set back as in the illustrative Master Plan, a substantial gap would provide a sense of openness and protect views of the Church.

Other matters

18. The Secretary of State agrees with the Inspector that the proposed provision of 15% affordable housing, in line with CS Policy H5, is a welcome, albeit small, contribution to the overall assessed need (IR8.7.1-8.7.4).

Conditions

19. The Secretary of State has considered the suggested conditions set out at Appendix C to the IR and the Inspector's comments on them at IR8.8.7-8.8.11. He agrees with the Inspector that those conditions – which are now set out at Annex A to this letter – are reasonable and necessary and meet the tests of the Framework and guidance. He is satisfied that they are relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Obligations

20. The Secretary of State notes (IR8.8.1-8.8.2) that a number of facilities are covered by the Leeds CIL Charging Schedule adopted in April 2015. In addition, having regard to the Inspector's analysis at IR8.8.2-8.8.11, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State is satisfied that the signed Unilateral Undertaking dated 7 March 2016 complies with Regulation 122 of the CIL Regulations. He therefore agrees with the Inspector's conclusion at IR8.8.11 that its terms comply with the tests at paragraph 204 of the Framework, are necessary to make the development acceptable in planning terms, directly related to the development, and are fairly and reasonably related in scale and kind to the development.

Overall conclusions

21. The Secretary of State concludes that granting permission for the appeal scheme would be contrary to the development plan overall, particularly with regard to conflict with saved policy N34 of the UDPR. He has therefore gone on to consider whether there are any material considerations that indicate the proposal should be determined other than in accordance with the development plan.

22. As he has not found evidence of a five year supply of deliverable housing sites across the local authority area, the Secretary of State concludes that the relevant development plan

policies for the supply of housing are out-of-date. Therefore, in line with the presumption in favour of sustainable development at paragraph 14 of the Framework, he considers that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted.

23. Having carefully assessed the evidence before him, the Secretary of State is satisfied that there are no adverse impacts which, either individually or together, are of sufficient weight to indicate that the development of the appeal site should be restricted. Overall, therefore, the Secretary of State finds that, when taking the policies of the Development Plan and the Framework as a whole, the adverse impacts of granting the proposed development are limited and that there are no material harms that significantly and demonstrably outweigh the very real benefits of providing new homes to boost the supply of housing as required by the Framework.

Formal decision

24. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for a maximum of 299 residential dwellings with 2 hectares of land reserved for the development of up to a two form entry primary school and all associated works, public open space, and access at Bradford Road, East Ardsley, Leeds, in accordance with application ref: 13/05423/OT, subject to the imposition of the conditions set out in the Annex A to this letter.

25. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the local planning Authority fail to give notice of their decision within the prescribed period.

26. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

27. 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.

28. A copy of this letter has been sent to Leeds City Council. Notification has also been sent to all other parties who asked to be informed.

Yours faithfully,

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Richborough Estates

List of conditions

Approval of details

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called “the reserved matters”) shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
- 2) The development hereby permitted shall comprise no more than 299 dwellings.
- 3) The development hereby permitted shall be carried out in accordance with the following plans:

Location Plan Drawing No P12456702 14 November 2013

Access Plan ITM8086-GA-012 Rev A August 2014

Timing of Implementation

- 4) Application for approval of all reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters.

Archaeology

- 5) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.

Flood Risk and Drainage

- 6) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) compiled by ARP Associates dated November 2013, and the mitigation measures detailed in Section 6.17 of the FRA.

The mitigation measures shall be fully implemented prior to occupation of any dwelling or in accordance with the timing/phasing arrangements embodied within a scheme whose details have been submitted to, and approved in writing by, the local planning authority.

- 7) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 8) No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to, and approved in writing by, the local planning authority before development commences.

- 9) Development shall not commence until a scheme (ie drainage drawings and summary calculations) detailing the surface water drainage works and SuDS features has been submitted to, and approved in writing by, the local planning authority. The works shall be implemented in accordance with the approved scheme before the development is brought into use, or as set out in the approved phasing details.

Ground Conditions

- 10) No part of the development hereby permitted shall be commenced on site unless and until:
- a) A site investigation has been designed for the site using the information gained from the desktop investigation previously submitted in respect of coal mining. This shall be submitted to, and approved in writing by, the local planning authority prior to the investigation being carried out on site; and
 - b) The site investigation and associated risk assessment have been undertaken in accordance with details submitted to, and approved in writing by, the local planning authority; and
 - c) A method statement and remediation strategy, based on the information obtained from 'b' above, including a programme of works, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved remediation strategy.
- 11) A Phase I Desk Study report indicates that a Phase II Site Investigation is necessary, and therefore development shall not commence until a Phase II Site Investigation Report has been submitted to, and approved in writing by, the local planning authority.

Where remediation measures are shown to be necessary in the Phase II Report and/or where soil, or soil forming material, is being imported to site, development shall not commence until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the local planning authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.

If Remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the local planning authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to and approved in writing by, the local planning authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised Remediation Statements.

Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works the verification report(s) shall be submitted to the local planning authority in accordance with the approved programme. The site, or phase of a site, shall not be brought into use until such time as all verification information has been approved in writing by the local planning authority.

- 12) No development shall take place until a scheme to address the recommendations contained in the Ecological Appraisal by Brooks Ecological dated July 2013 (Report Ref R-1636-01) has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.

- 13) No works shall commence until all existing trees, hedges and bushes shown to be retained on the plans are fully safeguarded by protective fencing and ground protection in accordance with an agreed scheme, specification, and the provisions of BS5837 (2012): Trees in relation to design, demolition and construction previously submitted to, and approved in writing by, the local planning authority. Such measures shall be retained for the duration of any demolition and/or approved works.

No works or development shall commence until a written arboricultural method statement for a tree care plan has been submitted to, and approved in writing by, the local planning authority. Works or development shall then be carried out in accordance with the approved method statement.

No equipment or materials shall be used, stored or burnt within any protected area. Ground levels within these areas shall not be altered, nor any excavations undertaken, including the provision of any underground services, without the prior written approval of the local planning authority.

Seven days written notice shall be given to the local planning authority that the protection measures are in place prior to demolition and/or approved works to allow inspection and approval of the protective measures.

- 14) There shall be no activity associated with site clearance, nor any removal of trees, shrubs and vegetation between 1 March to 31 August inclusive unless a survey of nesting birds and a scheme for their protection has been submitted to, and approved in writing by, the local planning authority. The scheme should include for the provision of a qualified ecologist on site during any works that may impact on nesting birds. Site clearance shall be undertaken in accordance with the approved scheme which shall remain in force until all works are completed.

Public Open Space

- 15) The development hereby permitted shall not begin until a scheme has been submitted to, and approved in writing by, the local planning authority for the provision of a 2 hectare on-site public open space. The scheme shall include details of the siting, layout, landscaping, maintenance, and long term management of the open space. The on-site public open space shall be provided prior to completion of the development in accordance with the approved scheme.
- 16) The development hereby permitted shall not begin until a scheme for the provision of a landscaped buffer zone on the northern boundary has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the location, layout, planting plans, schedule of species, timetable for implementation and long term management scheme. The scheme should include for the provision of native tree planting in order to provide a transition from open countryside to development and should provide for the retention and improvement of any public rights of way that falls within it. The buffer zone shall be laid out in accordance with the approved details and maintained as a buffer zone for the lifetime of the development.
- 17) Prior to the commencement of development, details shall be submitted to, and approved in writing by, the local planning authority of arrangements to secure the following highway improvement works which shall be implemented and completed prior to occupation of the first dwelling:

- a) The provision of a priority controlled T-junction access on Bradford Road, which shall incorporate a right turn ghost island lane on Bradford Road. The access shall be constructed in accordance with drawing ITM8086-GA-012A.
- b) The provision of two new pedestrian refuges on Bradford Road, to the north and south of the proposed site access, including the relocation of the existing pedestrian refuge island located to the south of the proposed access. Associated dropped kerbs and tactile paving to be provided within the existing footways at both refuge locations.
- c) The provision of a separate emergency access on to Bradford Road, located at the position of the current public footpath access onto Bradford Road and which shall be widened to 3.7 metres width to accommodate emergency vehicles and which shall also connect into the internal loop road.

Richborough Estates

Report to the Secretary of State for Communities and Local Government

by K D Barton BA(Hons) DipArch DipArb RIBA FCI Arb

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

Date: 20 September 2016

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY BARRATT DAVID WILSON HOMES AND THE RAMSDEN
PARTNERSHIP

AGAINST A DECISION BY

LEEDS CITY COUNCIL

RELATING TO A SITE OFF BRADFORD ROAD, EAST ARDSLEY

Inquiry opened on 23 February 2016

Land off Bradford Road, East Ardsley

File Ref: APP/N4720/W/15/3004034

Contents

Section	Title	Page
1.	Procedural Matters	1
2.	The Site and Its Surroundings	2
3.	The Proposal	3
4.	Planning Policy Context	3
5.	The Case for Leeds City Council	3
	5.1 Introduction	3
	5.2 Assessment of Housing Land Supply	4
	5.3 Assessment Against Development Plan Policy	12
	5.4 Whether Occupants of the Proposed Development Would have Acceptable Access to Shops and Services	13
	5.5 Effect on the Highway Network	15
	5.6 Effect on the Character and Identity of East Ardsley	17
	5.7 Other Matters	18
	5.8 Section 106 Obligation and Conditions	19
	5.9 Planning Balance	20
6.	The Case for Barratt David Wilson Homes and the Ramsden Partnership	22
	6.1 Introduction	22
	6.2 Assessment of Housing Land Supply	22
	6.3 Assessment Against Development Plan Policy	26
	6.4 Whether Occupants of the Proposed Development Would have Acceptable Access to Shops and Services	28
	6.5 Effect on the Highway Network	29
	6.6 Effect on the Character and Identity of East Ardsley	30
	6.7 Other Matters	30
	6.8 Section 106 Obligation and Conditions	31
	6.9 Planning Balance	31
7.	Consultees and Interested Persons	32
8.	Inspector's Conclusions	33
	8.1 Introduction	33
	8.2 Assessment of Housing Land Supply	33
	8.3 Assessment Against Development Plan Policy	40
	8.4 Whether Occupants of the Proposed Development Would have Acceptable Access to Shops and Services	44

8.5	Effect on the Highway Network	46
8.6	Effect on the Character and Identity of East Ardsley	47
8.7	Other Matters	48
8.8	Section 106 Obligation and Conditions	49
8.9	Planning Balance	50
9.	Overall Conclusion and Recommendation	51
9.1	Overall Conclusion	51
9.2	Recommendation	52
App A	Appearances	53
App B	Documents	55
App C	Conditions	71
App D	Glossary	75

Richborough Estates

File Ref: APP/N4720/W/15/3004034
Land off Bradford Road, East Ardsley

- The appeal is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant outline planning permission.
- The appeal is made by Barrett David Wilson Homes and the Ramsden Partnership against the decision of Leeds City Council.
- The application Ref 13/05423/OT, dated 22 November 2013, was refused by notice dated 8 August 2014.
- The development originally proposed was residential development of up to 370 dwellings including associated works, and access off Bradford Road.

Summary of Recommendation: The Appeal be allowed, subject to the conditions set out in Appendix C to this report.

1. Procedural Matters

- 1.1. In March 2014, during the application stage, the Appellant and the Council amended the description of the development to read: 'Outline application comprising land for the development of circa 299 residential dwellings with 2 hectares of land reserved for the development of up to a two form entry primary school and all associated development works, public open space, and access from Bradford Road'.¹
- 1.2. At the Inquiry it was agreed to further amend the application, in the interests of clarity and precision, to read: 'Outline application comprising land for the development of a maximum of 299 residential dwellings with 2 hectares of land reserved for the development of up to a two form entry primary school and all associated development works, public open space, and access from Bradford Road'. This is the basis on which the evidence has been given, the report has been written, and the recommendation has been made.
- 1.3. The appeal was recovered by the Secretary of State (SoS) by a letter dated 29 May 2015 (SSD). The reason for the direction is that the appeal involves a proposal for residential development of over 150 units, on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
- 1.4. Another SSD, dated 9 June 2009, extended the saved policies listed within it. The SSD indicates that local planning authorities should "make good progress with local development frameworks" and states that "Policies have been extended in the expectation that they will be replaced promptly". The *Framework* makes clear that "It is highly desirable that local planning authorities should have an up-to-date plan in place" and where development plans are "absent, silent or relevant policies are out-of-date it expects planning permission to be granted unless "adverse impacts significantly and demonstrably outweigh the benefits" or "specific policies" apply."²

¹ LCC/4/B Sect 4

² MHH/8/C APP ID4, MHH/12 Paras 7-8

- 1.5. A Pre-Inquiry Note was issued to set out the administrative arrangements for the Inquiry, which sat for 5 days between 23 February and 1 March. An unaccompanied site visit was made to the site and the surrounding area on 23 February 2016. In addition, to avoid repetition and make efficient use of Inquiry time, the matter of Housing Land Supply (HLS) in Leeds was heard in conjunction with two other appeals, APP/N4720/W/14/3001559 Land at Leeds Road Collingham and APP/N4720/W/15/3004106 Land at Breary Lane East, Bramhope, on 19-21 April 2016. Closing submissions in relation to this appeal, on all matters other than HLS, were made on 1 March. Closing submissions relating to HLS were made on 29 April 2016³.
- 1.6. Subsequent to the close of the Inquiry a decision was issued relating to development at Grove Road, Boston Spa (APP/N4720/A/13/2208551). The parties were given an opportunity to comment on this decision and their comments have been taken into consideration. The Council confirms that it is challenging the Grove Road decision, the conclusions of which it maintains are divergent from those relating to an earlier decision at Bagley Lane (APP/N4720/A/13/2208551).⁴ The Council states that its evidence on HLS has changed significantly since it was given at the Grove Road Inquiry in May 2014. It therefore asks that the conclusions on the three appeals mentioned at paragraph 1.4 above should be reached based on the latest evidence from all parties as presented and tested at this Inquiry and the Inquiries opened in February 2016. The general consensus of the Appellants is also that the most up to date evidence given to this Inquiry should be used although response has been made to some of the detailed points raised by the Council.⁵
- 1.7. This report includes a description of the site and its surroundings, a summary of the planning policy background, the gist of the representations made at the Inquiry, and in writing, and my conclusion and recommendation. Lists of appearances and documents, a schedule of conditions should the Secretary of State be minded to allow the appeal, and a glossary of abbreviations, are also attached as appendices.
- 2. The Site and Its Surroundings⁶**
- 2.1. East Ardsley lies approximately 3.5 km south east of Morley, 6.5km north of Wakefield, and 10km south of Leeds. The appeal site, which has an area of around 13.5 hectares, lies to the east of the A650 Bradford Road and west of New Lane. It is roughly rectangular and slopes towards the A650. The site consists of three open fields bordered by hedgerow and field margins. Each field is separated from the others by public footpaths.
- 2.2. The site is close to the East Ardsley Local Centre which includes, amongst other facilities, a Co-operative, a Tesco Express, and a Premier convenience store. There is residential development to the east of the site off Forsythia Avenue and New Lane. To the south is residential development and a Grade II listed Church. A ribbon of residential

³ CD/F9, LCC/7, LCC/18 Paras 48-115, BDW/7, BDW/8

⁴ Since the Inquiry the Council has challenged the Boston Spa decision

⁵ LCC/10/H Letter incorrectly dated 12 July 2015, BDW/5/C, and MHH/8/D

⁶ CD/F5 Section 2

development to the west of the site, fronting Bradford Road, is broken by the site itself in the form of an agricultural gate in a length of hedgerow. North of the site is an unmade section of New Lane beyond which there is a listed former mill building to the north west. Agricultural land lies to the north beyond the remainder of the unmade part of New Lane.

3. The Proposal

- 3.1. The application for a maximum of 299 dwellings, with 2 hectares of land reserved for the development of up to a two form entry primary school, all associated development works, and public open space, was made in outline. An indicative layout was provided but all matters were reserved for future consideration, except for the proposed access to the site from Bradford Road.⁷
- 3.2. The indicative drawings propose a mix of dwellings and house types and of market and affordable houses. 15% of the dwellings would be affordable equating to 45 units, assuming that 299 properties were completed. The public open space is shown on the indicative plan as including a Local Equipped Area of Play (LEAP), footpaths, and amenity areas and grassland to provide areas for recreational activities and to encourage biodiversity.⁸

4. Planning Policy Context

- 4.1. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* indicates that determinations under the Planning Acts should be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case includes the *Leeds Core Strategy (CS)* adopted in November 2014, and saved provisions in the *Leeds Unitary Development Plan Review (UDPR) 2006*.⁹
- 4.2. The Council is progressing a *Site Allocations Plan (SAP)* but it is agreed that since this is at an early stage only limited weight can be attached to it. Within the Publication SAP the appeal site is indicated as safeguarded land. At the time the Council reached its decision on this proposal, an Interim Housing Delivery Policy was in place. However, since adoption of the CS, the Interim Policy has been withdrawn and the reasons for refusal have been revised to reflect adopted and emerging policy. This was endorsed at the City Plans Panel on 5 November 2015.¹⁰

5. The Case for Leeds City Council

5.1. Introduction

- 5.1.1 East Ardsley is a Smaller Settlement within the CS settlement hierarchy, whilst under the UDPR the site was designated a Protected Area of Search (PAS). When the Council reached its decision on the appeal proposal it was against the background of an Interim Housing Policy. However, this was withdrawn in February 2015 in light of the stage reached by the SAP process. The SAP will resolve the Council's view as to which PAS sites

⁷ CD/B6 Masterplan Rev B

⁸ CD/F5 Section 3

⁹ CD/F5 Section 6, CD/A/3, CD/A/5, LCC/7 Para 4

¹⁰ CD/A8, CD/A10, CD/E/4, CD/E/8, CD/F/5 Paras 4.11 & 6.10, LCC/4/B Paras 4.4-5

should be included on the basis of their planning merits. This accords with CS policies and meeting the Council's housing delivery and locational strategies.¹¹

5.1.2 Consequently, assessment against the Interim Policy is not appropriate and the proposal was taken back to the Plans Panel Committee for assessment in the light of the current policy context. The amended reasons for refusal are the outcome of that assessment and the Council relies on them.¹²

5.2 Assessment of Housing Land Supply

5.2.1 The housing requirement for the purposes of *Framework* paragraph 47 is largely common ground. The 5 year period is 1 April 2016 to 31 March 2021. The annual requirement derives from CS Policy which contains a step-up in the requirement with the first five years of the plan being at a lower rate. The consequent annual figures are 1x3,660 + 4x4,700 although the requirement is not a maximum.¹³

5.2.2 The CS requirements for the first three years of the plan period have not been met but the completions for the period 2012/13 to 2014/15 are agreed as the table below.¹⁴

Year	Adopted CS Policy SP6	Contribution from sources to Core Strategy target			Demolitions	Total
		New & converted units	Empty homes	Older persons housing		
2012/13	3,660	1,650	149	29	27	1,801
2013/14	3,660	2,235	880	86	6	3,195
2014/15	3,660	2,076	215	322	97	2,226
Total	10,980	5,961	1,244	147	130	7,222
Backlog 2012 to 2015						

5.2.3 There are two issues in dispute between the parties:

- a) The precise level of completions in 2015/16; and
- b) The appropriate buffer.¹⁵

¹¹ LCC/7 Para 2

¹² CD/F/5 Para 4.11, LCC/7 Para 2

¹³ CD/A/1, CD/A/3, CD/F/6, CD/L/5, LCC/18 Paras 48-50

¹⁴ CD/L/5, LCC/18 Paras 49-50

¹⁵ CD/L/5, LCC/18 Para 50

- 5.2.4 The precise level of completions in 2015/16 is not an issue of principle but of quantum. The figure submitted by the Council has been compiled in exactly the same way as other years, where the Appellant accepts the figures, and is the figure submitted to Government for the purpose of the New Homes Bonus. The base information comes from individual's Council Tax information and cannot simply be disclosed. However, the figure sits in the range of annual figures accepted for 2012/15.¹⁶
- 5.2.5 Turning to the matter of the buffer, this is a matter of judgement that the *Guidance* makes clear will vary from place to place. Notwithstanding this the *Guidance* notes that a more robust assessment will be made by considering a longer term view such as a complete housing market cycle. The Appellants' joint 5 year assessment does not do this.¹⁷
- 5.2.6 The purpose and function of the buffer derives from *Framework* paragraph 47. The purpose is to ensure choice and competition and, in relation to the 20% buffer, to provide a realistic prospect of the planned supply being achieved. The function is to move sites forward from later in the plan period. This is consistent with the core policy principles and promoting, not undermining, the plan-led system. The objective is not to penalize an authority.¹⁸
- 5.2.7 In this case, the Appellants seek the release of safeguarded land that would be contrary to the CS and would undermine the emerging SAP. A 20% buffer would have the opposite purpose and function to that set out in *Framework* paragraph 47. There is a large volume of permitted residential development and large areas of the inner area and city centre available for development. The issue is not an absence of competition and supply but that the volume house builders seek to build other than in accordance with the Council's adopted CS.¹⁹
- 5.2.8 In terms of figures, there is agreement except for Empties in 2015/16 as set out above and they can be considered in three parts.²⁰

Plan	Context	Year	Net Completions	Target Min	Target Max	Under delivery Min	Under delivery Max
UDP	Rising	2003/4	2,991	1,930	1,930	1,061	1,061
UDP/RSS	Rising	2004/5	2,633	2,260	2,260	373	373
UDP/RSS	Boom	2005/6	3,436	2,260	2,260	1,176	1,176
UDP/RSS	Boom	2006/7	3,327	2,260	2,260	1,067	1,067
UDP/RSS	Boom	2007/8	3,576	2,260	2,260	1,316	1,316
UDP/RSS	Recession	2008/9	3,828	2,260	4,300	1,568	-472
UDP/RSS	Recession	2009/10	2,238	2,260	4,300	-22	-2062

¹⁶ LCC/18 Para 51

¹⁷ LCC/18 Para 52, CD/A/2 Para 3-035, MHH/3/C APP ID9 Table 2.2

¹⁸ LCC/18 para 53

¹⁹ LCC/18 Paras 53

²⁰ LCC/18 Para 54, LCC/11//B Table 7

UDP/RSS	Recession	2010/11	1,686	2,260	4,300	-574	-2,614
UDP/RSS	Recovery	2011/12	1,931	2,260	4,300	-329	-2,369
CS	Recovery	2012/13	1,801	3,660	3,360	-1,859	-1,859
CS	Recovery	2013/14	3,195	3,660	3,660	-465	-465
CS	Recovery	2014/15	2,226	3,660	3,660	-1,434	-1,434
CS	Rising	2015/16		3,660	3,660		
						1,878	-6,282

- 5.2.9 Firstly, pre-recession the requirement was 1,930 rising to 2,260 and in these 5 years the requirement was exceeded by around 5,000 homes. During the recession the requirement was debatable. Adopted targets were 2,260 and 4,300. The lower target was exceeded by 643 but against the step up RSS requirement there was an under supply of 7,517. However, it is acknowledged that the RSS requirement was inaccurate. Post-recession the CS requirement for 2013 to 2016 was 3,660 and there has been a cumulative undersupply of 4,122. However, the most recent year is the best since the adoption of the CS delivering 3,296 units.²¹
- 5.2.10 If a cumulative approach is taken to the whole cycle and assessment made against the lower requirement for 2008/12, targets were exceeded by 1,514. The RSS is accepted as being unrealistic and the figure is based on job growth of 24,000 when in practice there was a loss of 8,000 jobs, a swing of over 32,000. An assessment against this is meaningless and the Bagley Lane Inspector concluded it was unrealistic.²²
- 5.2.11 The CS Inspector also considered the matter. "The Regional Strategy has been revoked and its housing targets were underpinned by assumptions that the 2011 census and later projections have shown to be inaccurate. This significantly reduces the weight to be attributed to under delivery against the Regional Strategy target and the need to address any shortfall against the RS through the CS".²³
- 5.2.12 No weight should be given to non-compliance with the RSS target. The lower target is more meaningful and against that there is no cumulative shortfall. In any event, the CS requirement was based on demographic projections and encapsulates any shortfall properly found to have occurred therefore counting non-compliance against the higher RSS target would lead to double counting of any actual undersupply. This was recognised by the Bagley Lane Inspector.²⁴
- 5.2.13 Secondly, turning to performance against the CS, the requirement has not been met. However, completions are increasing as the market recovers and are just short of the CS requirement. A robust approach over a market cycle, in line with the *Guidance*, has met the cumulative need and is moving into line with the CS requirement. This is similar to the

²¹ LCC/18 Para 54

²² LCC/18 Paras 55-58

²³ CD/G/4 Para 16, LCC/18 Para 59

²⁴ LCC/18 Para 60, CD/G/17 2nd report Para 185

conclusion of the Bagley Lane Inspector. Although time has passed he was informed that the target for 2014/15 would not be met. His conclusions should continue to apply as the practical difference is one additional year in which supply only fell by 364 units.²⁵

- 5.2.14 The Appellants' make much of how substantial the CS requirement is but the Council has always acknowledged that and is committed to meeting the target. To add a 20% buffer would be unproductive, contrary to the intentions of the *Framework*, and would undermine the strategy for meeting the target. A 20% buffer would effectively increase the CS target to allow remote greenfield sites to get permission at the expense of urban regeneration. With a 5% buffer the Council maintains that the 5 year housing requirement is 27,911 units.²⁶
- 5.2.15 Many of the sources of supply are agreed. Over 5 years these would be; 2500 smaller windfalls, those sites too small to be identified by the SHLAA; 1000 empty homes; and -225 demolitions. In terms of large windfalls the Council includes an average of 167 such units a year whereas large windfalls have actually produced an average of 388 units over the last three years. This allowance was accepted by the Bagley Lane Inspector with only 2 years of evidence and should be allowed in this case.²⁷
- 5.2.16 *Framework* paragraph 47 requires five year supply sites to be "deliverable" and sets out advice in Footnote 11. Firstly, "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". Secondly, "sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable."²⁸
- 5.2.17 The Appellants acknowledge and identify 16,571 units in the 5 year supply, deriving from the 2015/2020, that have planning permission or are under construction. The equivalent figure for 2016/2021 is 14,770. All these units must count in the absence of clear evidence otherwise. The real challenge is to the achievability although predictions of delivery are inherently uncertain. Consequently the *Framework* looks only for a realistic prospect of delivery. The *Guidance* addresses the Footnote 11 factors of Availability, Achievability and Deliverability.²⁹
- 5.2.18 Reference has also been made to Wain Homes (SW) Holdings Ltd v SSCLG. This agrees that sites should not be 'assumed' to be deliverable. The Council has considered each site against the Footnote 11 tests and the same methodology has been used by the Appellant. Another occupier is not a bar to inclusion of the site in the five year supply but rather consideration should be given as to whether any problem could be

²⁵ LCC/18 Paras 61-62, CD/G17 2nd Report Para 187

²⁶ CD/A/38A, CD/L/14, LCC/18 Paras63-64

²⁷ LCC/18 Paras 65-66, CD/A/1 Para 48, LCC/11/B Para 3.13 & App 2, CD/L/5 Para 3.16, CD/G/17 Para 200, CD/A/3 Paras 4.6.4, 4.6.8 & 4.6.10

²⁸ LCC/18 Paras 67

²⁹ LCC/18 Para 68-71

overcome to allow delivery within 5 years. The inclusion of a site in the SHLAA provides a starting point and some evidence a site is deliverable.³⁰

5.2.19 The SHLAA takes on board an enormous amount of information and is the result of an iterative process. The 2015 SHLAA, from which the 5 year supply derives, used the same methodology as the 2014 SHLAA which was the subject of extensive consultation with the development industry. It didn't agree with a number of issues which has influenced the approach to consultation. Criticisms in the Appellants' case reflect the intractable differences between the parties. Both the SHLAA and the SAP inform each other and each allows promoters to be heard and for availability and achievability to be confirmed creating a rebuttable presumption as to their delivery.³¹

5.2.20 The Appellants' criticisms of the SHLAA differences were raised at the Bagley Lane Inquiry and the Inspector's conclusions below hold good in this case.

- a) Supply cannot be approached in a policy vacuum. Allocations and the 5 year supply need to reflect the CS strategy;
- b) Although volume house builders reject much of the supply from the city centre and the inner area, there are factors that would assist supply in those areas such as PRS and low cost builders;
- c) The viability of some city centre and inner area sites indicates that many sites are likely to be viable, albeit not with volume builder's profit margins;
- d) The Council's build out rates based on past performance and publically stated anticipated rates are to be preferred;
- e) The input of the development industry is important; and
- f) The SHLAA is a snapshot in time.

Taking account of policy context and the other factors referred to above the Council's analysis is to be preferred.³²

5.2.21 All this needs to be seen in the context of whether the Council's approach to achievability is realistic and reasonable, a fact already confirmed by the Bagley Lane Inspector:

- a) Challenges to a number of HLS matters were dismissed confirming there was no error in the legal approach to housing land supply;
- b) This endorsed the Council's approach to the SHLAA and its methodology to ensure consistency;
- c) A number of arguments in this case were also raised at Bagley Lane and dismissed. Arguments have narrowed and viability is no longer

³⁰ LCC/18 Paras 72-73, MMH/3/C App ID8

³¹ CD/A/3 Para 4.6.17, LCC/18 Paras 74-78

³² LCC/18 Para78

questioned. House price growth has strengthened to 6.5-7.5% in the city centre and inner area and sales have increased.³³

- 5.2.22 The supply of housing should not be seen in isolation from the Strategy. Both the CS and Community Infrastructure Levy (CIL) Inspectors noted the housing requirement was large but concluded the Strategy was effective and deliverable. It has begun to deliver and the considerable activity will act as a catalyst for further growth. In addition the Council is being proactive with measures, including, amongst others, delivering housing itself and selling brownfield land in its ownership. The Strategy is delivering, albeit perhaps less rapidly than originally hoped.³⁴
- 5.2.23 Some particular concerns were raised by the Appellants but must be put in context. Leeds is a large area with very many sites coming forward. It is, therefore, impossible for the Inspector to replicate the SHLAA or 5 year supply exercise. A broad range of sources of supply have been used in a realistic way. Whilst there is a need for robust evidence to support decisions that does not mean a letter from the landowner setting out his intentions. What it does mean is that the Council's assessment should be capable of being explained and evidenced. Where there is new information the details are updated hence following the round table session the Council reduced the number of units assessed as deliverable to 30,385. Although the Appellants disagree on key issues, the Council's position is realistic and none of the points raised are a bar to the inclusion of particular sites. The SHLAA and SAP are objective and can be tested.³⁵
- 5.2.24 Wain Homes is illustrative in terms of 'other active uses'. In that case, a "factory that has not been derequisitioned" was considered unavailable but that is different to a surface car park, such as Site 445 Jack Lane/Sweet Street. It previously had outline permission for residential development and has now been sold to the developer Caddick. It is close to Holbeck Urban Village, a key regeneration area, and is being actively promoted for development. The Appellants assert that there is no realistic prospect of housing in the 5 years from 2016. This defies the evidence.³⁶
- 5.2.25 Regard has to be had to the Footnote 11 advice about planning permission. Site 200-401 Quarry Hill has outline planning permission for a mixed use including 715 flats. It has been in use as a temporary car park but was acquired in 2015 by a developer in association with Moda Living. A newspaper article indicates a start on site in 2017 with the first homes ready to rent by 2019. The Appellants do not allow for any development in the 5 years from 2016. This is impossible to justify and whilst there may be some room for an alternative view, that falls far short of showing that the Council's view is unrealistic.³⁷
- 5.2.26 Sites without planning permission, including those with expired consents, should be assessed against the Footnote 11 tests and a judgement formed in the light of all the information. The Council agrees that where there is

³³ CD/A/32 App 1 Sect 4, CD/G/18 Para 30 onwards, LCC/18 Para 79-81

³⁴ LCC/18 Paras 81-82

³⁵ CD/A/2 Para 3-012, LCC/18 Para 83-87

³⁶ LCC/18 Paras 91-94

³⁷ CD/A/32 Para 4.18 App 5, LCC/18 Para 95

evidence of an intention by a specific developer to develop in an identified timescale it is valuable but not a pre-requisite. Many of the sites are not greenfield sites outside settlements such that gaining permission is an uphill task. Most are brownfield sites in the Major Urban Area (MUA) where the Council's strategy supports development. In addition, viability appraisals have been carried out to identify areas where there is a real prospect of the market delivering housing. Indeed, at the CS EiP the development industry supported the Council's strategy and argued for even higher delivery figures.³⁸

- 5.2.27 The Appellants' approach is unduly pessimistic. It is unrealistic to expect explicit commitment on each urban site when many are Council owned and made ready for sale through the Brownfield Land Programme. If a site is going to be offered to the market ready for development and offering a profitable development opportunity following a robust SHLAA process, there is a realistic prospect of housing delivery. For example site 649 Charity Farm, Swinnow is questioned by the Appellants as there is no developer interest. However, the Council is brokering the sale for housing and the District Valuer has found the site to offer a profitable housing opportunity. There are no constraints and it would be realistic to include the site in the 5 year supply.³⁹
- 5.2.28 In respect of delivery rates and lead-in times, the parties agree that specific information may be used or standardised information based on the average performance of other sites. Consequently, the differences are matters of judgement that relate to the build out rates of traditional family housing in the outer areas rather than the inner areas and city centre.⁴⁰
- 5.2.29 The Council's delivery rate is an average from completed sites in the district of 78 dpa and should be preferred to the unsubstantiated standardised figure of 50 dpa. The up-to-date averaged figures cannot be called unrealistic and suggest the house builders' figures are pessimistic, as the Bagley Lane Inspector concluded. The figures for flats are based on specific information from developers. Different views may be reasonable but the house builders seem to have been influenced by a pessimistic view of delivery by the PRS model.⁴¹
- 5.2.30 In addition, the SHLAA is based on 2015-2020 whereas the 5 year supply covers the period 2016-2021 and the lead-in times have been reconsidered as a result. As an example at East Leeds (707) the Appellants have only included 365 units but it is the single largest allocation in the district, it is high value greenfield land that will be central to the SAP and deliver a wide range of unit types. The capacity to 2028 is 4446 units. No allowance has been made until 2018-19. The Council has reasonably assumed 50 dpa and it would be realistic to assume a number of outlets. In addition, the East Leeds site and Skelton Gate (5217) are examples of where

³⁸ LCC/10/A Para 4.37, LCC/18 Para 96-97

³⁹ LCC/18 Paras 97-98

⁴⁰ LCC/18 Paras 99-101

⁴¹ LCC/10/A Para 4.112, LCC/18 Para 102-103

infrastructure requirements have been considered for provision alongside housing development.⁴²

- 5.2.31 No sites have had their viability questioned and it is acknowledged that the primary and secondary markets are attractive to developers and investors. Indeed, in the tertiary market there is an active land market with specialist developers successfully developing and keen to acquire more land. Measures by the Council to make land available are highly relevant.⁴³
- 5.2.32 The Appellants raise capability concerns relating to the specialist development sector. There is no evidence that sites identified through the SHLAA and SAP process would not be developed and the concern appears to be based on only three letters, each of which sets out plans for expansion. There is no justification for a blanket restriction on supply just because the development industry is not up to the job. This matter was also raised at Bagley Lane but the Inspector concluded, in a worse economic climate, that a supply of 26,500 units was deliverable.⁴⁴
- 5.2.33 The ability of the PRS to perform, particularly in the city centre, is also questioned by the Appellants but their view is pessimistic and does not reflect the evidence. The clearest example is site 407 the Dandara scheme in the Holbeck Urban Village area. The Appellant's stance is that the site is only potentially viable, and is in a fringe location with doubts over funding and commitment. However, planning permission has been granted and the developer has committed to completion within two years of commencement. Public statements demonstrate that the PRS has looked at Leeds which is currently the single primary target for investment. Quarry Hill already mentioned above is another example. This is a PRS scheme promoted by Moda Living which is party to a joint venture fund of £1bn. Moda intends to commence in early 2017 and deliver the first homes by 2019 with all units completed within 5 years. Not to include this site, as the Appellants don't, is absurd on the evidence.⁴⁵
- 5.2.34 The note on tipping point indicates the safety margin that exists in the 5 year housing and supply figures. If the Council's position in relation to the 2015-16 completions is accepted, then after the round table session and with a 5% buffer the safety margin would be 6,249 houses. Even with a 20% buffer it would be 2,262.⁴⁶
- 5.2.35 A view must be formed on the realism of the Council's position. Sites will come and go over time, and delivery rates alter, but with a safety margin of this magnitude, even accepting the Appellants' full case on requirement there would be a margin of 1,546 units. The Council's position is entirely realistic and reasonable and the Inspector and the SoS can have every confidence that there is a 5 year supply of land.⁴⁷

⁴² See SHLAA, LCC/18 Paras 104-105

⁴³ LCC/18 Paras 106-108, Mr Roebuck XX Mr Williams

⁴⁴ LCC/10/A Para 4.82, LCC/18 Para 109

⁴⁵ CD/A/32 Paras 4.10, 4.14iii) App 2, LCC/10/A Para 4.64, LCC/18 Paras 111-114

⁴⁶ CD/A/38A, LCC/18 Para 115

⁴⁷ LCC/18 Para 115

5.3 Assessment Against Development Plan Policy

- 5.3.1 UDPR Policy N34 designates the appeal site as a PAS, which is reserve land to be considered for development only following a review of the appropriateness of the site for development after the end of the current development plan period. UDPR Policy N34 is not, therefore, out-of-date as it was envisaged that it would operate beyond the plan period. The written justification for the UDPR states "It is intended that no development should be permitted on this land that would prejudice the possibility of longer-term development, and any proposals for such development will be treated as departures from the Plan".⁴⁸
- 5.3.2 The proposals deliberately step outside the development plan and are premature, contrary to *National Planning Policy Framework (Framework)* paragraph 85 bullet point 4. They seek to get the site released for housing whilst the SAP process is still conducting a comprehensive review of the relative merits of sites to determine which would be the most sustainable means of delivering housing across the district.⁴⁹
- 5.3.3 The Council took the same position as now in an appeal at Bagley Lane, Farsley (APP/N4720/A/132200640) where the Inspector concluded that UDPR Policy N34 was saved, allowing for review of PAS land through the plan led system. The Inspector considered that the grant of permission would undermine the plan led system promoted by the *Framework*. The Secretary of State (SoS) concluded that the Council had a 5 Year HLS and that the CS was up-to-date. Whilst the SoS's decision has been quashed, it was not on grounds relating to those conclusions. The judgement addressed the argument that the Inspector and SoS had erred in concluding that UDPR Policy N34 was not out of date and concluded they had not. Similarly it concluded that no legal error had been made in the approach to 5 Year HLS.⁵⁰
- 5.3.4 The Council considers that saved UDPR Policy N34 remains up-to-date. It is a safeguarding policy entirely consistent with *Framework* Paragraph 85. The safeguarded land is not allocated, and planning permission for permanent development of the site as sought should only be granted following a local plan review. The contention that the PAS sites are identified as suitable for development through the Plan is wrong, as is the contention that the PAS sites are akin to reserve housing allocations.⁵¹
- 5.3.5 The reality is that the PAS land was taken out of the Green Belt to protect the Green Belt boundaries. It does this by identifying a generous area for long term development, well beyond 2016. The suitability of any site is to be considered in a comprehensive local plan assessment of sites in light of the housing requirement subsequently identified, as opposed to the rough and ready quantification of land as PAS sites.⁵²

⁴⁸ LCC/3/B Para 2.5-2.7

⁴⁹ LCC/7 Para 4

⁵⁰ CD/G/17, LCC/7Para 5

⁵¹ LCC/7 Para 6, BDW/5/A para1.18 iii)

⁵² CD/A/6 Chapter 5 Paras106.15-17

- 5.3.6 That review of sites is well underway. The Council accepts that to grant planning permission for the appeal proposal would not of itself give rise to a prematurity reason for refusal, applying the *National Planning Policy Guidance (Guidance)*, but it would clearly pre-judge the outcome of the SAP and undermine the process. In addition, there is the chance that other PAS site applications/appeals could be affected as there are six appeals relating to PAS land that are currently undetermined. To grant permission for the appeal proposal now would be premature and directly contrary to UDPR Policy N34 and *Framework* paragraph 85.⁵³
- 5.3.7 The CS which is up-to-date, was produced after, and was found consistent with, and sound in the light of, the *Framework*. It contains a focus on regeneration directing development to brownfield sites within major settlements. The distribution strategy reflects the accessibility and sustainability components appropriate to Leeds which were considered in the CS Examination in Public (EiP) and are contained in CS Policies SP1, SP6 and SP7, together with the important role of the SAP. When read together the CS Policies provide a strong strategy promoting development in accordance with a settlement hierarchy, reflecting greenfield/brownfield locations, and the ability of sites to respect and enhance local character and the identity of places. The SAP is the primary mechanism to secure this.⁵⁴
- 5.3.8 The Council is progressing its SAP and following the proper process has identified which sites should be allocated for development and tested in the SAP EiP. The appeal site has not been allocated. Site allocation involves many inter-related issues and it may be that, when considered holistically, a Green Belt site could offer a more sustainable solution than a non-Green Belt site.⁵⁵
- 5.3.9 The SAP notes the delivery target for the district is 66,000 homes, of which some 33,000 are already allocated or permitted, including 2,265 in the Outer South West area that includes the appeal site. The SAP allocates sufficient housing to make up the target. These sites are allocated through CS Policy HG2 and the explanatory text explains how the distribution performs against the CS, including targets for greenfield/brownfield land and settlement hierarchy. The appeal site is not allocated but safeguarded for local plan review and is considered by the Council to deliver housing that in relative terms is less sustainable than other sites in the district.⁵⁶
- 5.4 Whether Occupants of the Proposed Development Would have Acceptable Access to Shops and Services**
- 5.4.1 The issues of sustainability and accessibility are not black or white but have to be considered in the context of Leeds and its CS. Sustainability and accessibility are relative, which is why the Council seeks to use the SAP process so that infrastructure improvements can also be considered and different sites compared.⁵⁷

⁵³ LCC/6/A, LCC/7 Para 7

⁵⁴ CD/G/4 Paras 9-35

⁵⁵ CD/A/10

⁵⁶ CD/A/10 Paras 2.29-39

⁵⁷ LCC/7 Para 31

- 5.4.2 A *Technical Note* updates a *Highways Statement of Common Ground*. This identifies 3 outstanding matters relating to the accessibility of the appeal site and 3 relating to the effect on the highway network. Those relating to accessibility are:
- i) Whether the 5 minutes walk distance to a bus stop should be measured from the centre of the site or include all dwellings;
 - ii) Whether the existing bus services meet the Council's Accessibility Standards; and
 - iii) Whether the site has good access to local services and facilities, particularly employment, secondary education and town/city centres.⁵⁸
- 5.4.3 In terms of a walk distance of 5 minutes to a bus stop, parts of the site are within a 5 minutes walk time but substantial parts are not. This is not an academic point. If the eastern part of the site was used for a stand alone development it would fail to meet the CS accessibility standard. Because this is a large site some parts would be within 5 minutes walk of a bus stop but those beyond the 5 minute walk distance would not be accessibly located. All dwellings should be considered not just the centre of the site.⁵⁹
- 5.4.4 The point of accessibility standards is not to assess the services that people can use but those they would be likely to use. Bus services allow for a twice hourly journey to Wakefield, but Leeds and Bradford are well outside the 40 minutes journey time indicated by the accessibility standards. Both journey time and frequency need to be considered. Existing modal splits show the area is relatively poorly served by public transport and residents are more likely than the Leeds average to rely on the car.⁶⁰
- 5.4.5 The journey by bus to school is not long but from the nearest bus stop the service is infrequent. A bus to Woolkirk School arrives an hour before school begins but the next one arrives too late. For work you can get a bus to Wakefield but the frequency does not meet the standard of one every 15 minutes and so that service is less likely to be used. The bus goes to Morley but is a relatively poor service in the context of Leeds. This is all consistent with the position of the village well down in the settlement hierarchy which is not the place for an additional 229 homes.⁶¹
- 5.4.6 CS Policies SP1 and SP6 also have a development control function but do not support the proposals. East Ardsley is designated as a lower order local centre as it only provides limited local services, contrary to the aims of CS Policies SP1 and SP6.⁶²
- 5.4.7 The SAP for the Outer South West (OSW) HMCA identifies the boundary of the 'Smaller Settlement' of East Ardsley. The appeal site lies outside the settlement boundary but the proposal would add about a fifth to the

⁵⁸ CD/F/7, CD/F/7A

⁵⁹ LCC/5/D App JH2 Fig JH2, LCC/7 Para 34

⁶⁰ LCC/5/D Para 1.7

⁶¹ LCC/7 Para 35

⁶² CD/A/3 Table 1 p24, Para 5.3.9 p88

current built up area. A smaller settlement is defined in a 2011 Settlement Analysis as having a population of at least 1500, and a primary school and a shop or a pub as a minimum. East Ardsley has a pub, a Post Office, butchers, bookmaker, carpet store and two convenience stores attached to petrol stations. It also has an opticians and a hair dresser a secondary school and a Parish Church and other places of worship, but no GP or health clinic. The centre of the village is located around Main Street and Bradford Road and the Post Office at the centre of the core is approximately 560 metres walk from the site.⁶³

5.4.8 There is a primary school at Fall Lane over 1300 metres from the site access or 750 metres from the eastern boundary via the adopted part of New Lane. This school is operating close to, or above, capacity with this due to continue for at least the next 4 years. Blackgates Primary School is also more than 1300 metres from the site access and is over subscribed. It is projected to be full for the foreseeable future with place for only 83% of its current 0-5 year old children. The next nearest school is Westerton Primary School which is also full and projected to remain so.⁶⁴

5.4.9 The nearest GP is close to Tingley roundabout or in Outwood and the nearest dentist that is accepting patients is in Middleton. Shopping, other than for top-up shopping, would require a visit to the White Rose Centre (Sainsbury), Asda or Aldi at Middleton, Asda at Morley, Morrisons at Rothwell or locations in Wakefield. All these would realistically require use of a car. The proposal would not sit very high in the sustainability/accessibility hierarchy and should not be developed prior to other more sustainable sites.⁶⁵

5.5 Effect on the Highway Network

5.5.1 Paragraph 3.1 of the *Technical Note* updating the *Highways Statement of Common Ground* identifies three matters still in dispute. Despite concerns of local residents there is little technical evidence that would lead to additional concerns. The matters in dispute are:

- i) The modal split of pupils attending the school that might be provided on the appeal site;
- ii) The background level of traffic growth 2013-2025 and 2015-2025; and,
- iii) Impacts of the development on the junction of the A650 Bradford Road/Thorpe Lane/Smithy Lane.

5.5.2 Considering modal split, the Appellant's approach contains errors. When corrected, the approach suggests a modal split of around 35% by car for Leeds as a whole, although 19% is used based on national statistics that fail to take account of the particular location. However, local data for the modal split at the nearest schools gives an average of 43.6% by car. 19% has been assumed although the existing local primary school in East

⁶³ LCC/4/B Para 6.1, LCC/4/C APP VHW6

⁶⁴ LCC/4/B Paras 6.2,6.5-8

⁶⁵ LCC/4/B Para 6.7

Ardley has a modal split of 36.5%. The exact catchment cannot be known but existing local schools provide a good proxy for modal split.⁶⁶

- 5.5.3 In addition, there is no reason to deduct the 75 pupils that would be generated by the development prior to applying the modal split. The presence of residential development nearby is common to many schools and would already be reflected in the modal split. Subtracting 75 takes out of the equation those who should be counted as walking. The Council's approach is robust and shows a Ratio of Flow to Capacity (RFC) of 1.61 that the Appellants' accept is unacceptable. The Council considers that a new access should be considered against an RFC of 0.85. The proposal would reserve land for a school that could not be accessed satisfactorily by the proposed site access.⁶⁷
- 5.5.4 Turning to background growth, the *Scoping Report* and the *Transport Assessment* use the national traffic predictions provided by Temprow. A change was made when it was realised that the proper assessment date is 2025. The Appellant now relies on a report to support the draft SAP to suggest that the application of around 8% traffic growth on the 2013 flows used in the TA represents an over estimate and worst case assessment of the forecast peak hour traffic flows at 2018.⁶⁸
- 5.5.5 However, the Council's Transport Strategy Division that wrote the report notes that it is particularly influenced by conditions in the Major Urban Area (MUA) of Leeds and state "However, in communities outside the main urban area the intention where possible is to seek to accommodate growth, prevent any worsening of traffic congestion and prevent further use of the minor road network. In these circumstances the use of Temprow is considered appropriate. The same Division's advice for the appeal site is ignored although they could not be considered unrealistic as they confirm the original view of the Appellant's expert. In any event, the SAP background paper refers to a potential growth range of 15-23% varying across the District. In these circumstances, the use of Temprow growth is appropriate. How could it be otherwise when the Appellants' originally proposed it as the basis for assessment of the proposals?"⁶⁹
- 5.5.6 Considering the impact of the proposed development on the A650 Bradford Road/Thorpe Lane/ Smithy Lane junction, criticism is made of queue surveys carried out on 18 January 2016 and 4 February 2016. The purpose of the surveys was not to validate the Appellants' Linsig model but to demonstrate the current level of the junction's performance. The latter shows average queues of 51pcu on Bradford Road East and 27 pcu on Thorpe Lane during the am peak hour, and 48pcu on Bradford Road West and 21pcu on Thorpe Lane during the pm peak hour. Extensive queuing is already experienced.⁷⁰
- 5.5.7 There are three modelling disputes between the highways experts. The first relating to run-out times is not significant. The second, 'negative

⁶⁶ LCC/5/B App JH5, LCC/5/D Para 1.16, LCC/7 Para 36

⁶⁷ LCC/5/D Paras 1.9-19, LCC/7 Para 36

⁶⁸ CD/B/14, LCC/5/C APP JH8, LCC/7 Para 37

⁶⁹ LCC/5/D Para 1.21, LCC/7 Paras 37-38

⁷⁰ LCC/5/D Paras 1.22-23

green bonus' is a matter of judgement given the complexity of the junction but the Council's calculations have not been criticised and should be relied upon. In the third dispute the Appellant has adjusted the lane allocation from that which has been observed in practice. The Council's more robust approach should be preferred.⁷¹

5.5.8 The Appellants' updated modelling based on the 2013 survey does not take account of traffic growth from 2018 to completion in 2025 whilst the modelling based on the 2015 results does not take account of any growth. This would lead to a better reported performance of the junction than if traffic growth up to completion in 2025 were to be accounted for.⁷²

5.5.9 Notwithstanding the differences in methodology, the results of the Appellants' Scenario 6: '2018 Base PM + Committed' and Scenario 10: '2018 Base PM + Committed + Dev' show that the average delay for vehicles using the nearside lane of Thorpe Lane would increase from 97 to 151 seconds, an increase of 56% or nearly one minute per vehicle.⁷³

5.5.10 The results for Scenario 14: '2015 Base PM + Committed' and Scenario 16: '2015 Base PM + Committed + Dev' show that the average delay for vehicles using the nearside lane of Thorpe Lane would increase from 112 to 178 seconds. This represents an increase in delay of 59%, more than a minute a vehicle but this is without account being taken of run-out times, bonus green values, land usage and traffic growth to year of completion.⁷⁴

5.5.11 No improvement options have been examined to mitigate the impact. The result would be an unacceptable level of impact at the junction. The Appellants' position seems to be that the junction would be improved in any event. There is no such proposal before the Inquiry, and none have been devised. On the best modelling information available the highway impacts would be unacceptable.⁷⁵

5.6 Effect on the Character and Identity of East Ardsley

5.6.1 CS Policy SR1(iii), which is consistent with paragraph 64 of the *Framework*, requires development to respect and enhance the local character and identity of places. It is agreed that the appeal site contributes to the character and identity of East Ardsley. Indeed, it has an important function in separating the core of the village from development around the Mill that spreads west to include Black Gates and Tingley.⁷⁶

5.6.2 Before the Industrial Revolution the historic core of the settlement was based on agriculture. However, the village grew as iron, coal, and textile industries took off in the area to the north east of the village and at Amblers Mill to the north west.⁷⁷

⁷¹ LCC/5/D Paras 1.24-28, LCC/7 Paras 39-40

⁷² LCC/5/D Para 1.28

⁷³ LCC/5/D Para 1.30 BDW/6/B Apps IT20 and IT21

⁷⁴ LCC/5/D Para 1.30 BDW/6/B Apps IT20 and IT21

⁷⁵ LCC/5/D Paras 1.31-32, LCC/7 Para 43

⁷⁶ LCC/7 Paras 20 and 21

⁷⁷ LCC/4/B Para 6.1

- 5.6.3 The site lies outside the settlement boundary but would increase the size of the village by approximately 20%. It would cause the loss of the visual break in development between West and East Ardsley. Whilst the indicative layout suggests development set back from the road behind landscaping, the character would change from an open green vista to that of suburban development and the village would lose its identity as a distinct settlement.⁷⁸
- 5.6.4 Retention of the gap is not so important as to merit designation as part of the Green Belt but it is important enough to protect until the need for housing outweighs the harm to the character of East Ardsley. Development would close the visual gap between East and West Ardsley.
- 5.6.5 Four factors contribute to the separation: the site's openness, its scale, its character and the visibility across it. The proposal would change the openness of the site by introducing 299 houses and associated development that would form continuous residential development from 'The Fall' in the east to junction 28 of the M62. The gap was identified by the UDPR Inspector who chose to remove the site from the Green Belt but did not allocate it for housing. From the site there are views of countryside separating the village from other development. There are views from the network of footpaths to the Church which is an indicator of the village core and to the former Mill and countryside beyond. It is the physical components that indicate the village, not terminology or postcode.⁷⁹
- 5.6.6 In East Ardsley, to the south of the appeal site, there is a housing allocation being built out with 23 houses at Ardsley Common. An adjacent site at Bramley House will provide 7 units whilst a smaller site at Main Street would provide 6 units. There is a further brownfield allocation site at the former East Ardsley Primary School that is expected to provide 25 units. There is no single large housing allocation in the village but there are two protected areas of search that are next to each other and include the appeal site. In contrast, West Ardsley has a number of large allocated sites.
- 5.6.7 The UDPR Inspector commented on the potential for a 'major open space funnelling from the Bradford Road frontage of the site'. However, the Appellant's witness was unable to support two of the three illustrative layouts indicating the sensitivity of the site. Although there would be provision for open space in the third layout, it would include the proposed access and the school site and would narrow rather than funnel out. The proposal would not provide a satisfactory separation function and would be unacceptable.⁸⁰

5.7 Other Matters

- 5.7.1 The evidence base for affordable housing targets is the Economic Viability Study (EVS) (January 2013) and Position Update (May 2014). It is unclear whether the Appellant has used figures obtained under a Freedom Of

⁷⁸ LCC/4/B Paras 6.8-6.9

⁷⁹ LCC/7 Para 22 - 24

⁸⁰ LCC/7 Para 25

Information Request or whether information from other sources has been used. However, it is agreed that the provision of 45 affordable houses would be in accordance with policy objectives. Consequently, such provision would be beneficial and a material consideration. However, it would not justify giving the provision of affordable housing very significant weight as the Appellants maintain.⁸¹

5.7.2 The CS Inspector considered the CS strategy effective and deliverable. There has been reasonable delivery since the Strategic Housing Market Assessment (SHMA) assessed the affordable housing need as 1,158, albeit that the full need, including catching up the historic backlog over 5 years, has not been met. The SHMA target includes an allowance of 294 dpa being lost out of the housing stock. On this basis the Council has delivered 3,206 units against the SHMA requirement of 5,790. Affordable housing in the early CS years has been affected by general housing performance but the picture is improving. In 2014/15 affordable housing provision met 76% of need. The Council is proactive and there are now a range of mechanisms to deliver affordable housing, not just Section 106 obligations. These include, Intervention to Boost Delivery, Council Housing Growth Programme, Acceleration Programme, Registered Provider Affordable Housing Programme, Right to Buy Replacement Programme, Help to Buy and the HCA 2016-21 Programme. The waiting list is not in itself evidence of need. There is a priority and moderate need, assessed as 4,984, across the whole district, which is large.⁸²

5.8 Section 106 Obligation and Conditions

5.8.1 When the application was determined by the Council, there were no Planning Obligations in place that would have overcome some of the Council's concerns. This led to Reason for Refusal 4. Since then Leeds has adopted a Community Infrastructure Levy, which in this case would require a charge of £45/m². However, there are still some matters that require addressing by means of a Section 106 Obligation.⁸³

5.8.2 A signed Unilateral Undertaking dated 7 March 2016 has been submitted. The matters it covers are affordable housing, a contribution to off-site highway works, land reserved for a possible school, a travel plan and a Metrocard contribution. A note justifying why the Council considers that the S106 matters are justified in terms of the tests set out in *Framework* paragraphs 203, 204 and 205 has been produced.⁸⁴

5.8.3 In addition, a *Planning Statement of Common Ground* included a schedule of draft conditions which at that time were not agreed. Following discussions a set of 17 conditions has been generally agreed covering: approval of details; timing of implementation; Archaeology; Flood Risk and Drainage; Ground Conditions; Ecology; Public Open Space; and Highways.⁸⁵

⁸¹ LCC/7 para 44

⁸² CD/G/4 Paras 40-42, LCC/6/A, LCC/7 Para 45

⁸³ LCC/4/B Sect 7

⁸⁴ CD/F/12A, CD/F/15

⁸⁵ CD/F/5C

5.9 The Planning Balance

- 5.9.1 The question of Housing Land Supply affects the overall planning balance. The approach in *Suffolk Coastal DC v Hopkins Homes Ltd* [2016] EWCA Civ 168 should be followed. If there is no 5 year supply then policies relevant to the supply of housing will be deemed out of date by *Framework* paragraph 49. The appeal site is a PAS site under UDPR Policy N34. This provides for delivering housing only in the absence of a 5 year HLS. The Council has a 5 year HLS and there is no justification for releasing PAS sites. Even if the Council cannot demonstrate a 5 year supply, the weight to be given to UDPR Policy N34, and its breach, is a matter of judgement reflecting the consistency of the policy with the *Framework* and potentially the degree of any housing shortfall.⁸⁶
- 5.9.2 The presumption against development, in this case through Section 38(6), is very strong regardless of whether there is a 5 year supply or not. The benefits that would be realised are to a very large extent the benefits of housing delivery in general, which are what the SAP would also secure, but in a way that is balanced between delivery and necessary infrastructure. No case has been made for any local need or benefit and no additional affordable housing is offered. Indeed, the proposal would put additional pressure on local services, such as education and healthcare, causing new residents to have to travel further afield. Due to the limited public transport this would lead to increased pollution and congestion.⁸⁷
- 5.9.3 The delivery of housing and affordable housing will always be beneficial. However, there is no reason to advance this specific proposal outside and ahead of the SAP. To do so would undermine the recently adopted CS, which identifies a clear hierarchy of sites, and *Framework* paragraph 85. It would deny the public of the expectation that the PAS sites will be considered through a local plan review after the plan period, a fact to which the SoS has previously given considerable weight.⁸⁸
- 5.9.4 In relation to *Framework* paragraph 14, the point is made that paragraph 85 indicates that development should be restricted. It expressly stipulates that planning permission should only be granted following a local plan review. Footnote 9 sets out some examples. The only counter argument is that restrictions in Footnote 9 are permanent but any restrictions can be brought into being, amended, or brought to an end.⁸⁹
- 5.9.5 Sustainable development in the *Framework* includes harm through breach of the development plan and undermining the plan system and the public participation in it. The proposal is contrary to the development plan and the issues raised in this appeal are most properly addressed through the plan-led system and the conclusion of the SAP process.⁹⁰
- 5.9.6 Land would be set aside for additional school facilities, but would not provide for ownership. In any event, the Council would seek to provide

⁸⁶ LCC/4/B Para 8.1 and 8.12, LCC/18 Paras 151-152

⁸⁷ LCC/4/B Para 8.3 and 8.13, LCC/18 Paras 153

⁸⁸ LCC/4/B Para 8.2, LCC/18 Para 154

⁸⁹ LCC/18 Para 157

⁹⁰ LCC/18 Para 155, 156 and 158

additional school facilities through CIL payments when allocated sites come forward. Setting aside land would, therefore, carry little weight.⁹¹

- 5.9.7 The proposal is in outline but there is nothing to suggest that a scheme could not be achieved that would relate satisfactorily to the surrounding development or the historic architectural character of the area. Landscaping would be a key element, but an appropriate landscaping scheme could contribute to improving biodiversity, enhancing network links and green infrastructure. Similarly, mitigation could be provided to address surface water run-off and the risk of flooding in and around the site. The development could be built to high sustainable standards creating new construction jobs, lower carbon emissions and energy costs. These would all provide positive benefits and provide some weight in favour of the proposal.⁹²
- 5.9.8 The settlement would also experience huge change as the proposal would increase its size by approximately 20%, causing it to merge with West Ardsley and changing the village's character and identity.⁹³
- 5.9.9 The *Framework* sets out the three roles of sustainable development: economic, social and environmental. In terms of economics, there would be a short term boost to construction jobs but the early release of the site would result in development without appropriate infrastructure. Socially the development would provide additional housing, but not additional local services. Residents would need private forms of transport and new residents would be unlikely to integrate into village life. Finally, the proposal would enhance biodiversity but would damage the historic character due to the coalescence of settlements.⁹⁴
- 5.9.10 There will be specific social and environmental harms caused by breaches of the spatial strategy, the settlement hierarchy, the lack of relative sustainability and accessibility, harm to the environment, harm to the character of the villages, the strain on services due to the scale of development and harm to the flow of traffic on the highway network. The benefits of developing the site would be limited in weight and significantly outweighed by the harm that would be caused to the spatial policies of the adopted development plan, the process of allocating sites in the SAP and the ethos of sustainable development that underpins both national and local planning policy. However struck, either through Section 38(6), a view on whether the proposals are sustainable, or a strict application of the pro-development balance in *Framework* paragraph 14, the proposal should be refused.⁹⁵

⁹¹ LCC/4/B Para 8.6

⁹² LCC/4/B Paras 8.7-8.77

⁹³ LCC/4/B Para 8.14

⁹⁴ LVV/4/B Paras 8.15-8.17

⁹⁵ LCC/4/B Para 1.18, LCC/18 Para 155

6. The Case for Barrett David Wilson Homes and the Ramsden Partnership

6.1. Introduction

6.1.1 The Council has alleged harm to the emerging development plan process if planning permission is granted but harm due to a refusal would have a far greater impact on the lives of real people, those currently most in need of housing in the district. Their needs, for both market and affordable housing, are recognised by the Council and its Housing Officer.⁹⁶

6.1.2 The country is facing a housing crisis, as recognised by the Government and other political parties, but even with the *Framework* in place only 140,000 houses were built last year. The country needs 250,000 houses a year and the Government is seeking to build 1 million by 2020. Leeds has the largest housing need in Britain, in excess of 6,523 houses a year if the shortfall and 20% buffer are included. That is in excess of 100 units every week. This requires a positive and productive mindset by the Council.⁹⁷

6.1.3 However, the Council's approach in this case is diametrically opposite to its overarching General Policy objective in the CS, which is to deliver growth and say yes to sustainable planning applications. The use of the site for housing has been accepted in principle on a number of occasions. Both the 1999 and 2005 local plan Inspectors' reports endorsed its merits and their recommendations were accepted by the Council. Moreover, the SHLAA concluded the site was Green, the most suitable category for housing, in 2011 whilst the emerging SAP identifies the site for housing, albeit post 2028.⁹⁸

6.1.4 The Council's approach is not to grant planning permission for housing until every site can be subject to a comparative assessment through the SAP process. This is a recipe for inaction and non-delivery. On a balance of harm it is far preferable to start granting permissions now, so that the requirement can be met, rather than always failing.⁹⁹

6.2 Assessment of Housing Land Supply

6.2.1 The basis for taking this decision is set out in the *Framework* and *Guidance*. *Framework* paragraph 47 requires an objective assessment of housing need in the relevant administrative district, in this case Leeds City Council, and then to identify and update annually a supply of specific deliverable sites. That is sites which not only can, but will, come forward for housing. Paragraph 47 is refined by the *Guidance* which requires robust, up-to-date evidence to support the deliverability of sites ensuring its judgements are clearly and transparently set out.¹⁰⁰

6.2.2 The adopted development plan sets out the housing requirement in CS Policy SP6. For the first 5 years, 2012 to 2017, the annual requirement is

⁹⁶ BDW/7 Paras 6-10

⁹⁷ BDW/8 Paras 4.1-4.9

⁹⁸ CD/A/3 p22, BDW/7 Paras 3, 11

⁹⁹ BDW/7 Paras 12.17-12.19

¹⁰⁰ BDW/8 Paras 4.10-4.10.3

3,660 units. For the next 11 years to 1 April 2028 the requirement is 4,700 units. An average over 16 years of 4,375 dwellings per annum.¹⁰¹

- 6.2.3 *Framework* paragraph 49 states that relevant policies for the supply of housing will be considered out of date if the local planning authority cannot demonstrate a 5 year supply of housing. Paragraph 14 states that if relevant policies are out of date then permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the *Framework* taken as a whole.¹⁰²
- 6.2.4 There needs to be a balancing exercise, but within the parameter that there is a presumption in favour of granting permission. In doing that the Council needs to demonstrate that the harm from any grant would cause adverse impacts that would significantly and demonstrably outweigh the benefits. That is a high hurdle that is not met in these appeals.¹⁰³
- 6.2.5 Significantly boosting the supply of housing is of critical importance but the supply of housing land is fraught with difficulties as judgements have to be made about what will happen in the future. The Appellants' experts have consistently stated that Leeds over predicts supply. The experts' evidence in relation to 2015-16 was only 16 units out which is 99% accurate. In contrast the Council has a dismal record. Over the past 4 years of the CS requirement it has always got it completely and utterly wrong.¹⁰⁴
- 6.2.6 It is agreed that the base line requirement in Leeds is 22,460. To that the shortfall must be added which is between 4,122-4,718 depending on which figure for empty homes is used. This shortfall has emerged during the lower requirement in the CS of 3,660 dwellings per annum that is set to rise to 4,700 in the coming years. The shortfall is to be met using the Sedgefield method with the full shortfall being met during 2016-2021.¹⁰⁵
- 6.2.7 The buffer, of either 5% or 20%, required by *Framework* paragraph 47 needs to be added to the requirement. The Council has missed its target in each of the last 7 years and its evidence is that it will fail for another two years. In the first three years of the CS there has been a failure to meet targets every year and 2015-16 looks as if it will be no different on current figures. The shortfall for the three CS years at the lower target of 3,700 amounts to the equivalent of almost a whole year without any delivery.¹⁰⁶
- 6.2.8 On past performance the buffer must be 20%. When the shortfall and the buffer are added to the requirement it comes to over 6,000 units in Leeds for the next 5 years. A daunting target. Statistics such as these prompted the SoS at Hardingstone to find a 20% buffer was required. All are agreed that the 20% buffer is not a punishment and would not require more houses in the plan period overall. 20% is justified because it is the only

¹⁰¹ BDW/7 Paras 13.1-13.6

¹⁰² BDW/8 Paras 4.10.4-4.10.5

¹⁰³ BDW/8 Paras 4.11-4.14

¹⁰⁴ BDW/8 Paras 5.1.1-5.3.3

¹⁰⁵ CD/A/38A, BDW/8 Para 6.2.1-6.2.7

¹⁰⁶ BDW/7 Paras 13.7-13.11, BDW/8 Paras 5.4.1-5.4.4

means, as paragraph 47 requires "...to provide a realistic prospect of achieving the planned supply".¹⁰⁷

- 6.2.9 It is agreed that the base requirement in CS Policy SP6 is 22,460. It is also agreed that the shortfall and buffer have to be applied to the base requirement. The Council's figure with 5% buffer and more empties would be 27,911 whilst the Appellants' figure with less empties and 20% buffer would be 32,614. That equates to either 5,582 or 6,523 but the Appellants' should be preferred as the Council relies heavily on empties but with no evidential basis.¹⁰⁸
- 6.2.10 The requirement is a minimum as CS Policy SP6 seeks "at least" the requirement set. The magnitude of the task is shown by the fact that before this Inquiry Leeds best year of completions was 3,800 in 2008. It is also material to look at completion levels for comparative cities. None gets even close to a figure of at least 5,582 units per annum.¹⁰⁹
- 6.2.11 The position on supply is difficult as the timetable for adopting the SAP has not been met. Adoption is not now expected until at least December 2017. The best proxy is the December draft SHMAA 2015 but this is only a draft and is not finalised. Consequently there are a number of criticisms of the Council's assessment of housing land supply. Some of the sites will not deliver housing in the next 5 years and the document would not comply with Footnote 11 of the *Framework*, the *Guidance*, or the views of the Court in Wain Homes.¹¹⁰
- 6.2.12 Secondly, the document has emerged with little involvement of the house building industry, despite the *Framework* requiring them to be involved. Effectively Leeds has given up on the house builders as it considers them to be too pessimistic.¹¹¹
- 6.2.13 Much turns on the Council's assertion that City Centre sites will come forward, but in the past it has seriously over calculated its area of supply. The volume house builders cannot bring forward viable development on centre sites. Some low cost builders with a different financial model can and whilst new low cost builders might pick up some slack that is no evidence that all sites will come forward. The Private Rented Sector (PRS) will not in itself solve the problem. As a concept it has not delivered in the past but what is needed is certainty now.¹¹²
- 6.2.14 The document also fails as there is a serious shortfall of supply in the next two years and it would not meet the requirement for 2016-17 and 2017-18. In addition it relies on sites, some 6,000 dwellings, which are not available now as there are other uses on them. Moreover there is speculative expectation of delivery of sites that do not have planning permission. Wain Homes determined that a factory that has not been derequisitioned was not available.¹¹³

¹⁰⁷ BDW/7 Paras 13.7-13.11, BDW/8 Paras 5.4.1-5.4.4

¹⁰⁸ CD/A/38A, BDW/8 Paras 7.1-7.7

¹⁰⁹ LCC/11/B App 1, BDW/8 Paras 7.7-7.12

¹¹⁰ BDW/8 Paras 8.1-8.4.1.3

¹¹¹ BDW/8 Paras 8.4.2.1-8.4.2.3

¹¹² BDW/8 Paras 8.4.2.4.1-8.4.2.4.5

¹¹³ BDW/8 Para 8.4.2.4.6-8.4.4.3

- 6.2.15 The supply would be dependent on a huge number, 18,000, city centre units. An over optimistic reduction factor of 16.8% alone means that a tipping point is reached on the Appellants' figures with a 20% buffer. The document is also dependent on 15,347 dwellings, almost half the Council's supply case, that do not have planning permission. If 15,347 dwelling are removed then a tipping point is reached irrespective of which figures or buffer is used.¹¹⁴
- 6.2.16 Blanket lead in times based on site area have been used by the Council whereas the Appellants' have used a more sophisticated approach, including speaking with house builders, that is to be preferred. In any event, the estimate of supply does not conform with CD policies. The Farsley Inspector noted that the reliance on Centre sites would restrict delivery of affordable housing because policy only requires 5% in such locations. The distribution strategy SP7 would not be complied with because the vast majority of supply would be in just two areas.¹¹⁵
- 6.2.17 There is an element of double counting of windfalls. The Council has included a 2,500 windfall allowance but has also included 764 houses approved post 1 April 2015. There is also an allowance for large windfalls but there is no such provision in the CS and no evidence to justify an amount of 500. Finally the introduction of national space standards and optional Building Regulations will affect the actual numbers that can be physically achieved on sites.¹¹⁶
- 6.2.18 The position of the Council following the latest round table session is a supply of 34,160 dwellings. Unfortunately, its approach does not meet the requirement for such sites to be robust and supported by evidence. Rather it is better characterised as if a site has a possibility of development then it must be considered in the supply. That leads only to a failure to hit the requirement which is what has happened far too often. The Appellants only accept around 55% of the Council's predicted supply. This would lead to it only having 2.87 years of supply if a 20% buffer was applied together with a proper assessment of supply.¹¹⁷
- 6.2.19 The Council repeatedly falls back on the Farsley decision. However, there can be no doubt that if the Farsley Inspector had known that there would be two subsequent years of under supply he would not have found a 5 year supply. The Inspector was misled by the Council's evidence to conclude that the Appellants' evidence was 'pessimistic'. However, on the contrary it has been proven to be accurate.¹¹⁸
- 6.2.20 The Council's delivery record for affordable housing is also poor and the target amounts to over 1,000 units a year. Delivery over the last 5 years is only around 49% of the SHMA requirement, a serious record of failure. There is, therefore, a massive need for additional delivery for both market and affordable housing.¹¹⁹

¹¹⁴ BDW/8 Paras 8.4.5.1-8.4.6.2

¹¹⁵ BDW/8 Paras 8.4.7.1-8.4.8.3

¹¹⁶ BDW/8 Paras 8.4.9-8.4.11.1

¹¹⁷ BDW/8 Para 8.5

¹¹⁸ BDW/8 Para 5.3.4

¹¹⁹ BDW/7 Paras 13.11-13.13

- 6.2.21 The need for additional delivery is even more marked since March 2016 as there is no development plan for delivery. The failure to produce an adopted SAP until December 2017 means there is no policy to set out how delivery of any houses, never mind the magnitude required, will actually take place. Housing in Leeds is at breaking point.¹²⁰
- 6.2.22 The only hope offered by the Council is an expectation that the SAP will be adopted in December 2017. However, Leeds has failed to meet targets on any timetable and its optimism has always been misplaced. The only solution is to deliver housing now, not in December 2017 when even after the adoption of the SAP there will be a significant lead-in time. If the adoption of the SAP is awaited there would be no delivery until late 2018 early 2019.¹²¹

6.3 Assessment Against Development Plan Policy

- 6.3.1 The proposal should be assessed against the development plan as a whole. The development plan includes the 2006 UDPR and the 2014 CS. The *Framework* is also a material factor. It is accepted that the grant of planning permission in this case would not comply with the provisions of UDPR Policy N34, but the critical factor is the weight to be given to this policy.¹²²
- 6.3.2 It emerged in a very different policy context, when only 2,000 units were required, whereas the current requirement is far greater. The Policy will be time expired by the time this decision is issued, moreover, whilst the Policy was originally intended to provide safeguarding for the provision of development it now appears to be used as a Policy to prevent development. Finally N34 is also out of date because of the failure to provide a 5 year supply of housing land, a topic that will be considered below. Very little weight should be given to Policy N34.¹²³
- 6.3.3 *Framework* Paragraph 14 is operative in this case. The proposed development is sustainable and there is a presumption in favour of granting planning permission. The development plan is out of date with regard to UDPR Policy N34, which on any basis is time expired by March 2016. Moreover, N34 is a policy that relates to the supply of housing and in the absence of a 5 year HLS then the provisions of *Framework* paragraph 49 would apply.¹²⁴
- 6.3.4 N34 is also inconsistent with the *Framework* as the Council is now using it to prevent development on safeguarded land. The development plan is silent in relation to the delivery of housing as only Part 1 of the CS has emerged. It is incumbent on the Council to demonstrate that the harm it alleges outweighs the benefits of granting planning permission.¹²⁵
- 6.3.5 In terms of the CS, it is considered that the proposal fully complies with relevant Policies. CS Policy SP1 expressly allows development of greenfield

¹²⁰ BDW/7 Paras 13.14-13.16.4

¹²¹ BDW/7 Paras 13.16.5-13.17

¹²² BDW/7 Paras 17.1-17.3

¹²³ BDW/7 Paras 17.4.1-17.4.4

¹²⁴ BDW/7 Paras 14.1.1-14.1.3

¹²⁵ BDW/7 Paras 14.1.4-14.2

sites and envisages development in smaller settlements, hence this Policy is met. Policy SP6 sets out the requirement for 70,000 new dwellings net and has at its heart a site selection process that seeks to have the least impact on the Green Belt. The proposal would comply with that as the UDPR sites were taken out of the Green Belt for that purpose. By definition, the more development on PAS sites, the less on land currently in the Green Belt. The purpose of the CS is to have safeguarded land to ensure the long term permanence of the Green Belt. That is what the 2006 local plan Inspector endorsed wholeheartedly.¹²⁶

- 6.3.6 CS Policy SP7 sets out the overall requirement of 7,200 for the Outer South West, which includes the appeal site, amounting to some 11% of the overall total. The appeal site complies with this. Policy SP11 is mentioned in the revised reasons for refusal but it relates to Transport Investment Priorities and its relevance is difficult to see. Policy H5 is complied with as the proposal would provide 15% affordable housing.¹²⁷
- 6.3.7 There is only one Policy, N34, that would be breached but which should be given little weight whilst the relevant up-to-date policies H5, SP1, SP6, and SP7 are complied with. Overall the proposal complies with the development plan and it is incumbent on the Council to show what material considerations justify refusal in setting aside the presumption in favour of the development plan.¹²⁸
- 6.3.8 Turning to the emerging development plan, it is accepted by the Council that only limited weight can be given to the SAP, in accordance with the *Guidance*, as it is at a relatively early stage in the process. Even on the Council's optimistic timetable it would not be adopted until winter 2017. Moreover, there are numerous hurdles to be overcome before adoption.¹²⁹
- 6.3.9 The Council will have to convince an Inspector that its current strategy of releasing 515 hectares from the Green Belt to meet housing land requirements is right. It is debateable whether that would pass the exceptional circumstances test in *Framework* paragraph 83. It is unprecedented when seeking that amount of land to say it is reasonable to leave PAS land undeveloped during the plan period. Significant areas of non-Green Belt land exist and have been judged appropriate for long term development but the Council want Green Belt land to be developed first. There is no policy support for such an approach. The Council could not identify any comparative approach by a Council, let alone endorsed by an Inspector at EiP.¹³⁰
- 6.3.10 There is a shortfall of around 6,000 units that have been withdrawn since publication of the SAP. These have to be replaced. There are around 10,000 representations, many of which are material objections to the non-selection of PAS sites, and the process of reviewing and collating them has not yet finished. Consultation on a submission version with the new sites will be necessary, there will need to be an EiP that is likely to be hotly

¹²⁶ CD/A/7A bottom of p28, BDW/7 Paras 17.5-17.5.3

¹²⁷ BDW/7 Paras 17.5.4-17.5.6

¹²⁸ BDW/7 Para 17.6

¹²⁹ BDW/7 Paras 18.1-18.4

¹³⁰ BDW/7 Paras 18.4.1-18.4.2

contested, and the Inspector may have material modifications. In light of this the proposal could not be premature.¹³¹

- 6.3.11 It is not accepted that the proposal does not comply with the SAP, but in any event it is not a material consideration that would outweigh either the development plan or *Framework* paragraph 14 presumptions. The Council accepts that only limited weight should be attributed to non-compliance with the emerging SAP.¹³²

6.4 Whether Occupants of the Proposed Development Would have Acceptable Access to Shops and Services

- 6.4.1 Concern was raised about services within the settlement if planning permission were to be granted. However, every issue would be addressed by either a Section 106 Agreement or CIL. The settlement has 5,200 residents and could be considered as part of the larger West Ardsley and Tingley, which was the approach the Council took in assessing available services for the purposes of the CS.¹³³

- 6.4.2 The Appellants do not accept that the site is not accessible by public transport. Indeed, that view was endorsed by the 2005 Inspector who said it had good accessibility by public transport. Moreover, the site passed assessment in the SHLAA based on sustainability when it received a score of 4 out of 5 on accessibility. Fifteen years after its PAS allocation the 2014 Committee report was the first time it was asserted that accessibility was not that good.¹³⁴

- 6.4.3 The issue turns on the application of CS Policy T2 and the CS Appendix 3 accessibility standards. It is accepted that the site meets the requirements in 3 of the 6 categories. Only secondary education, town centres and employment are in dispute. The Committee report accepted that frequency was acceptable, despite what is now claimed, and the sole issue was journey times.¹³⁵

- 6.4.4 In terms of secondary education it is possible to get to Woodkirk Academy from two separate services within the time required and so the secondary education standard would be met. Whilst it is maintained that the time of arrival is not conducive to use, it is possible and the standard is met. If pupils don't want to get there so early they could walk a further 200 metres to a different bus stop and get a later bus. In respect of employment and town centres you can get to Wakefield, which is a major transport interchange, in 14 minutes. There is no requirement that all 3 transport interchanges be as accessible. The employment and town centre accessibility standards are, therefore, also met. In addition, Morley town centre, a substantial centre in its own right is accessible within a 20 minutes journey time and served by 3 buses an hour from stops adjacent to the site.¹³⁶

¹³¹ BDW/7 Paras 18.4.3-18.4.10

¹³² BDW/7 Para 18.4.11

¹³³ BDW/7 Paras 19.15-19.16

¹³⁴ BDW/7 Paras 20.1-20.5

¹³⁵ BDW/7 Paras 20.6-20.9

¹³⁶ BDW/7 Paras 20.10-20-12

6.4.5 On leaving the site there will be six bus stops within 600 metres from which it would be possible to get to Wakefield, Bradford and Leeds, three of the biggest towns in Yorkshire, by bus. It is material that CS Policy T2, which considers accessibility, is not a pass or fail test. Indeed, paragraph 5.4.2 envisages failure and requires further investment but does not support the Council's approach which is that failing one criterion might justify refusal. That approach is not backed up by policy or text.¹³⁷

6.5 Effect on the Highway Network

6.5.1 The design of the access is appropriate and acceptable and the traffic that would be generated by the residential development can be adequately accommodated. The only issue is that it is alleged that the access would cause significant congestion and delay if school traffic is added to the residential traffic. The Council's position is that the access would still work but would involve significant delays for those waiting to get out onto Bradford Road. It is not accepted that the delays would be severe as envisaged in *Framework* paragraph 32.¹³⁸

6.5.2 In any event, the Council's predicted traffic is completely unrealistic. It uses a modal split of 43% but this is unrealistic as it is agreed that the catchment area of the school would be within a mile. 19% would be more realistic. In addition the 75 pupils who will come from the site have not been deducted. They need to be taken off as they would not travel by car and certainly not out and back through this junction.¹³⁹

6.5.3 The key point in the traffic model is the background traffic growth. The Council considers 22% between 2013 and 2025. At this level of growth Leeds would seize up. The CS paper on transport infrastructure uses much lower levels of growth in the peak period. The appellants' evidence is more realistic and with proper traffic growth and correct modal split the access would operate perfectly.¹⁴⁰

6.5.4 In terms of junctions on the wider network, the Transport Assessment (TA) considered 6 key junctions and concluded 5 would operate satisfactorily based on the Appellants' 2018 date and 8% traffic growth. These assumptions were accepted by the Council for the 5 locations and if the Council were consistent all 6 would work perfectly. Notwithstanding that, the intention in the *Framework* was to set the bar for refusal very high. Indeed, paragraph 32 requires any impact to be severe.¹⁴¹

6.5.5 Even with the Council's assumptions the situation would be that 2 limbs of the Thorpe Lane junction out of 18 would not be working in 9 years time. The severity would be that a delay on the Bradford Road (East) at the am peak would increase from 337 to 432 seconds whilst on the Bradford Road (West) in the pm peak the delay would rise from 503 to 553. A very

¹³⁷ BDW/7 Paras 20.13-20.14

¹³⁸ BDW/7 Paras 21.1-21.5

¹³⁹ BDW/7 Paras 21.6.1-21.6.3

¹⁴⁰ BDW/7 Paras 21.6.4-21.6.10

¹⁴¹ BDW/7 Paras 22.1-22.6

significant delay would be made slightly worse. However, this could not be considered severe.¹⁴²

- 6.5.6 In any event, it is inconceivable that the junction would not be improved. It is the 40th worst junction in the Leeds district.¹⁴³

6.6 Effect on the Character and Identity of East Ardsley

- 6.6.1 There is no policy that seeks to protect an existing gap or undeveloped land between settlements. The Inspector in 1999 did not consider that development should be precluded from the site. Indeed, it was noted that a proper gap within the site would protect the sense of green space and gap. That judgement was not contradicted by the 2005 Inspector and coalescence was not mentioned as an issue in two preliminary committee reports in February and April 2014.¹⁴⁴
- 6.6.2 Coalescence was raised in the August 2014 Committee report and considered by Members. However, they endorsed the Officers' view that it was not justified as a reason for refusal. Members then reconsidered the reasons for refusal solely on the basis of changes in planning policy since the original decision. Policy relating to coalescence has not changed between August 2014 and November 2015. The Officers' report did not raise the issue but the reason for refusal alleged harm to the character and integrity of the settlement.¹⁴⁵
- 6.6.3 The proposition that the site lies within a gap is untenable. The Council relies solely on the CS plan and definition that seeks to identify the settlement, but it is not corroborated by any other map or document. The map does not reflect what is on the ground. The boundary excludes the mill whose website states it is in East Ardsley. It also excludes the houses on the east side of Bradford Road. The 1850 Parish Boundary covers a significant area, a Councillor of 12 years standing asked a long term resident to draw the settlement boundary but the result differs from other boundaries.¹⁴⁶
- 6.6.4 The land is within East Ardsley and the local plan Inspector noted that the retention of a good gap would provide a benefit in the future and be acceptable. The revised illustrative plan does that. It shows a substantial gap that would give a sense of openness and protect views of the Church. Concern about character and integrity therefore has no basis.¹⁴⁷
- 6.6.5 Finally, the Council itself promotes a school serving 425 children with associated built paraphernalia on the land.¹⁴⁸

6.7 Other Matters

- 6.7.1 CS Policy H5 requires the provision of 15% affordable housing in Zone 2, which is where the appeal site is located. It is agreed that the proposal

¹⁴² BDW/7 Paras 22.7-2.10

¹⁴³ BDW/7 Para 22.11

¹⁴⁴ BDW/7 Paras 19.1-19.5

¹⁴⁵ BDW/7 Paras 19.6-19.13

¹⁴⁶ BDW/7 Paras 19.14.1-19.14.7

¹⁴⁷ BDW/7 Paras 19.14.2-19.14.4

¹⁴⁸ BDW/7 Para 19.14.5

would do that and so be policy compliant. Indeed, there were 23,784 households on the Council's housing register at January 2016 and nearly 5,000 on the priority list reflecting how critical the need is. This acute need that should not be downplayed. The 45 affordable units that the proposal would provide amounts to a material benefit.¹⁴⁹

6.7.2 The benefit is also material as the provision of affordable housing has become more difficult, due to support for starter homes, and the large number of homes provided in the city centre where CS Policy H5 seeks only 5% affordable dwellings and in some circumstances no affordable housing at all. The proposed tenure is 40% intermediate affordable units and 60% socially rented affordable units. The location mix and type of housing would be agreed with the Council prior to commencement.¹⁵⁰

6.7.3 It is regrettable that a Council should seek to argue that the provision of 45 affordable houses should only be given moderate weight. Affordable housing allows the most vulnerable in society to be housed which is a really important component in the balancing exercise. Its importance cannot be exaggerated when the Council's position is that 1,158 affordable units are required every single year. Inspectors and the SoS have given this factor significant, or very significant, weight in the balancing exercise and the same approach is commended here.¹⁵¹

6.8 Section 106 Obligation and Conditions

6.8.1 Notwithstanding a CIL charge of £45/m², a signed Section 106 Unilateral Undertaking has been provided which would make provision for affordable housing, a contribution to off site highways works, land reserved for a possible school, a travel plan and a Metro card contribution, none of which are covered by CIL contributions.

6.8.2 A number of suggested conditions have been agreed between the Council and the Appellant.¹⁵²

6.9 Planning Balance

6.9.1 The balancing exercise is firmly in favour of the grant of planning permission for the following reasons:

- i) The proposal would bring forward 299 units which will materially benefit the supply of houses needed in Leeds. At a stroke 0.4% of the requirement of the Core Strategy will be provided in a range and variety of sizes and units.¹⁵³
- ii) The site is available and could be delivered as soon as planning permission was granted.
- iii) The proposal would make a material contribution to the affordable housing requirement.

¹⁴⁹ CD/A/3 p73, BDW/7 Paras 16.1-16.8

¹⁵⁰ BDW/7 Paras 16.9-16.11

¹⁵¹ BDW/7 Paras 16.12-16.16

¹⁵² CD/F/5C

¹⁵³ BDW/7 Paras 15.1-15.2

- iv) The scheme would comply with the development plan and not prejudice the emerging development plan,
- v) It would be a sustainable development in a settlement identified as appropriate for more housing in the development plan.
- vi) It would locate housing in an area of the city that is expected to provide a substantial amount of new housing.
- vii) It would contribute to the economic element of sustainability.
- viii) It would contribute to the social element of sustainability
- ix) It would not harm the built environment and there is no concern regarding listed building or urban design.
- x) It would not harm the ecology of the area.
- xi) It would not harm the landscape or the visual amenity of receptors in the area.
- xii) It would not cause coalescence, as accepted by the Inspector in the 2005 review.
- xiii) It would be accessible by a comprehensive number of buses which will stop at stops very close to the site.
- xiv) It would enable access by alternative means of transport to local centres, town centres, employment, Wakefield, Leeds, Bradford and local schools.
- xv) It would enable a primary school to be provided within the site which would not otherwise come forward.
- xvi) It would not harm the functioning and operation of the local network.

7. Consultees and Interested Persons

- 7.1. At application stage, the 10 April 2014 report to the City Plans Panel states that there had been 336 representations relating to the proposal and summarises the issues raised. At appeal stage there were three written representations, and in addition oral submissions were made by Councillor Jack Dunn, Councillor Lisa Mulherin, Mr Jim Aveyard and Mr Chris Bywater.¹⁵⁴
- 7.2. The submissions generally reflect the issues identified and aired at the Inquiry and it is notable that there has been no objection from many consultees including Natural England, Environment Agency, Coal Authority, Yorkshire Water, West Yorkshire Archaeology Advisory Service, Metro and the Highways Agency, albeit subject to conditions in some cases. No new matters have been raised that would justify a recommendation other than that reached in this report.¹⁵⁵

¹⁵⁴ CD/E/2 Para 5.3, CD/F/13A, 13B, 13C, and 11

¹⁵⁵ CD/D/1, 4, 5, 6, 7, 11, and 14

8. The Inspector's Conclusions

[The references in square brackets are to earlier paragraph numbers in this report]

8.1. Introduction

- 8.1.1. Matters in dispute were highlighted when the Inquiry opened. I consider that the main considerations are: whether the Council has a 5 year HLS; whether the proposals conform to the development plan policies; whether occupants of the proposed development would have acceptable access to shops and services; the effect on the highway network; the effect on the character and identity of the village; and, other matters including affordable housing.
- 8.1.2. The country needs 250,000 houses a year and the Government is seeking to build 1 million by 2020. However, even with the *Framework* in place only 140,000 houses were built last year. The Appellants maintain that, in the context of the need for housing, the proposals should be granted planning permission now. [6.1.2, 6.1.4]
- 8.1.2 Leeds has the largest housing need in Britain. The overarching General Policy objective in the CS is to deliver growth and say yes to sustainable planning applications. The need for both market and affordable housing is recognised by the Council whose approach is to carry out a comparative assessment in the PAS process to ensure houses are built in the most appropriate locations on the basis of their planning merits. It argues that to grant planning permission now, ahead of completing the PAS assessments, would undermine the development plan process. [5.1.1, 6.1.1, 6.1.2, 6.1.3, 6.1.4]
- 8.1.3 Under the UDPR the appeal site was designated a PAS. Within the CS settlement hierarchy East Ardsley is classed as a Smaller Settlement. Notwithstanding that, both the UDP and UDPR local plan Inspectors' reports endorsed the merits of the site and their recommendations were accepted by the Council. Moreover, the SHLAA concluded the site was 'Green', the most suitable category for housing, in 2011 whilst the emerging SAP identifies the site as safeguarded for housing, albeit any housing would be post 2028 and a local plan review. [5.1.1, 6.1.3]

8.2 Assessment of Housing Land Supply

- 8.2.1 *Framework* paragraph 47 sets out the objective of significantly boosting the supply of housing. Local plans are required to ensure that the full objectively assessed needs (FOAN) are met for both market, and affordable, housing. There is also a requirement to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years of housing against the housing requirement with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. [5.3.1, 6.3.1]

- 8.2.2 It is common ground that the most appropriate period for consideration of the 5 year requirement is 1 April 2016 to 31 March 2021. The annual requirement derives from CS SP6 and is a minimum figure. For the first 5 years of the Plan, 2012 to 2017, the annual requirement is 3,660 units whilst for the next 11 years to 1 April 2028 the requirement will be 4,700 units. It is agreed that the base requirement is 22,460 in this case (1 year at 3,660 + 4 years at 4,700). [5.3.1, 6.3.2, 6.3.6, 6.3.10]
- 8.2.3 Any shortfall, and a buffer, needs to be added to the requirement. The *Guidance* sets out that local planning authorities should aim to deal with any undersupply in the first 5 years of the plan period where possible. It is agreed in this case that the shortfall is to be met using the 'Sedgefield method' with the full shortfall being addressed during 2016-2021. [5.3.3, 6.3.6]
- 8.2.4 There is common ground on completions against targets, except in relation to empties where there is disagreement for empties in 2015-2016. The agreed undersupply for 2012-2015 is 3,758. [6.3.6, 6.3.9]
- 8.2.5 The disputed figure for empties has been compiled in the same way as other years, which are accepted by the Appellant, and is the same number as that submitted to Government in relation to payment of New Homes Bonus. The base data involves individuals' Council Tax information and so cannot be disclosed. However, I see no reason to doubt the Council's figure which sits within the range of annual empties figures. [5.3.4]
- 8.2.6 *Framework* paragraph 47 requires a buffer, of either 5% or 20%, to be added to the requirement but the parties disagree as to which. The higher buffer is required where there has been persistent undersupply. However, the *Guidance* states that identifying a record of persistent undersupply is a matter of judgement. There is no universally applicable test but it goes on to state that assessment of local delivery is likely to be more robust if a longer term view is taken. [5.3.5, 5.3.6, 6.3.7]
- 8.2.7 In five pre-recession years, from 2003/4, the requirement rose from 1930 to 2260 and there was an oversupply of around 5,000. In the three following recessionary years, the adopted targets were 2,260 and 4,300. The latter a step-up under the Regional Spatial Strategy. Against the lower figure supply exceeded the target by 643. Against the RSS, which had a requirement which is now acknowledged as unrealistic, there was an undersupply of 7,517. In the recovery/CS period 2012 to 2016 the requirement was 3,660 and there has been a cumulative undersupply of 4,122. Only when the RSS target is included is a cumulative undersupply shown for the housing market cycle. Whilst the Council considers that no weight should be given to the RSS target as it would be a meaningless exercise, to ignore it in favour of a lower requirement would produce a flawed assessment. The RSS figure was that adopted at the time and it was found to be incorrect only in hindsight. I do not consider that it should be ignored but the weight afforded to it should be significantly reduced. [5.3.8, 5.3.9]
- 8.2.8 Notwithstanding that, an alternative approach, albeit that it does not cover a full financial cycle, is to consider performance against the CS. Whilst this does not follow the approach of the Bagley Lane Inspector which the Council endorses, it would reflect the *Guidance* which states that there is

no universally applicable test. It would reflect the best available local evidence. The Housing Requirement is large and was adopted to be ambitious. It has not been met, albeit that completions are increasing.^[5.3.13]

- 8.2.9 The Council has missed its target in each of the last 7 years and its evidence is that it will fail for another two years. In the first three years of the CS there has been a failure to meet targets every year and 2015-16 looks as if it will be no different on current figures. The shortfall for the three CS years at the lower target of 3,700 amounts to the equivalent of almost a whole year without any delivery. I consider this demonstrates persistent undersupply indicating that a 20% buffer should be applied.^[6.3.7]
- 8.2.10 The Council maintains that the purpose of the buffer, which is to ensure choice and competition and, in the case of the 20% buffer, a realistic prospect of the planned supply being achieved, should be considered. I disagree that the application of a 20% buffer would have the opposite purpose to that suggested by the *Framework*. It would advance supply, such as PAS land, from later in the Plan period. There is a large volume of permitted residential development in Leeds and large areas of Inner Areas and City Centre are available for development. The issue would, therefore, appear not to be due to an absence of competition and supply. However, there is little evidence that undersupply can be laid at the door of the volume house builders seeking to build other than in accordance with the Council's adopted strategy.^[5.3.14]
- 8.2.11 On past performance the buffer must be 20%. Indeed, even the Council accepts that if there was an under supply next year it could properly be considered a 20% authority. When the shortfall and the buffer are added to the requirement it comes to over 6,000 units in Leeds for the next 5 years. Similar statistics prompted the SoS at Hardingstone to find a 20% buffer was required. All are agreed that the 20% buffer is not a punishment but it is justified because it is the only means, as *Framework* paragraph 47 requires "...to provide a realistic prospect of achieving the planned supply".^[6.3.8]
- 8.2.12 The Council's requirement figure assuming 5% buffer would be 27,911 whilst the Appellants' figure based on a 20% buffer would be 31,898. That equates to either 5,582 or 6,379 units required annually for the 5 year period. I adopt the Appellant's position.^[6.3.9]
- 8.2.13 The shortfall has emerged during the lower requirement in the CS of 3,660 dwellings per annum which is set to rise to 4,700 in the coming years. The size of the task is shown by the fact that prior to the Inquiry Leeds's best year for completions was 3,800 in 2008. No other authority gets close to a figure of at least 5,582 units a year.^[6.3.6, 6.3.10]
- 8.2.14 Turning to supply, sites are promoted through both the SHLAA and SAP processes. The Council then forms a view on sustainability, availability and achievability. The SHLAA relies on sites promoted through the SAP which raises a rebuttable presumption as to deliverability.^[5.3.19]
- 8.2.15 The SHLAA is based on an enormous amount of information resulting from an iterative process but is a snapshot in time. In Leeds there is a large

number of sites, many relatively small. The 2015 SHLAA, from which the 5 year supply is derived, follows the same methodology as the 2014 SHLAA which was the subject of considerable consultation with the development industry. Differences between the parties have led to there being little consultation between the volume house builders and the Council on the 2015 SHLAA despite the *Framework* stating that the input of the development industry is important.^[6.3.11, 6.3.12]

- 8.2.16 The Council's adjusted 5 year supply position following the round table sessions is 34,160 units, marginally over the 5 years requirement of 31,898. A reduction of 2,262 units would lead to a tipping point where the housing supply would become less than 5 years based on my finding above. However, rather than being robust and supported by evidence, the Council appears to add sites to the list when there is only a possibility of development. The Appellants only accept around 55% of the Council's predicted supply. This would lead to it only having 2.87 years of supply if a 20% buffer is applied together with the Appellant's assessment of supply. I consider the true position would be between the two but closer to the Appellants.^[6.3.18]
- 8.2.17 Neither main party suggests that the decision maker should analyse every site and reassess them against the Footnote 11 test. The 'tipping point' note is acknowledged as helpful as it shows the 'safety margin' within the assessed supply. If the Council's figures in relation to completions is accepted then with a buffer of 5% there would be a safety margin of 6,249 following the round table session. With a 20% buffer, which I consider justified, the safety margin would be only 2,262.^[5.3.23]
- 8.2.18 *Framework* Footnote 11 states that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is no longer 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.^[5.3.16]
- 8.2.19 The issues have narrowed as the Appellant does not claim that any sites are unviable. Viability assessment of sites in the city centre and inner areas for the Council indicates that a significant proportion would be viable, albeit not achieving the profit margins sought by the volume house builders. House price growth is now 6.5-7.5% in the city centre and inner areas.^[5.3.21]
- 8.2.20 *Guidance* is clear that the need for robust evidence in support of the SHLAA and 5 year supply means that the Council's assessment of a site as deliverable must be capable of being explained and evidenced. The Council assesses 30,385 units as deliverable but the realism of this view needs to be considered against the failure over a number of years to meet targets that have turned out to be optimistic, not realistic.^[5.3.23]
- 8.2.21 *Guidance* addresses Footnote 11 issues. Sites would be considered available when there is confidence that there are no legal or ownership

problems. Where there are problems an assessment of when they could realistically be overcome must be made. Achievability is a judgement about viability and the timescale within which a site is capable of development. Sites should not be 'assumed' to be deliverable. The Council contends that it has considered each site against the Footnote 11 tests. Paragraph 47, refined by *Guidance* requires robust, up-to-date evidence to support the deliverability of sites ensuring its judgements are clearly and transparently set out. The judgements need to be realistic not optimistic. The Appellants' expert's evidence in relation to 2015-16 was only 16 units out, which is 99% accurate, whereas over the past few years of the CS requirement the Council has consistently got judgements wrong and under supplied. I therefore prefer the evidence of the Appellants.^[6.3.5]

- 8.2.22 Differences raised by the Appellant in relation to the SHLAA were considered at the Bagley Lane Inquiry. I agree that allocations, permissions, and the 5 year supply should reflect the CS policy focus on the City Centre and Inner Area. The Council maintains that around 18,000 City Centre sites will come forward. The volume house builders cannot bring forward viable development on City Centre sites although some low cost builders with a different financial model can and would do so.^[5.3.20, 6.3.15]
- 8.2.23 Whilst new low cost builders might pick up some slack, and the provision of City Centre sites would be assisted by regeneration projects, the emerging market for the private rental sector (PRS), the activity of low cost builders and improvements at Holbeck Urban Village, there is little evidence that all sites will be built out. Certainty is needed but the Private Rented Sector (PRS) has not delivered in the past. An 'over optimistic reduction' factor of 16.8% alone means that a tipping point would be reached on the Appellants' figures with a 20% buffer.^[5.3.33, 6.3.15]
- 8.2.24 The Council repeatedly falls back on the Bagley Lane, Farsley decision. However, despite that judgement indicating that there was no error in law in the approach to housing land supply, the planning context has changed in the intervening period. Farsley was a different snapshot in time, the Interim Housing Supply Policy has been withdrawn, the CS has been adopted, and undersupply has taken place for longer. Rather than being 'pessimistic' the Appellant's view has been proven to be reasonably accurate and it is the Council's view that has proved to be overly optimistic.^[6.3.19]
- 8.2.25 The position on supply is difficult as the SAP will not be adopted until at least December 2017 and the best proxy, the December draft SHMAA 2015, is not finalized. There is a serious shortfall of supply in the next two years. Moreover, the document is dependent on 15,347 dwellings, roughly half the Council's supply case, that do not have planning permission. If 15,347 dwellings are removed then a tipping point is reached irrespective of which figures or buffer is used. There is also a reliance on some sites, with around 6,000 dwellings, that are currently in other use.
- 8.2.26 Sources contributing to the Council's 5 year supply following the round table sessions consist of:

- i) 30,385 units on identified sites (15,347 of which do not have planning permission);
- ii) 2,500 smaller windfalls over 5 years;
- iii) 1,000 empty homes over 5 years;
- iv) Minus 225 demolitions over 5 years; and,
- v) 500 large windfalls over 5 years.^[5.3.15]

8.2.27 Items ii) to v) are mainly agreed but in any event the figures are relatively insignificant compared to the numbers of units on identified sites. However, their acceptance adds to the robustness of the numbers. In addition, the introduction of national space standards and optional building regulations will affect the actual numbers that can physically be accommodated on sites.^[5.3.15]

8.2.28 It is acknowledged that 16,571 units with planning permission derive from the 2015 to 2020 SHLAA whilst the equivalent figure in the 2016-21 trajectory is 14,770. In the absence of clear evidence that the permissions would not be implemented in the 5 year period all these must count, although in reality some of these sites would 'fall by the wayside' and others would be brought forward. The main challenges relate to the achievability of sites or whether there is a realistic prospect of houses being delivered in the 5 year period.^[5.3.17]

8.2.29 Differences between the parties on delivery rates and lead-in times are matters of judgement and different views have been reached. The up-to-date 5 year supply covers the period 2016-21, not 2015 to 2020, consequently lead in times have been reconsidered. It is agreed that either site specific information, as favoured by the Appellant, or standardised information based on averages from other sites, as used by the Council, may be used. The Council's standardised delivery rate for houses is 78 dpa whilst the volume house builders' rate is 50. Likewise there is a difference in views about the realistic figure for flats although the Council accepts that a difference of view may not be unreasonable. Some differences were highlighted.^[5.3.28, 5.3.29]

8.2.30 A number of sites such as 649 Charity Farm are Council owned and the Council is brokering the sale of the land, which has been specifically assessed as representing a profitable housing opportunity. However, no evidence of developer interest has been provided for this Phase 3 UDPR site with no planning history. There is a difference between the parties of 60 units which I consider reflects the Council's strong optimism.^[5.3.24, 5.3.27]

8.2.31 Reference has been made to the Wain Homes judgement and sites in other uses. The inclusion of a site in the SHLAA or SAP provides some evidence of deliverability as the Brickyard Lane decision (APP/E2001/A/13/2200981) illustrates but is not in itself necessarily evidence of achievability and availability.^[5.3.18, 5.3.24, 6.3.11]

8.2.32 A number of examples were highlighted. Site 445 Jack Lane/Sweet Street is a flat brownfield site in the city centre that is close to Holbeck Urban Village and has been sold to a developer. It is actively being promoted for

development and no abnormal costs or impediments have been identified. However, although it had an outline consent for residential it is in active use as a car park. Lead in times, including extinguishing the car park use if necessary and addressing reserved matters, means that there would not be an immediate realistic prospect of housing delivery. There is a difference between the parties of 296 units again reflecting the Council's optimism.^[5.3.24]

- 8.2.33 Another example is Quarry Hill, site 200-411, which has also been in temporary use as a car park. The viability of the site is not in issue and it has recently been promoted for mixed use including 715 flats. Moreover it has an outline planning permission, was acquired by a developer in conjunction with Moda Living in 2015 and an newspaper article notes the intention to develop from early 2017 with the first homes ready to rent by 2019.^[5.3.25]
- 8.2.34 Notwithstanding this, the agent has indicated a 10 year delivery programme with no certainty over which elements would come forward first. Moreover a multi storey car park is required for WYP before any residential development can take place. Even though Leeds city centre is now the regional target for growth in the PRS sector there must be significant doubt over how many units would be completed in the 5 year period and there is a difference of about 600 units between the parties.^[5.3.24, 5.3.25]
- 8.2.35 Finally, East Leeds Extension is the largest single location in the City and is stated to be central to the SAP. It is a greenfield site in a very high value area and will offer a wide range of unit types. The total capacity across the plan period to 2028 is 4,446. It is an example of where infrastructure has been considered alongside development. Given the scale of the site the Council considers that it would be reasonable to assume 50 dpa, below the average build out rates, but to assume a number of outlets.^[5.3.30]
- 8.2.36 However, the Appellants' witnesses are agents for the majority of land owners involved. Delivery rates have been sought direct from the developers, there are no live applications in the middle or southern sections of the site, and the current application has been with the Council for 4 years. 20% of the site covered by live applications is in the control of Persimmon who will be the only party that could submit reserved matters applications once outline application and Section 106 matters are resolved. Parcels of land in separate ownership are yet to be marketed and there is a requirement for infrastructure that has not been delivered and will take time. In East Leeds as a whole the difference between the parties is 1,115 units. The Appellants' approach has been branded as pessimistic as they only include 365 units for the East Leeds Extension but in my view the approach is realistic compared to the highly optimistic approach of the Council.^[5.3.30]
- 8.2.37 Another difference between the parties appears to be the prospect of delivery by the PRS model. An example of the model is the Dandara scheme in Holbeck Urban Village (Site 407). Although the Appellants consider this a fringe site with doubts about funding and commitment, the

site has planning permission, the developer is on site and has committed to deliver the units within two years of commencement.^[5.3.33]

8.2.38 In the MUA and inner areas there is a wide range of developers active in the market. Both the primary and secondary markets are attractive to developers and investors alike and even in tertiary areas there is an active land market with specialist developers keen to acquire more. The Appellants' concern, albeit based on three letters that also outline expansion plans, is the capability of developers in this tertiary market to increase capacity. The lack of capacity in the specialist low cost market could affect the 5 year supply as specialist developers are a finite resource. A different view was reached at Bagley Lane but I am not aware of the evidence that conclusion was based on.^[5.3.31]

8.2.39 The need for additional delivery is even more marked since March 2016 as there is no longer a development plan for delivery. The failure to produce an adopted SAP until December 2017 means there is no policy to set out how delivery of any houses, never mind the magnitude required, will actually take place. The only hope offered by the Council is an expectation that the SAP will be adopted in December 2017. However, Leeds has failed to meet targets in the past. Although accused of being pessimistic I consider that the house builders have been realistic. The resultant figures are not definitive, but they clearly indicate that the safety margin of 2,262 is soon whittled away when realism is applied. I consider that it is the Council which has been overly optimistic and has failed to demonstrate a robust 5 year housing land supply. The solution is to deliver housing now, not in December 2017 when even after the adoption of the SAP there will be significant lead-in times with no delivery likely until late 2018 - early 2019.^[6.3.21, 6.3.22]

8.2.40 The Council's delivery record for affordable housing is also poor and the target amounts to over 1,000 units a year. Delivery over the last 5 years is only around 49% of the SHMA requirement, a serious failure. There is, therefore, a significant need for additional delivery for both market and affordable housing.^[6.3.20]

8.2.41 The proposals would make a contribution to affordable housing as part of the strategy to meet the area's needs over the plan period. However, the housing strategy relies on City Centre and inner area sites which compared to the appeal proposal would effectively restrict the delivery of affordable housing because policy only requires 5% in such locations whilst some sites will provide no affordable housing at all. Against this background the proposals should not be downplayed^[5.7.1, 5.7.2, 6.7.1, 6.7.2, 6.7.3]

8.3 Assessment Against Development Plan Policy

8.3.1 Section 38(6) of the *Planning and Compulsory Purchase Act 2004* indicates that determinations under the Planning Acts should be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case includes the saved provisions in the *Leeds Unitary Development Plan Review (UDPR) 2006* and the *Leeds Core Strategy (CS)* adopted in November 2014. The proposal should be considered against the development plan as a whole, and the *Framework* is also a material factor to be considered.^[4.1, 6.2.1]

- 8.3.2 As I have concluded that there is no 5 year HLS, *Framework* paragraphs 49 and 14 must be applied. I consider that UDPR policy N34 is a policy for the supply of Housing, as did the Inspector in the Farsley case, and as there is no HLS the policy cannot be considered up to date and paragraph 14 must be considered. The Council considers that paragraph 85 is a specific policy under *Framework* Footnote 9 that indicates that development should be restricted. However, rather than being a restrictive policy paragraph 85, at bullet points three and 4, specifically indicates that safeguarded land, whilst not allocated at the present time, is to meet longer term development needs. It is not, therefore, restrictive, on the contrary it envisages development. The test that then applies is whether any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The conclusion of this test will be a material consideration to be weighed in the balance when considering whether material considerations exist to outweigh the presumption in favour of the development plan in accordance with Section 38(6).
- 8.3.3 At the time the Council reached its decision on this proposal, an Interim Housing Delivery Policy was in place. However, that Policy was withdrawn in February 2015 due, in part at least, to the stage reached by the SAP process, and the adoption of the CS. Assessment against the Interim Policy was not appropriate and the proposal was taken back to the Plans Panel for assessment in the light of the current policy context. The amended reasons for refusal are the outcome of that reassessment and, although the Appellants expressed some 'unease' at the revised reasons for refusal, the evidence at the Inquiry addressed the amended position. I do not, therefore, consider that anyone has been disadvantaged by considering the revised reasons for refusal.^[4.2]
- 8.3.4 UDPR Policy N34, which was saved, is the most relevant UDPR policy in this case. It addresses PAS sites and indicates that they will be reviewed as part of the local plan process. The comprehensive comparative SAP process is underway to address the delivery of housing in the District. The explanatory text sets out the purpose of the Policy as "to achieve now a definition of the Green Belt and its boundaries which will survive 'well into the next century'". Importantly the text goes on to say "ie beyond the Plan period for land use allocations (which is approximately to 2006)". It also states "It is intended that no development should be permitted on this land that would prejudice the possibility of longer-term development, and any proposals for such development will be treated as departures from the Plan".^[5.2.1, 5.2.2]
- 8.3.5 The Farsley Inspector concluded that N34 was a policy for the supply of housing and that it could be considered up-to-date in the context that pertained at that time, including the existence of a 5 year land supply. The UDPR Plan period was 1998 to 2016 and Policy N34 was not at that point time expired. That context has since changed as the Plan period for land use allocations ended in March 2016.^[5.2.3, 6.2.3]
- 8.3.6 Although the Council maintains that UDPR Policy N34 is not out of date, as it was envisaged that it would operate beyond the Plan period, that conflicts with the conclusion of the Boston Spa appeal Inspector who notes

that the Council “acknowledges that it needed to release sites beyond those in the UDPR and in advance of the CS, and sought to do so in a controlled way using the Interim Policy. However, that approach indicates that Policy N34 and, thus, the provision of housing land within the UDPR were out of date”. I concur with this view.^[5.2.1]

- 8.3.7 Notwithstanding this, the Appellant accepts that the grant of planning permission in this case would not comply with the provisions of UDPR Policy N34 but considers that the weight to be attributed to the Policy, which is still part of the development plan, is the key factor.^[6.2.1]
- 8.3.8 Policy N34 emerged in a different policy context when the number of units required was far less than now. It is also now time expired. Its use as a Policy to prevent development would be contrary to the *Framework*.]
- 8.3.9 The UDPR Policy N34 safeguarded land is not allocated for development now. The purpose of the PAS land is to protect the Green Belt by providing a generous amount of land for long term development. The provision of the land for long term development has already taken place, which is not to say that every PAS site is suitable for housing development. Any resulting allocation under N34 does not rule development out albeit that the policy indicates that it should come forward through a development plan review. The application of the Policy does not, therefore, indicate permission should be refused. However, to grant permission now would pre-judge the outcome of the SAP process in relation to some sites, and so would to a slight extent undermine it.^[5.2.4, 5.2.5, 5.2.6]
- 8.3.10 Any adverse impacts due to the development should be balanced against the benefits of granting planning permission now to see if they significantly and demonstrably outweigh them leading to a presumption in favour of sustainable development.^[6.2.4]
- 8.3.11 The CS is up-to-date. It was produced after the *Framework* and was found to be sound and is consistent with it. It contains a distribution strategy that was considered at the EiP and is contained in CS Policies SP1, SP6 and SP7 in particular. These policies focus on regeneration and, amongst other matters, promote a settlement hierarchy reflecting greenfield/brownfield locations and the ability of sites to respect and enhance the local character and integrity of places.^[5.2.7]
- 8.3.12 CS Policy H5 would be met as the proposal would provide 15% affordable housing as required. The proposal would conform with CS Policy SP1, which considers the location of development and allows development of greenfield sites and envisages some development in smaller settlements. The housing requirement and allocation of housing land is addressed by CS Policy SP6. This seeks, amongst other matters, the least impact on the Green Belt. Safeguarded land, including the appeal site, was taken out of the Green Belt to protect the Green Belt’s long term future and so would satisfy CS Policy SP6. CS Policy SP7 sets the overall requirement for 7,200 dwellings in the OSW HMCA which includes the appeal site. This amounts to some 11% of the overall total of 66,000 which would be supported by the appeal proposals.^[6.2.5, 6.2.6]

- 8.3.13 Policy SP11 is mentioned in a revised reason for refusal but its relevance is not readily apparent. In terms of the development plan, only UDPR Policy N34 would be breached but this should attract little weight as it is time expired. The most relevant policies of the up-to-date CS, Policies H5, SP1, SP6 and SP7 would be complied with and overall there would be general compliance with the Plan. There needs to be a balancing exercise, but within the parameter that there is a presumption in favour of granting permission. The proposal should be considered in accordance with the development plan unless other material considerations indicate otherwise. To justify refusal would require it to be demonstrated that the harm from any grant would be outweighed by any benefits. [6.2.6, 6.2.7, 6.3.4]
- 8.3.14 The CS has been adopted since 2014 and I do not consider that the proposal would undermine its implementation.
- 8.3.15 The Council is progressing its SAP identifying sites to be allocated. CS Policy HG2, and the explanatory text, explain the distribution with reference to the CS. The appeal site has not been allocated as the Council maintains that it has identified sufficient sites to make up the requirement in the OSW HMCA. Indeed, it maintains that some Green Belt sites could be more sustainable than non-Green Belt sites. However, there are a number of hurdles to be overcome in the SAP process, not least convincing an Inspector that the Council's strategy of releasing 515 hectares from the Green Belt to meet housing land requirements is right. It would have to pass the very special circumstances test which would be difficult given the large areas of non-Green Belt PAS land undeveloped during the plan period. There is no policy basis for allocating Green Belt sites and the Council could not identify another authority with a comparative approach. Even the Council considers that the SAP will not be adopted until winter 2017 at the earliest and accepts that only limited weight can be given to it at this time. [4.2, 5.2.8, 5.2.9, 6.2.8, 6.2.9]
- 8.3.16 The *Guidance* states that "arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the *Framework* and any other material considerations into account". It goes on to indicate that "Such circumstances are likely, but not exclusively, to be limited to situations where both:
- a) The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging local plan or Neighbourhood Planning; and,
 - b) The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. [5.2.6]
- 8.3.17 The Council accepts that, on its own, granting planning permission for the proposal would not justify a prematurity reason for refusal. However, it refers to six appeals relating to PAS land that remain undetermined and which together may have a cumulative effect. [5.2.6]

8.3.18 Notwithstanding the Council's view on the cumulative effect of the six appeals, the emerging plan in the form of the SAP is far from being at an advanced stage. There is a shortfall of around 6,000 units due to withdrawals of sites since the publication of the SAP. These will have to be replaced. There are some 10,000 representations, many related to the use of PAS sites, and further consultation will be necessary. There will have to be an EiP and the Inspector might make modifications. Indeed, the Council accepts that only limited weight can be given to the SAP at this stage. In the light of this, the proposal would not be premature. [6.2.10, 6.2.11]

8.4 Whether Occupants of the Proposed Development Would Have Acceptable Access to Shops and Services

- 8.4.1 Accessibility is a relative concept that has to be considered in context, which is why the Council seeks to use the SAP process so that infrastructure improvements can be considered and different sites compared. However, in terms of this appeal, accessibility can only be assessed in terms of by how much the scheme would meet, or fail to meet, the Council's accessibility standards. [5.4.1, 6.4.1]
- 8.4.2 CS Policy T2 and the CS Appendix 3: Accessibility Standards are not a pass or fail test. Indeed, CS paragraph 5.4.2 envisages failure and requires further investment in such circumstances but does not support the approach that failing one criterion might justify refusal. It is accepted that the site meets the requirements in 3 of the 6 categories. Only secondary education, town centres and employment are in dispute. Indeed, the Committee report accepted that frequency was also acceptable and the sole issue is therefore journey times. [6.4.3]
- 8.4.3 In terms of secondary education, it is possible to get to Woodkirk Academy using two different services. The service from the nearest bus stop is infrequent, a bus arrives an hour before school begins but the next one arrives too late for school. Notwithstanding this a later bus, from a stop only an additional 200 metres further away, would provide an alternative service that would arrive in time for school. [5.4.5, 6.4.4]
- 8.4.4 Existing modal splits show the area is relatively poorly served by public transport and residents are more likely than the Leeds average to rely on the car. In respect of employment and town centres you can get to Wakefield, which is a major transport interchange, in 14 minutes twice hourly compared to the standard of one every 15 minutes. Although Leeds and Bradford are well outside the 40 minutes journey time indicated by the accessibility standards, there is no requirement that all 3 transport interchanges be as accessible. In addition, Morley town centre, a substantial centre in its own right, is accessible within a 20 minutes journey time and served by 3 buses an hour from stops adjacent to the site. [5.4.4, 5.4.5, 6.4.4]
- 8.4.5 In terms of a walk distance of 5 minutes to a bus stop, some parts of the site are within that distance but substantial parts are not. However, on leaving the site there would be six bus stops within 600 metres from which it would be possible to get to Wakefield, Bradford and Leeds, three of the biggest towns in Yorkshire, by bus. [5.4.3, 6.4.5]

- 8.4.6 Although the Council considered East Ardsley as part of the larger West Ardsley and Tingley in assessing available services for the purposes of the CS, East Ardsley on its own, is designated as a lower order local centre as it only provides 'limited local services'.^[5.4.6, 6.4.1]
- 8.4.7 A smaller settlement is defined in a 2011 Settlement Analysis as having a population of at least 1500, and a primary school and a shop or a pub as a minimum. The village is centred on Main Street/Bradford Road where the post office is sited some 560 metres walk from the site. East Ardsley has a pub, a Post Office, butchers, bookmakers, carpet store and two convenience stores attached to petrol stations. Notwithstanding the fact that there is no GP surgery or health clinic, the settlement has an opticians, a hairdresser, a secondary school and a Parish Church and other places of worship. It therefore has facilities far in excess of the minimum in the 2011 definition.^[5.4.7]
- 8.4.8 The SAP for the Outer South West (OSW) HMCA identifies the boundary of the 'Smaller Settlement' of East Ardsley, which has around 5,200 residents. The appeal site lies outside the settlement boundary and the proposal would add about a fifth to the current built up area.^[5.4.7]
- 8.4.9 There is a primary school at Fall Lane over 1300 metres from the site access or 750 metres from the eastern boundary via the adopted part of New Lane. This school is operating close to, or above, capacity with this due to continue for at least the next 4 years. Blackgates Primary School is also more than 1300 metres from the site access and is over subscribed. It is projected to be full for the foreseeable future with places for only 83% of its current 0-5 year old children. The next nearest school is Westerton Primary School which is also full and projected to remain so.^[5.4.8]
- 8.4.10 The nearest GP is close to Tingley roundabout or in Outwood and the nearest dentist that is accepting patients is in Middleton. Shopping, other than for top-up shopping, would require a visit to the White Rose Centre (Sainsbury), Asda or Aldi at Middleton, Asda at Morley, Morrisons at Rothwell or locations in Wakefield. All these would realistically require use of a car.^[5.4.9]
- 8.4.11 Notwithstanding that some journeys would be by car, the view that the site is accessible was endorsed by the UDPR Inspector who said it had good accessibility by public transport, albeit that the bus timetable now shows a less frequent service. Moreover, the site passed assessment in the SHLAA when it received a score of 4 out of 5 on accessibility. Fifteen years after its PAS designation the 2014 Committee report was the first time it was asserted that the settlement's accessibility was not that good.^[6.4.2]
- 8.4.12 I consider that the site would be relatively well served with reasonable accessibility to shops and services. Notwithstanding that there would be a lack of health and dental care locally, and a shortage of primary school provision, and whilst a development of this size would undoubtedly have some impact on the village, mitigation, in the form of a Section 106 Agreement or CIL, could be provided. The accessibility would not justify refusing this appeal and, with the mitigation proposed, the proposal would generally conform with the requirements of CS Policy T2.^[6.4.1]

8.5 Effect on the Highway Network

- 8.5.1 A *Technical Note* updating the *Highways Statement of Common Ground* identifies three matters still in dispute. Considering modal split, the only issue with the design of the access is that it is alleged that whilst it would still work, there would be significant congestion if school traffic was added to the residential traffic. The Council maintains that existing local schools provide a good proxy for modal split having an average of 43.6%. The Council therefore uses 43%. However, whilst the exact catchment cannot be known, it is agreed that it would be within a mile. This would reduce the modal split and the Appellant uses 19% based on national statistics, which would be realistic. Any delay would not be 'severe', as *Framework* paragraph 32 requires to refuse development on transport grounds.^[5.5.1, 5.5.2, 6.5.1]
- 8.5.2 In addition, the Council has not deducted, prior to applying the modal split, the 75 pupils that would be generated by the development. Notwithstanding that the presence of residential development nearby is common to many schools, I consider that they should be deducted as they would originate from the appeal site and would not leave it to get to the school. They would not pass through the junction at the site access. The proposal would therefore reserve land for a school that could be accessed satisfactorily by the proposed site access.^[5.5.3, 6.5.2]
- 8.5.3 The key point in the traffic model is the background traffic growth. The *Scoping Report* and the *Transport Assessment* use the national traffic predictions provided by Tempro. The Council considers 22% growth between 2013 and 2025 but at this level the Appellant's witness considers that Leeds would seize up.^[5.5.4, 6.5.3]
- 8.5.4 The Appellant now relies on a report compiled to inform the draft SAP, albeit that the report is stated to be particularly influenced by conditions in the MUA, to suggest that the application of around 8% traffic growth on the 2013 flows used in the TA represents an over estimate and worst case assessment of the forecast peak hour traffic flows at 2018.^[5.5.4, 5.5.5]
- 8.5.5 The CS paper on transport infrastructure uses much lower levels of growth, 15-23% varying across the District, in the peak period which the Appellant now considers more realistic. Whilst the Council considers the use of Tempro appropriate I do not consider that the Appellant's assumptions would make so great a difference as to produce a 'severe' impact that the Framework requires to justify dismissing the appeal.^[5.5.5, 6.5.3]
- 8.5.6 The *Transport Assessment* (TA) considered 6 key junctions and concluded that 5 would operate satisfactorily based on the Appellants' 2018 date and 8% traffic growth. These assumptions were accepted by the Council for 5 of the locations but not the sixth.^[6.5.4]
- 8.5.7 The remaining junction in dispute is the A650 Bradford Road/Thorpe Lane/Smithy Lane junction. Queue surveys were carried out on 18 January 2016 and 4 February 2016 to demonstrate the current level of the junction's performance and these show that extensive queuing already occurs.^[5.5.6]

- 8.5.8 Notwithstanding differences in methodology, the results of the Appellants' Scenarios show that the average delay for vehicles using the nearside lane of Thorpe Lane would increase by approximately 56-59%, around a minute per vehicle.^[5.5.9, 5.5.10]
- 8.5.9 Even with the Council's assumptions, only 2 limbs of the Thorpe Lane junction out of 18 would not be working in 9 years time. The severity would be that a delay on the Bradford Road (East) at the am peak would increase from 337 to 432 seconds whilst on the Bradford Road (West) in the pm peak the delay would rise from 503 to 553. A significant existing delay would be made slightly worse. The intention in the *Framework* was to set the bar for refusal very high. Indeed, paragraph 32 requires any impact to be severe to justify a refusal on transport grounds. I do not consider that the impact in this case could be considered severe.^[6.5.5]
- 8.5.10 Whilst it is suggested that the junction, the 40th worst in Leeds City, might be improved in any event, there is no such proposal before the Inquiry, and none have been devised.^[5.5.11, 6.5.6]
- 8.6 Effect on the Character and Identity of East Ardsley**
- 8.6.1 CS Policy SP1(iii), which is consistent with paragraph 64 of the *Framework*, requires development to respect and enhance the local character and identity of places. It is agreed that the appeal site, which lies outside the East Ardsley settlement boundary, contributes to the character and identity of the settlement. Indeed, it contributes to separating the core of the village from development around the Mill that spreads west to include Black Gates and Tingley.^[5.6.1]
- 8.6.2 The Council relies on the CS plan and definition to identify the settlement, but there are numerous views on what constitutes East Ardsley. I consider that it is the physical components that indicate the village, not terminology or postcode.^[5.6.5, 6.6.3]
- 8.6.3 The local plan Inspector did not consider that development should be precluded from the site. He identified the gap that contributes to the character of East Ardsley but did not consider it so important as to merit designation as part of the Green Belt. There is no policy that seeks to protect existing gaps or undeveloped land between settlements. Indeed, it was noted that a proper gap within the site would protect the sense of green space and gap.^[5.6.4, 5.6.5, 6.6.1]
- 8.6.4 That view was not contradicted by the UDPR Inspector and coalescence was not raised until the August 2014 Committee report endorsed the Officers' view that it was not justified as a reason for refusal. Policy relating to coalescence did not change between August 2014 and November 2015. The Officers' report did not raise the issue but the revised reason for refusal alleged harm to the character and integrity of the settlement. Notwithstanding that, the Council itself promotes a school serving 425 children with associated built paraphernalia on the site.^[6.6.2, 6.6.5]
- 8.6.5 Development could affect the impression of a visual gap between East and West Ardsley. This impression of separation derives from the site's

openness, its scale, its character and the visibility across it. The introduction of 299 houses would affect the openness of the site but it would not lead to continuous residential development from 'The Fall' in the east to junction 28 of the M62. In terms of scale, the site would increase the size of the village by approximately 20%. There are a number of small housing allocation sites in East Ardsley but no single large housing allocation in the village. In contrast, West Ardsley has a number of large allocated sites. However, there are two protected areas of search that are next to each other and include the appeal site which could provide the impression of visual separation.^[5.6.3, 5.6.5, 5.6.6]

8.6.6 From the site there are views of countryside separating the village from other development. There are views from the network of footpaths to the Church which is an indicator of the village core and to the former Mill and countryside beyond.^[5.6.5]

8.6.7 The UDPR Inspector commented on the potential for a 'major open space funnelling from the Bradford Road frontage of the site' and noted that the retention of a good gap would provide a benefit in the future and be acceptable. An illustrative Masterplan makes provision for open space. Whilst it would include the proposed access and school site the illustrative plan shows a substantial gap that would give a sense of openness and protect views of the Church.^[5.6.3, 5.6.7, 5.6.4]

8.6.8 Although earlier Masterplans could not be supported by the Appellants' expert, the current illustrative layout demonstrates that development could be set back from the road behind landscaping such that the impression of a green visual break separating West and East Ardsley would preserve the character of the latter, in accordance with CS Policy SP1 (iii), and the village would maintain its identity as a distinct settlement.^[5.6.3]

8.7 Other Matters

8.7.1 CS Policy H5 requires the provision of 15% affordable housing in Zone 2, which is where the appeal site is located. It is agreed that the proposal would do that and so be policy compliant. The waiting list is not in itself evidence of need but there were 23,784 households on the Council's housing register at January 2016 and nearly 5,000 on the priority list reflecting how critical the need is.^[5.7.1, 6.7.1]

8.7.2 The provision of affordable housing has become more difficult, due to support for starter homes, and the large number of homes provided in the city centre where CS Policy H5 seeks only 5% affordable dwellings and in some circumstances no affordable housing at all.^[6.7.2]

8.7.3 I note that since the SHMA assessed the affordable housing need as 1,158, the full need, including catching up the historic backlog over 5 years, has not been met. The Council has delivered 3,206 units against the SHMA requirement of 5,790 although the picture is improving. The Council is proactive and employs a range of mechanisms to deliver affordable housing, not just Section 106 obligations. However, in 2014/15 affordable housing provision only met 76% of need. There is a remaining need, assessed as 4,984, across the whole district, which is large.^[5.7.2]

8.7.4 Affordable housing allows the most vulnerable in society to be housed. Despite the 45 affordable units that the proposal would provide merely being the requirement of policy whose benefit should not be double counted, their importance cannot be exaggerated when 1,158 affordable units are required every single year.^[6.7.3]

8.8 Section 106 Obligation and Conditions

8.8.1 When the application was determined, there were no Planning Obligations in place that would have addressed some of the Council's concerns. This led to reason for refusal 4. Since then Leeds has adopted a Community Infrastructure Levy, which in this case would require a charge of £45/m². However, there are still some matters that require addressing by means of a Section 106 Obligation.^[5.8.1, 6.8.1]

8.8.2 A signed Unilateral Undertaking dated 7 March 2016 has been submitted. The matters it covers are affordable housing, a contribution to off-site highway works, land reserved for a possible school, a travel plan and a Metrocard contribution, none of which are covered by CIL contributions. A note justifying why the Council considers that the S106 matters are justified in terms of the tests set out in *Framework* paragraph 204 has been produced.^[6.8.1, 5.8.2]

8.8.3 Affordable housing is necessary to comply with CS Policy H5 that requires the provision of 15% affordable housing. It would be provided on site and so be directly related to the development. It is fair and reasonable as the Policy is based on evidence regarding housing need. The Council would have to administer the affordable housing contribution which would be based on the actual staff time and resources expended in the verification process.^[6.7.1, 6.7.2, 6.7.3]

8.8.4 CS Policy T2 and the Council's Travel Plans SPD seek to improve the accessibility of the site. A Travel Plan would need to be monitored to ensure realistic targets were set. Reviewing the Travel Plan would be directly related to the development as there is a need to encourage the provision of alternative, more sustainable, transport facilities. The monitoring fee is based on the scale of development and covers staff time. The SPD sets out a number of packages to make developments more sustainable, including the requirement for a metro card for each dwelling, which would be directly related to the development. The measure is necessary to encourage alternative forms of transport, by directly covering the cost of a card per dwelling for one year and subsidising the provision for a further two years.

8.8.5 Some off-site works would also be needed. The site would generate demand for transportation and the provision of shelters, raised kerbs, information displays and real time information at two bus stops, one in each direction as interchanges in Leeds are outside the maximum travel time. This would meet the tests. The site access would require amendment of a Traffic Regulation Order. This is needed for highway safety reasons due to increased use of the access at a cost to cover the required legal procedure.

- 8.8.6 Finally, part of the site is allocated for a school in the draft SAP and the site would generate considerable demand for school places. Land for new school provision would be necessary and directly related to the proposal. The Undertaking would require the transfer of the necessary land to the council at market value. This would be time limited so that if the Council does not provide a school the money would be returned.
- 8.8.7 Following discussions a set of 17 conditions has been generally agreed covering: approval of details; timing of implementation; Archaeology; Flood Risk and Drainage; Ground Conditions; Ecology; Public Open Space; and Highways.^[5.8.3, 6.8.2]
- 8.8.8 Conditions 1 and 4 are standard outline permission time conditions, whilst condition 2 clarifies the development and sets a parameter in terms of the number of dwellings. In the interests of clarity and the avoidance of doubt the approved drawings are identified in condition 3.
- 8.8.9 The site lies within an area of archaeological significance and condition 5 would provide for investigation prior to any development on the appeal site. Conditions 6 to 9 relate to flood risk and drainage and are necessary to preclude causing any increased flooding and provide for suitable drainage. Ground conditions and contamination are the subject of conditions 10 and 11 which seek to ensure remediation of the site should it be found to be necessary.
- 8.8.10 Mitigation for ecological impacts and the protection of trees are sought by conditions 12-14 whilst conditions 15 and 16 require the provision of public open space and of a landscape buffer zone respectively. Finally, condition 17 requires highway improvement works.
- 8.8.11 I consider that the suggested conditions are all necessary and comply with the tests set out in *Framework* paragraph 206. Similarly, the Undertaking provisions meet the tests in *Framework* paragraph 204 and are necessary to make the proposals acceptable.

8.9 Planning Balance

- 8.9.1 The Council has not demonstrated a 5 year supply of housing land and *Framework* paragraph 49 means that policies relevant to the supply of housing will therefore be deemed out of date. The appeal site is a PAS site under UDPR Policy N34 which aims to protect land for the City's potential long term needs. Housing would be delivered in the absence of a 5 year HLS.^[8.3.39]
- 8.9.2 Even if the Council cannot demonstrate a 5 year supply, the weight to be given to UDPR Policy N34, and its breach is a matter of judgement reflecting the degree of consistency with the policy and potentially the degree of housing shortfall. As the policy is time expired, and the SAP is long overdue, I consider that Policy N34 should only be given little weight.^[6.2]
- 8.9.3 The proposal would accord with the most relevant up-to-date policies in the CS. The scheme would provide 299 dwellings of which 15% would be affordable. Whilst the SAP process might in time produce the same number of dwellings it would not be for some time whilst houses are

desperately required now. There might not be any more affordable houses than required by policy but they would be much needed as much of Leeds's residential development is in central and inner areas where only 5% or in some cases 0% are required to be affordable.^[8.2.11, 8.7.1, 8.7.2, 8.7.3, 8.7.4]

- 8.9.4 The SAP would not be undermined and the proposals would not be premature. Members of the public had a chance to speak in the Inquiry and have not been deprived of the opportunity to express their views in evidence. Although not part of a local plan review no-one has been prejudiced.^[7, 8.2.17, 8.2.18]
- 8.9.5 Accessibility is a comparative matter not a pass or fail exercise. Some of the accessibility criteria are clearly met whilst others would be met to a degree. It would be possible to get to the secondary school by walking slightly further to a bus stop and one of three town centres can be reached relatively easily.^[8.4.12]
- 8.9.6 In terms of the wider highway network, one junction remains of concern. Queuing currently takes place there and, providing there are no improvements in the interim, would be made slightly worse by the proposal but not to such an extent that it would be severe, the level the *Framework* requires to justify refusing the appeal.^[8.5.9]
- 8.9.7 The identity of East Ardsley as a distinct settlement would be maintained. Moreover, if development were to be set back as in the illustrative Masterplan a substantial gap would provide a sense of openness and protect views of the Church.^[8.6.8]
- 8.9.8 Some of the harm that would be caused would be mitigated by measures set out in a Unilateral Undertaking and conditions.^[8.8]
- 8.9.9 Overall the benefits would carry significant weight. Any adverse impacts due to 'stepping outside the development plan system' would not be so great as to significantly and demonstrably outweigh the benefits when assessed against the development plan and the *Framework* policies taken as a whole. Nor would any adverse impacts be such that the proposal would not represent sustainable development. The presumption in favour of sustainable development applies.

9 Overall Conclusions and Recommendation

9.1 Overall Conclusion

- 9.1.1 Considering the balance required by *Framework* paragraph 14, UDPR Policy N34 is time expired and attracts little weight. Any adverse impacts due to granting permission would not significantly and demonstrably outweigh the benefits of boosting significantly the supply of housing when assessed against the policies in the *Framework* taken as a whole. Applying both the paragraph 14 and Section 38(6) tests the proposal should be allowed.

9.2 Recommendation

- 9.2.1 I recommend that the appeal be allowed and planning permission be granted, subject to the Unilateral Undertaking, and the conditions set out in Appendix C of this report.

Ken Barton

INSPECTOR

Richborough Estates

APPENDIX A - APPEARANCES

FOR LEEDS CITY COUNCIL:

Guy Williams of Counsel	Instructed by Nikki Deol Leeds City Council
He called	
Adam Harvatt BA(Hons) MSc	Team Leader, Local Plans East, Leeds City Council Forward Planning and Implementation Service
James Howe BEng CMILT MCIHT	Divisional Manager Mouchel Consulting
Victoria Hinchliff Walker MA	Deputy Area Planning Manager, Leeds City Council Development Directorate, Planning Services
Maggie Gjessing BA(Hons) FCIHousing	Executive Manager Regeneration Service Environment and Neighbourhoods Directorate, , Leeds City Council
For the joint Inquiry session on April 19-21 relating to Housing Land Supply only	
Martin Elliot MA(Hons) Geography MA Town Planning MRTPI	Team Leader, Data and Geographical Information Systems, Forward Planning and Implementation Service, Leeds City Council
Matthew Brook BA(Hons) Geography MA Town and Regional Planning MRTPI	Principal Planner, Data and Geographical Information Systems, Forward Planning and Implementation Service, Leeds City Council
David Newham MRICS	Principal Surveyor, District Valuer Services, Leeds

FOR BARRATT DAVID WILSON HOMES:

Sasha White QC	Instructed by Amanda Beresford, Shulmans LLP
He called	
Jeremy Smith BA(Hons) DipLA Chartered Landscape Architect	Director SLR Consulting Limited
Vanessa Eggleston BEng(Hons) CEng MICE	Partner i-Transport LLP
Mark Johnson MRICS MRTPI (including joint session on housing land supply)	Managing Director Johnson Brook Limited Planning Consultants
James Stacey BA(Hons) DipTP MRTPI	Director Tetlow King Planning Limited

INTERESTED PERSONS:

Councillor Jack Dunn

Mr Jim Aveyard

Mr Chris Bywater

Councillor Lisa Mulherin

Richborough Estates

APPENDIX B - DOCUMENTS

Core Documents

National and Local Planning Policy

CD/A1	National Planning Policy Framework
CD/A2	National Planning Policy Guidance
CD/A3	Leeds City Council Core Strategy 12 November 2014
CD/A4	Unitary Development Plan 2001 Extract Chapter 14 Aireborough, Horsforth and Bramhope Chapter 17 Morley Chapter 24 Wetherby
CD/A4(A)	Unitary Development Plan Volume 1 Written Statement
CD/A5	Unitary Development Plan Review 2006 Vols 1 and 2
CD/A5(A)	Unitary Development Plan Review 2006 Volume 1 Written Statement
CD/A6	Unitary Development Plan Inspector Reports
CD/A6(A)	Inspectors Report Chapter 5
CD/A7	Unitary Development Review Inspector Reports
CD/A7(A)	Unitary Development Review Inspector Reports Foreword
CD/A8	Interim Policy – Potential Release of Sites of Protected Areas of Search
CD/A9	Leeds City Council Natural Resources and Waste Local Plan
CD/A9A	Leeds City Council Natural Resources and Waste Local Plan September 2015 Adopted Policies Minerals 13 and 14
CD/A10	Leeds City Council Consultation Draft SAP & Background Documents 2015
CD/A11	Leeds City Council Community Infrastructure Levy Charging Schedule April 2015
CD/A12	Leeds City Council Community Infrastructure Levy Regulation 123 List September 2014
CD/A12A	Leeds City Council Community Infrastructure Levy Regulation 123 List Amendments November 2015
CD/A13	Leeds City Council Open Space, Sport and Recreation Assessment July 2011
CD/A14	SPG4: Greenspace Relating to New Housing Development
CD/A15	SPG:25 Greening the Built Edge
CD/A16	Collingham Conservation Area Appraisal and Management Plan
CD/A17	Village Design Statement: Collingham with Linton

CD/A18	Bramhope Conservation Area Appraisal and Management Plan
CD/A19	Extract Appendix D to BS4102:2013 Biodiversity – Code of Practice for Planning and Development
CD/A20	Extracts from Hundt L (2013) Bat Surveys: Good Practice Guidelines 2 nd Edition
CD/A21	DCLG – Consultation on Proposed Changes to National Planning Policy December 2015
CD/A22	PPG2: Green Belts
CD/A23	Site Allocations Plan Sustainability Appraisal - Publication Draft September 2015
CD/A24	Site Allocations Plan and AVLAAP – Infrastructure Background Paper September 2015
CD/A25	Site Allocations Plan Section 3: Area Proposals: 7 Outer North West – Publication Draft September 2015
CD/A26	Site Allocations Plan Site Assessment Document Breary Lane East, Bramhope LS16 Site Plan HG2-17 SHLAA Ref 1080 3367A
CD/A27	Site Allocations Plan Section 3: Area Proposals: 6 Outer North East – Publication Draft September 2015
CD/A28	Site Allocations Plan Site Assessment Document Leeds Road, Collingham Site Plan HG3-18 SHLAA Ref 2135
CD/A29	Bramhope Village Design Statement
CD/A/30	Leeds District Valuer's Report May 2014
CD/A/31	Leeds District Valuer's Report October 2014
CD/A/32	David Newham's Rebuttal of Philip Roebuck's Evidence
CD/A/33	Collingham Neighbourhood Plan Draft
CD/A/34	Housing Land Supply Schedule
CD/A/34A	Housing Land Supply Schedule with LCC comments
CD/A/34B	Agreed Housing Land Supply Schedule
CD/A/35	Press Article about Morgan Agents
CD/A/36	Newham Brief and Viability Appraisal Information
CD/A/37	Extracts from SHLAA of disputed sites
CD/A/38	5 Year Housing Land Supply Tipping Point
CD/A/38A	Amended 5 Year Housing Land Supply Tipping Point
CD/A/39	Green Belt Releases in SAP

Appeal A Application Documents

CD/B1	Application Letter 25 November 2013
CD/B2	Application Letter (2) 27 November 2013
CD/B3	Application Form (without personal data) 22 November 2013
CD/B4	Site Location Plan (drawing no P12 4567 02) 14 November 2013

CD/B5	Site Survey Plan (S7898) June 2013
CD/B6	Indicative Development Master Plan (D12 4567 51 Rev B) 25 March 2014
CD/B7	Development Master Plan (D12 4567 50) 14 November 2013
CD/B8	Proposed Access Arrangements Plan (ITM8086-GA-012 Rev A) August 2014
CD/B9	Planning Case Report November 2013
CD/B10	Design and Access Statement November 2013
CD/B11	Statement of Community Involvement Report November 2013
CD/B12	Draft Heads of Terms
CD/B13	Minerals Recovery Statement
CD/B14	Transport Assessment (Volume 1 Reports and Figures) November 2013
CD/B15	Transport Assessment (Volume 2 Appendices) November 2013
CD/B16	Travel Plan (updated version) July 2014
CD/B17	Stage 1 Desk Study Report June 2013
CD/B18	Tree Survey July 2013
CD/B19	Cultural Heritage – Desk Based Assessment Report July 2013
CD/B20	Flood Risk Assessment November 2013
CD/B21	Foul and Surface Water Drainage Strategy October 2013
CD/B22	Ecological Appraisal July 2013
CD/B23	Noise Impact Assessment July 2013
CD/B24	Agricultural Land Appraisal July 2013
CD/B25	Affordable Housing Pro-forma
CD/B26	Archaeological Investigations Evaluation Report March 2014
CD/B27	Planning Performance Agreement 28 March 2014
CD/B28	Major Site Notice 13 December 2013
CD/B29	Site Notice 10 January 2014
CD/B30	Site Notice 23 January 2014
CD/B31	Site Notice 14 March 2014
CD/B32	Site Notice 11 April 2014

Appeal A Correspondence with Local Planning Authority

CD/C1	Acknowledgement of Receipt of a Request for Pre-Application Advice 12 July 2013
CD/C2	Letter – JB Pre-Application Letter 7 August 2013

CD/C3	Email – Pre-Application Meeting Request 9 August 2013
CD/C4	Email – Arrangement of Pre-Application 16 August 2013
CD/C5	Letter – Screening Opinion 1 November 2013
CD/C6	Email – Planning Performance Agreement 28 November 2013
CD/C7	Email – Correspondence regarding Sustainability Appraisal 3 December 2013
CD/C8	Email – Correspondence regarding Planning Performance Agreement 4 December 2013
CD/C9	Acknowledgement Letter 5 December 2013
CD/C10	Email – Archaeological Works 27 January 2014
CD/C11	Email – Position Statement to CPP 27 January 2014
CD/C12	Email – Transport – S106 4 February 2014
CD/C13	Email – withdrawal from CPP 12 February 2014
CD/C14	Email – JB Request for Consultee Responses 20 February 2014
CD/C15	Email – LCC Request for Progress Meeting 27 February 2014
CD/C16	Email – Trail Trenching Report 18 March 2014
CD/C17	Email – Application to Plans Panel 20 March 2014
CD/C18	Email – Confirmation of Revised Scheme and LCC Acknowledgement 27 March 2014
CD/C19	Email – Confirmation of Plans Panel 28 March 2014
CD/C20	Email – I Transport Response to LCC Highways Comments 8 May 2014
CD/C21	Email – Revised Masterplan for discussion, including plan (reference: D14 4567 OP3) 12 May 2014
CD/C22	Email – I-Transport and LCC Transport Models, including attachments 9 July 2014
CD/C23	Email – JB and LCC Outstanding Highway Issues 17 July 2014
CD/C24	Email - I-Transport – Submit updated Travel Plan (attachment is CD/BDW/B(3)/16) 18 July 2014
CD/C25	Email - I-Transport – location for Bus Stop, including updated drawings (references: ITM8086-GA-008 and ITM8086-GA-009) <i>[both superseded by ITM8086-GA-Rev A]</i> . 18 July 2014
CD/C26	Email - I-Transport – Submit Transport Model, including updated LINSIG Model (A650/Common Lane Junction) 23 July 2014 with further emails dated 23.07.2014 and 29.07.2014 containing additional commentary.
CD/C27	Email - Comments – Transport – S106 28 July 2014
CD/C28	Email - Extension of PPA 29 July 2014
CD/C29	Letter – City Plans Panel 30 July 2014
CD/C30	Email - Submission of Revised Access Plan, including site access drawing (reference: ITM8086/GA/12/Rev A) 7 August 2014

CD/C31	Email - Highways Update 7 August 2014
CD/C32	Planning Performance Agreement 31 March 2013
CD/C33	Planning Performance Agreement 28 March 2014

Appeal A Consultee Responses

CD/D1	Natural England 10 December 2013
CD/D2	Waste Management 11 December 2013
CD/D3	Neighbourhood and Housing (Environmental Protection) 19 December 2013
CD/D4	Environment Agency 20 December 2013
CD/D5	Coal Authority 19 December 2013
CD/D6	Yorkshire Water 2 January 2014
CD/D7	Public Rights of Way and Map 7 January 2014
CD/D8	West Yorkshire Archaeology 7 January 2014
CD/D9	Mains Drainage 7 January 2014
CD/D10	West Yorkshire Archaeology Advisory Service January 2014
CD/D11	Metro 29 January 2014
CD/D12	Transport Development Services (Highways) 30 January 2014
CD/D13	Transport Policy (Travel Wise) 3 February 2014
CD/D14	Highways Agency 18 February 2014
CD/D15	Transport Development Services (Highways) 4 April 2014
CD/D16	Public Rights of Way 14 April 2014
CD/D17	LCC Children's Services Calculation 14 January 2014
CD/D18	Travel Plan (Travel Wise) 6 August 2014

Appeal A Committee Reports, Correspondence and Decision Notice

CD/E1	City Plans Panel Committee Report 13 February 2014
CD/E2	Plans Panel Committee Report 10 April 2014
CD/E3	Minutes – City Plans Panel 7 August 2014
CD/E4	City Centre Panel Report 7 August 2014
CD/E5	City Plans Committee Report 7 August 2014
CD/E6	Decision - Refusal of Planning Permission 8 August 2014
CD/E7	City Plans Committee Covering Report 5 November 2015
CD/E8	City Plans Committee Report 7 August 2014

CD/E9	Minutes – City Development Plans 7 August 2014
CD/E10	Development Plans Panel Report & Minutes 19 January 2016
CD/E11	City Plans Panel Committee Report 19 January 20216
CD/E12	Plans Panel Committee Report 13 February 2015
CD/E/13	Report to Environment & Housing Scrutiny Board 22 March 2016

Appeal A Appeal Documentation

CD/F1	Appeal Form 4 February 2015
CD/F2	Bespoke Timetable
CD/F3	Leeds City Council Statement of Case
CD/F4	Appellant's Statement of Case
CD/F5	Planning Statement of Common Ground – General December 2015 (Signed)
CD/F5(A)	Amended list of Planning Conditions
CD/F5(B)	Amended list of Planning Conditions
CD/F5(C)	Agreed list of Planning Conditions including Reasons
CD/F6	Planning Statement of Common Ground – 5 Year Housing Land Supply (Signed)
CD/F7	Planning Statement of Common Ground – Highways (Signed)
CD/F7A	Technical Note Updated Highways Statement of Common Ground (Signed)
CD/F8	Letter – The Planning Inspectorate – ID1
CD/F9	Letter – The Planning Inspectorate – ID2
CD/F10	Letter – The Planning Inspectorate – ID3
CD/F11	Bundle of submissions made by interested parties at Appeal Stage
CD/F12	Unilateral Undertaking
CD/F12(A)	Amended Unilateral Undertaking
CD/F13A	East Ardsley Settlement Boundary as drawn by a resident for Councillor Dunn
CD/F13B	Submission read by Mr Aveyard
CD/F13C	Skeleton of submission by Mr Bywater and extract from a report referred to
CD/F14	Affordable Housing Statement of Common Ground 25 Feb 2016
CD/F14(A)	Affordable Housing Statement of Common Ground 29 Feb 2016 Unsigned
CD/F14(B)	Affordable Housing Statement of Common Ground 29 Feb 2016 Signed
CD/F15	Justification for Unilateral Undertaking

Appeals A B and C Housing Documents

CD/G1	Planning for Growth Ministerial Statement 31 March 2011
CD/G2	Laying the Foundations: A Housing Strategy for England
CD/G3	Statement on Housing and Growth 6 December 2012
CD/G4	Inspectors Report to Leeds City Council 5 December 2014
CD/G5	Report of the Director of City Development 13 March 2013
CD/G6	Leeds Strategic Housing Market Assessment Update May 2011
CD/G7	Leeds Strategic Housing Land Availability 2014
CD/G8	Leeds Local Development Framework Authority Monitoring Report 2011/2012
CD/G9	Leeds Unitary Development Plan – Chapter 17 Morley
CD/G10	Leeds City Council Housing Land Supply Spring Statement 31 March 2014
CD/G11	Building the homes we need: A Programme for the 2015 Government 2014
CD/G12	Fixing the foundations: Creating a more prosperous nation July 2015
CD/G13	Leeds City Council Draft Strategic Housing Land Availability Assessment update December 2015
CD/G14	Neighbourhoods for Living: Guide for Residential Design for Leeds SPG 2003
CD/G15	Designing for Community Safety May 2007
CD/G16	Sustainable Urban Drainage June 2004
CD/G17	S78 Town and County Planning Act 1990 – Appeal Decision –Bagley Lane Inspector 1 Report APP/N4720/A/13/2200640 – (Inquiry opened 19 November 2013) Bagley Lane Inspector Report 2 APP/N4720/A/13/2200640 (Reopened Inquiry 11, 12, 13, 14 November 2014) Secretary of State for Department of Community and Local Government Decision Letter Bagley Lane
CD/G18	Thornhill Estates v Secretary of State for CLG (1) Leeds City Council (2) and Farsley Residents Group (3) [CO/1791/2015]
CD/G19	Miller Homes Limited v Leeds City Council Case No: CO/6890/2013

Appeals A B and C Highway Documents

CD/H1	My Journey West Yorkshire Local Transport Plan 2011-2026, West Yorkshire Local Transport Plan Partnership October 2012
CD/H2	Design Manual for Roads & Bridges – TD42/95 - Geometric Design of Major/Minor Priority Junctions, Volume 6, Section 2, Part 6
CD/H3	Manual for Streets – Department of Transport 2007
CD/H4	Manual for Streets 2 – Chartered Institution of Highways and Transportation September 2010
CD/H5	Street Design Guide, Leeds Local Development Framework, Supplementary Planning Document, Main Report August 2009

CD/H6	Core Strategy, Leeds Local Development Framework, Development Plan Document, Consolidated Core Strategy comprising Publication Draft Feb 2012 and Pre-Submission Changes Dec 2012 (CD0A) April 2013
CD/H7	Public Transport Improvements and Developer Contributions, Leeds Local Development Framework, Supplementary Planning Document August 2008
CD/H8	Travel Plans, Leeds Local Development Framework, Supplementary Planning Document February 2015
CD/H9	Leeds Unitary Development Plan (Review 2006), Volume 1: Written Statement July 2006
CD/H10	Land at Bradford Road, East Ardsley, Transport Assessment, Volume 1 Report and Figures (ITM8086-003A R) 19 November 2013
CD/H11	Land at Bradford Road, East Ardsley, Transport Assessment, Volume 2 Appendices (ITM8086-003A R) 19 November 2013
CD/H12	Land at Bradford Road, East Ardsley, Travel Plan, (ITM8086-004B R) 15 July 2014
CD/H13	Planning for Public Transport in Developments – IHT 1999
CD/H14	Guidelines for Providing for Journeys on Foot – IHT 2000
CD/H15	Inclusive Mobility DoT December 2005
CD/H16	Planning Practice Guidance – Travel Plans, Transport Assessments and Statements in Decision Taking.
CD/H17	TRICS Good Practice Guide 2013
CD/H18	See CD/H14
CD/H19	Transport Evidence Bases in Plan Making and Decision Taking (was originally CD/H15)

Appeals A B and C Landscape Documents

CD/I1	Leeds Landscape Character Assessment 1994
CD/I2	Landscape Character Assessment Guidance for England and Scotland 2002
CD/I3	Guidelines on Landscape and Visual Impact Assessment (LI/IEMA) 2013
CD/I4	Natural England National Character Area 38 2015

Appeal B (Collingham) Application Documents

CD/J1	Decision Notice 30 October 2014
CD/J2	City Plans Panel Report 30 October 2014
CD/J3	Application Letter 17 January 2014
CD/J4	Notice 1 and Covering Letters 17 January 2014
CD/J5	Planning Application Form 17 January 2014
CD/J6	Archaeological Desk Based Assessment February 2014
CD/J7	Sustainability Statement January 2014
CD/J8	Statement of Community Involvement January 2014

CD/J9	Noise Assessment 17 January 2014
CD/J10	Gas Risk Assessment 20 November 2013
CD/J11	Flood Risk Sequential Test January 2014
CD/J12	Geo-Environmental Appraisal September 2013
CD/J13	Air Quality Assessment 13 September 2013
CD/J14	Artificial Lighting Assessment 16 January 2013
CD/J15	Transport Assessment January 20104
CD/J16	Travel Plan October 20103
CD/J17	Flood Risk Assessment January 2014
CD/J18	Collingham Beck Modelling Study and Mitigation Proposals May and June 2013
CD/J19	Ecological Appraisal January 2014
CD/J20	Kingfisher Survey October 2013
CD/J21	Bat Activity Survey October 20103
CD/J22	Great Crested Newt Survey 2 July 2014
CD/J23	Riparian Mammal Survey July 2014
CD/J24	Design and Access Survey January 2014
CD/J25	Tree Survey 15 April 2013
CD/J26	Draft Heads of Terms for S106 Agreement 2014
CD/J27	Masterplan 18 December 2013
CD/J28	Location Plan Ref P134827-O2 December 2013
CD/J29	Plan and Elevation of Bridge over Collingham Beck Drawing 35800/001 Rev A 9 April 2013
CD/J30	Tree Report Proposed Access 2 September 2013
CD/J31	Ecological Management Plan October 2015
CD/J32	Bat Impact Assessment October 2015
CD/J33	Planning Statement
CD/J34	Plans Panel Report November 2015
CD/J35	White Clawed Crayfish Survey

Appeal B (Collinham) Consultee Responses

CD/K1	LCC Ecology Consultation Response 14 January 2016
CD/K2	Scoping Letter to LCC dated 3 July 2013
CD/K3	LCC Consultation Note dated 12 August 2013
CD/K4	Scoping Letter to Highways England (Formerly Highways Agency) dated 26 June 2013

CD/K5	Highways England e-mail dated 4 July 2013
CD/K6	Consultation Comments dated 19 March 2014
CD/K7	Consultation Comment from NGT Team (Undated)
CD/K8	Consultation Comment re Travel Plan 11 February 2014
CD/K9	E-mail from Neil Chamberlin (Highways) dated 29 April 2014
CD/K10	E-mail from Neil Chamberlin (Highways) dated 15 August 2014
CD/K11	E-mail from Neil Chamberlin (Highways) dated 16 October 2014
CD/K12	E-mail from Nathan Huntley (NGT Group) dated 6 May 2014
CD/K13	E-mail from David Stocks (Bridges Section) dated 19 September 2014
CD/K14	E-mail from David Stocks (Bridges Section) dated 8 October 2014
CD/K15	E-mail to Neil Chamberlin, including attachments, dated 27 March 2014
CD/K16	E-mail to Neil Chamberlin, including attachments, dated 7 April 2014
CD/K17	E-mail to Neil Chamberlin attaching Location of Flood Wall Plan dated 7 April 2014
CD/K18	E-mail to Nathan Huntley, including attachments, dated 11 April 2014
CD/K19	E-mail, including attachments, dated 10 September 2014
CD/K20	E-mail to Christine Hamshere, attaching revised Travel Plan, dated 17 October 2014
CD/K21	E-mail to Neil Chamberlin, including attachments, dated 28 November 2014

Appeal B (Collingham) Appeal Documents

CD/L1	Appeal Form
CD/L2	Appellant's Statement of Case December 2014
CD/L3	Council's Statement of Case December 2014
CD/L4	Planning Statement of Common Ground – General
CD/L5	Planning Statement of Common Ground – 5 Year Housing Land Supply
CD/L6A	Planning Statement of Common Ground – Highways February 2016
CD/L6B	Appendices to Highways SCG
CD/L/6C	Addendum to Highways Statement of Common Ground
CD/L/7	Draft S106 Agreement
CD/L/8	Suffolk Coastal District Council v Hopkins Homes Ltd and SoS
CD/L/9	Wychavon District Council v SoS & Crown House Developments
CD/L/10	Walton & Co representation on behalf of Bramhope Parish Council
CD/L/11	Bloor Homes v SoS & Hinkley and Bosworth B C

CD/L/12	Colman v SoS & North Devon DC & RWE Renewables Ltd
CD/L/13	APP/R0660/A/13/2203282 Alsager decision
CD/L/14	Note re 5 Year Requirement
CD/L/15	Representation read by Collingham Residents' Action Group
CD/L/16	Representation read by Collingham with Linton Parish Council
CD/L/17A	Superseded Draft List of Conditions
CD/L/17B	Draft List of Conditions (Track Changes)
CD/L/17C	Agreed List of Draft Conditions
CD/L/18	Justification for S 106 Agreement
CD/L/19	Unsigned S106 Agreement

Appeal C (Bramhope) Application Documents

CD/O1	Decision Notice 28 August 2014
CD/O2	City Plans Panel Report 28 August 2014
CD/O3	Application Letter 31 October 2013
CD/O4	Planning Application Form and Certificates 31 October 2013
CD/O5	Red Line Boundary Plan 488A/20B 1 May 2013
CD/O6	Illustrative Masterplan 488A/30A 20 August 2013
CD/O7	Proposed Access and Junction Improvements Plan 7120-005\Rev\B September 2013
CD/O8	Design and Access Statement 17 October 2013
CD/O9	Environmental Statement Volume 1 – Main Text and Figures October 2013
CD/O10	Environmental Statement Volume 2 - Technical Appendices October 2013
CD/O11	Environmental Statement Non Technical Summary October 2013
CD/O12	Planning Statement October 2013
CD/O13	Retail Statement October 2013
CD/O14A	Draft Heads of Terms for Section 106 Obligation October 2013
CD/O/14B	Draft Section 106 Agreement
CD/O15	Statement of Community Involvement October 2013
CD/O16	Transport Assessment October 2013
CD/O17	Travel Plan October 2013
CD/O18	Transport Assessment Addendum July 20104
CD/O19	Sandersons Submission to Highways relating to Access Drawing 7120-005 28 April 2015
CD/O20	EIA – Reg 22 Submission 14 January 2016

Appeal C (Bramhope) Appeal Documents

CD/P1	Appeal Form
CD/P2	Leeds City Council's Statement of Case
CD/P3	Appellant's Statement of Case February 2015
CD/P4	Planning Statement of Common Ground February 2015
CD/P/5A	Planning Statement of Common Ground – Highways February 2015
CD/P/5B	Appendices to Highways SCG
CD/P/5C	Addendum Highways SCG
CD/P/6A	Superseded Draft List of Conditions
CD/P/6B	Draft List of Conditions (Track Changes)
CD/P/6C	Agreed List of Draft Conditions
CD/P/7	Justification for S106
CD/P/8	Unsigned S106 Agreement
CD/P/8A	Signed S106 Agreement
CD/P/9A	Superseded S106 relating to Alternative Roundabout Access
CD/P/9B	Unsigned S106 relating to Alternative Roundabout Access
CD/P/10	Submission read by Cllr Anderson

Leeds City Council's Documents Appeal A

LCC/1	Council's Statement of Case – see CD/F3
LCC/2	Council's Opening Statement
LCC/3/A	Adam Harvatt's Summary Proof of Evidence
LCC/3/B	Adam Harvatt's Proof of Evidence and Appendices (Planning Policy)
LCC/3/C	Adam Harvatt's Note on Land Proposed for Release for Housing
LCC/4/A	Victoria Hinchliff Walker's Summary Proof of Evidence
LCC/4/B	Victoria Hinchliff Walker's Proof of Evidence (Planning Balance and Planning Obligations)
LCC/4/C	Appendices to Victoria Hinchliff Walker's Proof of Evidence
LCC/4/D	A3 copy of HMCA Area Outer South West plan
LCC/5/A	James Howe's Summary Proof of Evidence
LCC/5/B	James Howe's Proof of Evidence (Highways)
LCC/5/C	Appendices to James Howe's Proof of Evidence

LCC/5/D	James Howe's Rebuttal Proof of Evidence
LCC/5/E	Appendices to James Howe's Rebuttal Proof of Evidence
LCC/5/F	Note to Inquiry Regarding Site Access Assessment
LCC/5/G	E-mail dated 4 February re Junction Modelling
LCC/6A	Maggie Gjessing's Rebuttal Proof of Evidence (Affordable Housing)
LCC/6B	Appendices to Maggie Gjessing's Rebuttal Proof of Evidence
LCC/7	Closing Submissions (other than Housing Land Supply)

Leeds City Council's Documents Appeal B

LCC/8	Council's Statement of Case (Collingham) – see CD/L3
LCC/9	Council's Opening Statement
LCC/10/A	Martin Elliot's Proof of Evidence Appeals B and C
LCC/10/B	Appendices to Martin Elliot's Proof of Evidence Appeals B and C
LCC/10/C	Martin Elliot's Rebuttal Proof of Evidence
LCC/10/D	Council's 5 year supply position 1 April 2016 – 31 March 2021
LCC/10/E	Photographs of SHLAA sites
LCC/10/F	Nathanial Lichfield and Partners submission to SAP Publication Draft
LCC/10/G	E-mail dated 17 December 2015 re Tyersal SHLAA site
LCC/10/H	Bundle of documents forming Council's comments on Grove Road, Boston Spa Decision
LCC/11/A	Matthew Brook's Summary Proof of Evidence Appeals B and C
LCC/11/B	Matthew Brook's Proof of Evidence Appeals B and C
LCC/11/C	Update on five year housing land supply requirement
LCC/12/A	Adam Harvatt's Summary Proof of Evidence Appeals B and C
LCC/12/B	Adam Harvatt's Proof of Evidence Appeals B and C
LCC/13/A	Adam Ward's Summary Proof of Evidence
LCC/13/B	Adam Ward's Proof of Evidence
LCC/13/C	Appendices to Adam Ward's Proof of Evidence
LCC/14/A	Adrian Hodgson's Summary Proof of Evidence
LCC/14/B	Adrian Hodgson's Proof of Evidence
LCC/14/C	Appendices to Adrian Hodgson's Proof of Evidence
LCC/14/D	Adrian Hodgson's Rebuttal Proof of Evidence Appeal B

Leeds City Council's Documents Appeal C

LCC/15	Council's Statement of Case (Bramhope)
LCC/16/A	Carol Cunningham's Summary Proof of Evidence
LCC/16/B	Carol Cunningham's Proof of Evidence
LCC/16/C	Appendices to Carol Cunningham's Proof of Evidence
LCC/17/A	Adrian Hodgson's Summary Proof of Evidence
LCC/17/B	Adrian Hodgson's Proof of Evidence
LCC/17/C	Appendices to Adrian Hodgson's Proof of Evidence
LCC/17/D	Adrian Hodgson's Rebuttal Proof of Evidence Appeal C
LCC/18	Closing Submissions
LCC/19	SoS Decision on Brickyard Lane Melton Park APP/E2001/A/2200981
LCC/19A	Judgement on Brickyard Lane Melton Park

Barratt David Wilson Homes and The Ramsden Partnership's Documents

BDW/1	Appellants' Statement of Case – see CD/F4
BDW/2	Appellants' Opening Statement
BDW/3/A	James Stacey's Summary Proof of Evidence
BDW/3/B	James Stacey's Proof of Evidence (Planning and Affordable Housing)
BDW/3/C	Appendices to James Stacey's Proof of Evidence
BDW/4/A	Jeremy Smith's Proof of Evidence (Landscape)
BDW/4/B	Appendices to Jeremy Smith's Proof of Evidence
BDW/4/C	Jeremy Smith's Summary Proof of Evidence
BDW/4/D	Parish Boundary on Modern OS Base
BDW/5/A	Mark Johnson's Executive Summary, Proof of Evidence, and Appendices (Planning)
BDW/5/A App 18	Appendix 18 to Mark Johnson's Proof of Evidence
BDW/5/B	Site Allocations Plan Overview
BDW/5/C	Bundle of documents forming Barratt David Wilson Homes's response to the Council's comments on Grove Road, Boston Spa Decision
BDW/6/A	Vanessa Eggleston's Proof of Evidence (Transport and Highways)
BDW/6/B	Appendices to Vanessa Eggleston's Proof of Evidence
BDW/6/C	Vanessa Eggleston's Summary Proof of Evidence

BDW/6/D	Vanessa Eggleston's Rebuttal Proof of Evidence
BDW/6/E	Appendices to Vanessa Eggleston's Rebuttal Proof of Evidence
BDW/7	Closing Submissions (except for 5 Year HLS)
BDW/8	Closing Submission on 5 Year HLS on behalf of both Appellants

Miller Homes and The Hill Family's Documents Appeal B (Collingham)

MHH/1	Appellants' Statement of Case – see CD/L2
MHH/2	Appellants' Opening Statement
MHH/3/A&B	Jonathan Dunbavin's Proof and Summary Proof of Evidence
MHH/3/C	Appendices to Jonathan Dunbavin's Proof of Evidence
MHH/3/D	Undated letter from Morgans
MHH/3/E	Keepmote/Strata Sites purchased from LCC
MHH/3/F	Press article dated 6 April 2016
MHH/3/G	Press article dated 2 December 2015
MHH/3/H	Agenda item dated 26 November 2015
MHH/4/A	Philip Roebuck's Proof of Evidence (Appeals B & C)
MHH/4/B	List of Sites falling within certain categories
MHH/4/C	E-mail confirmation of sale of Westland Road to Spinko Ltd
MHH/5/A	David Colley's Summary Proof of Evidence
MHH/5/B	David Colley's Proof of Evidence
MHH/5/C	Appendices to David Colley's Proof of Evidence
MHH/6/A	Kevin Tilford's Summary Proof of Evidence
MHH/6/B	Kevin Tilford's Proof of Evidence
MHH/6/C	Appendices to Kevin Tilford's Proof of Evidence
MHH/6/D	A3 version of maps in appendices
MHH/6/E	Comparison between baseline and proposed 1 in 100yr CC event
MHH/7/A	Dick Longdin's Summary Proof of Evidence
MHH/7/B	Dick Longdin's Proof of Evidence
MHH/7/C1	Appendices Vol 1 to Dick Longdin's Proof of Evidence
MHH/7/C2	Appendices Vol 2 (A3) to Dick Longdin's Proof of Evidence
MHH/7/D	Erratum sheet to Appendices Vol 2

Miller Homes Documents Appeal C (Bramhope)

MHH/8/A&B	Jonathan Dunbavin's Proof and Summary Proof of Evidence
MHH/8/C	Appendices to Jonathan Dunbavin's Proof of Evidence
MHH/8/D	Bundle of documents forming Miller Homes and the Hills family's response to the Council's comments on Grove Road, Boston Spa Decision
MHH/9/A	Philip Roebuck's Proof of Evidence (See MHH/4/A)
MHH/10/A	Ian Ladbrooke's Summary Proof of Evidence
MHH/10/B	Ian Ladbrooke's Proof of Evidence (utilising the original site access point)
MHH/10/C	Ian Ladbrooke's Proof of Evidence (utilising the alternative site access point opposite The Poplars)
MHH/10/D	Appendices to both of Ian Ladbrooke's Proofs of Evidence
MHH/10/E	Ian Ladbrooke's Rebuttal Proof of Evidence
MHH/11/A	Nicola Jacobs Summary Proof of Evidence
MHH/11/B	Nicola Jacobs Proof of Evidence
MHH/11/C	Appendices (A3) to Nicola Jacobs Proof of Evidence
MHH/11/D	Figures (A3) to Nicola Jacobs Proof of Evidence
MHH/12	Closing Submissions relating to Leeds Road, Collingham and Breary Lane East, Bramhope on behalf of Miller Homes and the Hills Family

Richborough Estates

APPENDIX C – SCHEDULE OF CONDITIONS APP/N4720/W/15/3004034

Land off Bradford Road, East Ardsley

Approval of details

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called “the reserved matters”) shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
- 2) The development hereby permitted shall comprise no more than 299 dwellings.
- 3) The development hereby permitted shall be carried out in accordance with the following plans:

Location Plan Drawing No P12456702 14 November 2013

Access Plan ITM8086-GA-012 Rev A August 2014

Timing of Implementation

- 4) Application for approval of all reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters.

Archaeology

- 5) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.

Flood Risk and Drainage

- 6) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) compiled by ARP Associates dated November 2013, and the mitigation measures detailed in Section 6.17 of the FRA.

The mitigation measures shall be fully implemented prior to occupation of any dwelling or in accordance with the timing/phasing arrangements embodied within a scheme whose details have been submitted to, and approved in writing by, the local planning authority.

- 7) The site shall be developed with separate systems of drainage for foul and surface water on and off site.

- 8) No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to, and approved in writing by, the local planning authority before development commences.
- 9) Development shall not commence until a scheme (ie drainage drawings and summary calculations) detailing the surface water drainage works and SuDS features has been submitted to, and approved in writing by, the local planning authority. The works shall be implemented in accordance with the approved scheme before the development is brought into use, or as set out in the approved phasing details.

Ground Conditions

- 10) No part of the development hereby permitted shall be commenced on site unless and until:
 - a) A site investigation has been designed for the site using the information gained from the desktop investigation previously submitted in respect of coal mining. This shall be submitted to, and approved in writing by, the local planning authority prior to the investigation being carried out on site; and
 - b) The site investigation and associated risk assessment have been undertaken in accordance with details submitted to, and approved in writing by, the local planning authority; and
 - c) A method statement and remediation strategy, based on the information obtained from 'b' above, including a programme of works, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved remediation strategy.
- 11) A Phase I Desk Study report indicates that a Phase II Site Investigation is necessary, and therefore development shall not commence until a Phase II Site Investigation Report has been submitted to, and approved in writing by, the local planning authority.

Where remediation measures are shown to be necessary in the Phase II Report and/or where soil, or soil forming material, is being imported to site, development shall not commence until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the local planning authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.

If Remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the local planning authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to and approved in writing by, the local planning authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised Remediation Statements.

Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works the verification report(s) shall be submitted to the local planning authority in accordance with the approved programme. The site, or phase of a site, shall not be brought into use until such time as all verification information has been approved in writing by the local planning authority.

12) No development shall take place until a scheme to address the recommendations contained in the Ecological Appraisal by Brooks Ecological dated July 2013 (Report Ref R-1636-01) has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.

13) No works shall commence until all existing trees, hedges and bushes shown to be retained on the plans are fully safeguarded by protective fencing and ground protection in accordance with an agreed scheme, specification, and the provisions of BS5837 (2012): Trees in relation to design, demolition and construction previously submitted to, and approved in writing by, the local planning authority. Such measures shall be retained for the duration of any demolition and/or approved works.

No works or development shall commence until a written arboricultural method statement for a tree care plan has been submitted to, and approved in writing by, the local planning authority. Works or development shall then be carried out in accordance with the approved method statement.

No equipment or materials shall be used, stored or burnt within any protected area. Ground levels within these areas shall not be altered, nor any excavations undertaken, including the provision of any underground services, without the prior written approval of the local planning authority.

Seven days written notice shall be given to the local planning authority that the protection measures are in place prior to demolition and/or approved works to allow inspection and approval of the protective measures.

14) There shall be no activity associated with site clearance, nor any removal of trees, shrubs and vegetation between 1 March to 31 August inclusive unless a survey of nesting birds and a scheme for their protection has been submitted to, and approved in writing by, the local planning authority. The scheme should include for the provision of a qualified ecologist on site during any works that may impact on nesting birds. Site clearance shall be undertaken in accordance with the approved scheme which shall remain in force until all works are completed.

Public Open Space

15) The development hereby permitted shall not begin until a scheme has been submitted to, and approved in writing by, the local planning authority for the provision of a 2 hectare on-site public open space. The scheme shall include details of the siting, layout, landscaping, maintenance, and long term management of the open space. The on-site public open space shall be provided prior to completion of the development in accordance with the approved scheme.

- 16) The development hereby permitted shall not begin until a scheme for the provision of a landscaped buffer zone on the northern boundary has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the location, layout, planting plans, schedule of species, timetable for implementation and long term management scheme. The scheme should include for the provision of native tree planting in order to provide a transition from open countryside to development and should provide for the retention and improvement of any public rights of way that falls within it. The buffer zone shall be laid out in accordance with the approved details and maintained as a buffer zone for the lifetime of the development.
- 17) Prior to the commencement of development, details shall be submitted to, and approved in writing by, the local planning authority of arrangements to secure the following highway improvement works which shall be implemented and completed prior to occupation of the first dwelling:
- a) The provision of a priority controlled T-junction access on Bradford Road, which shall incorporate a right turn ghost island lane on Bradford Road. The access shall be constructed in accordance with drawing TTM8086-GA-012A.
 - b) The provision of two new pedestrian refuges on Bradford Road, to the north and south of the proposed site access, including the relocation of the existing pedestrian refuge island located to the south of the proposed access. Associated dropped kerbs and tactile paving to be provided within the existing footways at both refuge locations.
 - c) The provision of a separate emergency access on to Bradford Road, located at the position of the current public footpath access onto Bradford Road and which shall be widened to 3.7 metres width to accommodate emergency vehicles and which shall also connect into the internal loop road.

APPENDIX D – GLOSSARY

CIL	Community Infrastructure Levy
CS	Core Strategy 2014
EiP	Examination in Public
Framework	National Planning Policy Framework
FOAN	Full Objectively Assessed Need
Guidance	National Planning Practice Guidance
HLS	Housing Land Supply
HMCA	Housing Market Character Area
Km	Kilometres
LEAP	Local Equipped Area of Play
MUA	Major Urban Area
NGT	New Generation Trolley Bus
PAS	Protected Area of Search
PRS	Private Rented Sector
RFC	Ratio of Flow to Capacity
SAP	Site Allocations Plan
SCG	Statement of Common Ground
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoS	Secretary of State
SPD	Supplementary Planning Document
SSD	Secretary of State's Direction
TPO	Tree Preservation Order
TWA	Transport and Works Act
UDP	Unitary Development Plan
UDPR	Unitary Development Plan Review 2006



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.