



Department for
Communities and
Local Government

Our ref: APP/E3715/W/16/3147448

Mr Gary Stephens
Marrons Planning
Bridgeway House, Bridgeway
Stratford upon Avon
CV37 6YX

10 July 2017

Dear Mr Stephens

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY DAVID WILSON HOMES (EAST MIDLANDS) AND GALLAGHER
ESTATES LTD
LAND AT ASHLAWN ROAD WEST, RUGBY, WARWICKSHIRE, CV22 5RZ
APPLICATION REF: R13/2102**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Martin Whitehead LLB BSc (Hons), CEng MICE, who held a public local Inquiry from 31 January to 3 February 2017 into your clients' appeal against the decision of Rugby Borough Council ("the Council") to refuse planning permission for your clients' outline application for planning permission for the demolition of existing buildings, erection of up to 860 dwellings, land for potential primary school, two vehicular accesses from Ashlawn Road and the provision of a bus link control feature to Norton Leys, open space, green infrastructure, landscaping and associated infrastructure, including sustainable urban drainage works, in accordance with application ref: R13/2102, dated 18 August 2014, on Land at Ashlawn Road West, Rugby, Warwickshire.
2. On 6 May 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for a residential development of over 150 unit or is 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.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation, allows the appeal and grants 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

4. On 17 May 2017, the Secretary of State wrote to the interested parties, inviting representations on the implications, if any, of the Supreme Court judgment on the cases of Cheshire East BC v SSCLG and Suffolk Coastal DC v SSCLG, which was handed down on Wednesday 10 May 2017. On 23 May 2017, the Secretary of State wrote to all the interested parties, inviting comments on the representations made by Stop Ashlawn Road Development ('SARD') and received by the Secretary of State on 12 April 2017. Representations received were circulated to interested parties on 6, 7 and 14 June 2017 and are listed at Annex B. The Secretary of State has carefully considered all the representations received and has taken account of them as appropriate. Copies of these representations can be obtained by request to the address at the bottom of this letter.

Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of the Rugby Borough Council Core Strategy, June 2011 (Core Strategy) and saved policies of the Local Plan, 2006 (LP). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR12-13.
7. The Secretary of State notes (IR14) that the Council is preparing a Local Plan, which is due to be submitted to the Secretary of State for examination in summer 2017 and is expected to be adopted in February 2018. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State agrees with the Inspector at IR215 that, as that the emerging plan has unresolved objections, it can only attract very limited weight.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
10. In accordance with section 72(1) of the LBCA, the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Main issues

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR180.

Traffic and highway safety

12. The Secretary of State has given careful consideration to the potential impact of the proposal on traffic and highway safety. He has had regard to the Inspector's analysis at IR181-189 and notes that the Highway Authority and the Council now agree that their objections regarding the effect of the proposal on Dunchurch crossroads have been overcome by the proposed alterations, which have been independently scrutinised. The Secretary of State agrees with the Inspector at IR181 that there is no substantive evidence to demonstrate that the proposed junctions on Ashlawn Road would result in any unacceptable traffic or highway impact as a result of the proposed 860 dwellings being directly accessed from them.
13. The Secretary of State notes that the Highway Authority has not put forward any highway safety concerns (IR187). He agrees with the Inspector that the proposed widening has been shown to reduce traffic queues and additional pedestrian crossing facilities would be provided, which would offer some highway safety benefits compared with the existing design and layout.
14. The Secretary of State agrees with the Inspector at IR189 that the residual cumulative transport impacts of the proposal would not be severe and would not lead to any significant harm to highway safety, including at Dunchurch crossroads. As such, the proposal would accord with paragraph 32 of the Framework and Core Strategy Policies CS11 and CS16 with respect to these issues, as it would provide measures to mitigate the resulting cumulative transport impacts.

Air quality

15. The Secretary of State has carefully considered the potential effect of the proposed development on air quality and has had regard to the Inspector's analysis at IR190-193. He notes that the Council has indicated that it is now satisfied that the impact of the proposed development on air quality would be acceptable. Like the Inspector at IR191, the Secretary of State is satisfied that the proposal would not cause any significant harm to air quality in Dunchurch, and could result in minimal improvements. For the reasons given at IR191-192, the Secretary of State agrees with the Inspector at IR193 that the proposal would not have a significant adverse effect on air quality in the surrounding area and that it would accord with Core Strategy Policy CS11, as it would mitigate any detrimental effects on air quality within a designated Air Quality Management Area.

Heritage

16. The Secretary of State has carefully considered the Inspector's assessment at IR195-197. He notes that the appellants accept that the proposal would result in harm to the setting of North Lodge Grade II Listed Building due to the resulting increase in traffic on Ashlawn Road (IR195). Like the Inspector, he is satisfied that the conclusions reached by the appellants' heritage expert, which are not disputed by the Council, are an accurate reflection of the resulting less than substantial harm to the building's significance.
17. With regard to the Grade II Listed statue, the Secretary of State agrees with the Inspector at IR196 that the loss of some of the grassed area in front of the statue to allow the carriageway to be widened would cause some harm to its setting due to traffic passing nearer to it, however this harm would be mitigated by a proposed reduction in visual

clutter around it and improvements to the flow of traffic. Like the Inspector, the Secretary of State is satisfied that the setting, and hence the significance of this heritage asset would be preserved.

18. The Secretary of State agrees with the Inspector at IR197 that the proposed improvements to the public realm in Dunchurch, funded through a s106 planning obligation, would mitigate the impact of the resulting additional traffic and carriageway widening at Dunchurch crossroads to ensure that the proposal would preserve the character and appearance of Dunchurch Conservation Area.
19. Like the Inspector at IR197, the Secretary of State concludes that the proposal would accord with Core Strategy Policy CS16, as it would not have a significant impact on any designated and non-designated heritage assets.

Drainage and flooding

20. The Secretary of State has given careful consideration to the Inspector's assessment of the potential effect of the proposed development on drainage and flooding (IR198-199). He notes that the appeal site is in a low risk flood zone and that the Environment Agency, Warwickshire County Council (WCC) and Severn Trent Water do not object to the proposal (IR198). Like the Inspector, the Secretary of State is satisfied that the appellants have demonstrated that the proposed use of SUDS would help to regulate the flow of water from the site and reduce the risk of flooding. For the reasons given at IR198-199, the Secretary of State agrees with the Inspector, that the proposal would not result in any drainage problems or increase the risk of flooding and that it could result in a reduction in that risk in some adjacent areas.

Open space and recreation

21. The Secretary of State notes that the planning obligations in the s106 Agreement would secure the community use of the primary school. They would also secure contributions towards allotments on land north of Ashlawn Road, indoor and outdoor sports facilities at the Queen's Diamond Jubilee Centre and Whinfield Recreation Ground respectively, natural and semi-natural off-site open space and parks and gardens (IR200). For the reason given at IR200-203, the Secretary of State agrees with the Inspector that the appeal site is reasonably well related to Rugby Town Centre and facilities within it; that the improved facilities would also benefit the existing residents; and that additional open space and recreational facilities would be provided on the site. Like the Inspector at IR203, he concludes that the proposal would not have a significant adverse effect on the provision of open space and recreational facilities in the area and that it would in principle accord with LP Policies H11 and LR1.

Bridleway RB30

22. The Secretary of State has carefully considered the Inspector's analysis of the evidence on Bridleway RB30. For the reasons given at IR204-205, the Secretary of State is satisfied that the use of the bridleway would be protected; that the safety of the route for horses can be secured in the detailed design; and that the users of the bridleway would be adequately protected during construction by securing appropriate measures under a planning condition.

Education and health

23. The Secretary of State notes that the proposal has made provision for land on site to construct a primary school, and that the s106 Agreement would secure financial contributions towards this school and either a new secondary school to be constructed off-site or alternative provision to address the shortfall in school places. He notes that these contributions have been agreed with WCC and the LEA, and that the relevant NHS bodies have been consulted and have not objected or requested any funding. Like the Inspector at IR206, the Secretary of State considers that there is insufficient substantive evidence to show that the proposal would have any significant adverse effect on educational and health facilities.

Other matters

24. The Secretary of State has given careful consideration to the Inspector's analysis of other matters at IR207–211.

25. With regard to the bus link control feature at Norton Leys, he agrees with the Inspector at IR208 that the s106 Agreement includes an obligation to make provision for enhancements to the bus service, which could still include a bus gate, and planning conditions would ensure that such a feature would not be used inappropriately.

26. With regard to the quality of the land, the Secretary of State agrees with the Inspector at IR209 that the latest information provided by a qualified surveyor is that most of the land is Grade 3b, which does not qualify as BMV agricultural land that should be preserved in accordance with the Framework.

27. With regard to biodiversity measures, the Secretary of State notes that most of the existing hedgerows and trees would be retained and that additional space would be provided that would be suitable for wildlife. He notes that there have not been any objections from Natural England, the Wildlife Trust or WCC Ecologist. For the reasons given at IR210, the Secretary of State agrees with the Inspector that the proposal would not result in any significant adverse effect on biodiversity or wildlife following the mitigation that would be secured by the s106 planning obligation and planning conditions.

28. For the reason given at IR211 the Secretary of State is satisfied that the appropriate consultation has been carried out and that none of the parties have been prejudiced.

Planning conditions

29. The Secretary of State has given careful consideration to the Inspector's analysis at IR167-179, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

30. Having had regard to the Inspector's analysis at IR158-166, the planning obligation dated 17 February 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR166 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of

the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Planning balance and overall conclusion

31. For the reasons given at IR214, the Secretary of State concludes that the proposal accords with Core Strategy Policy CS1. He further concludes, for the reasons set out at IR215, that the proposal is in general accordance with Policy CS5. As such, the Secretary of State agrees with the Inspector that the proposal is in accordance with the development as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
32. For the reasons given at IR212-213, the Secretary of State concludes that the Council cannot demonstrate a five year supply of deliverable housing sites, thus paragraph 14 of the Framework is engaged. Paragraph 14 of the Framework states that planning permission should be granted unless: (a) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework as a whole; or (b) specific policies in the Framework indicate development should be restricted.
33. Paragraph 134 of the Framework is a 'specific policy' for the purposes of paragraph 14 of the Framework, and the Secretary of State has considered whether the identified less than substantial harm to the significance of North Lodge is outweighed by the public benefits of the proposal. He gives considerable weight to this harm.
34. The Secretary of State attaches significant weight to the benefits of the proposal, including housing provision, indirect economic benefits to the economy and local services in Rugby, jobs created during construction and at the new primary school, provision of affordable housing, the community use of the school, the improved recreational and sporting facilities, improvements to public transport and cycle infrastructure, improvements to air quality and to the drainage of the site. In accordance with the s.66 duty, the Secretary of State attaches considerable weight to the desirability of preserving the heritage asset's significance. However, he agrees with the Inspector at IR220 that the public benefits set out above outweigh the less than substantial harm that the proposal would cause to the significance of North Lodge.
35. In terms of adverse impacts, the Secretary of State considers that, in addition to the harm to the setting of a heritage asset, the proposed built development on open agricultural land would result in some harm to the visual amenity and landscape and there would be a modest loss of what has been classified as not BMV agricultural land. He gives these harms limited weight and concludes that the adverse impacts of the development would not significantly and demonstrably outweigh its benefits and the proposal would represent sustainable development in accordance with the Framework. He considers that there are no material considerations that indicate that planning permission should not be granted.

Formal decision

36. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your clients' appeal and grants outline planning permission for the proposed demolition of existing buildings, erection of up to 860 dwellings, land for potential primary school, two vehicular accesses from Ashlawn

Road and the provision of a bus link control feature to Norton Leys, open space, green infrastructure, landscaping and associated infrastructure, including sustainable urban drainage works, in accordance with application ref: R13/2102, dated 18 August 2014, on Land at Ashlawn Road West, Rugby, Warwickshire.

37. 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

38. 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.

39. 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.

40. A copy of this letter has been sent to Rugby Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Merita Lumley

Authorised by Secretary of State to sign in that behalf

Richborough Estates

Annex A: CONDITIONS

1. Details of the appearance, landscaping, layout, access (with the exception of two vehicular accesses from Ashlawn Road) and scale, (hereinafter called 'the Reserved Matters') for each phase of the development within the phasing plan approved under Condition 4 shall be submitted to and approved in writing by the local planning authority before any part of that phase of development takes place and the development shall be carried out as approved.
2. Application for approval of the Reserved Matters shall be made to the local planning authority not later than 3 years from the date of this permission for phase one within the phasing plan approved under Condition 4 and the development shall take place not later than 2 years from the date of approval of the last of the Reserved Matters to be approved for that phase. The Reserved Matters for all subsequent phases approved under Condition 4 shall be submitted to the local planning authority before the expiration of 6 years from the date of this permission and the development shall commence not later than 2 years from the date of approval of the last of the Reserved Matters to be approved for each phase.
3. The development hereby permitted shall be carried out in general accordance with the following approved plans and documents:
 - (i) Site Location Plan Drawing No EMS.2482_03E
 - (ii) Western Proposed Site Access Arrangements Drawing No NTW/2198/100/P3
 - (iii) Pedestrian/Cycle Connections & Bus Gate Details Drawing No NTW/2198/102/P2
 - (iv) Eastern Proposed Site Access Arrangements Drawing No NTW/2198/101/P4
 - (v) Design and Access Statement
 - (vi) Concept Masterplan Drawing No EMS.2482_02P
 - (vii) ES Parameters Plan Drawing No EMS.2482_08i
4. No development shall commence unless and until a phasing plan for the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved phasing plan.
5. No built development shall commence in any phase unless and until full details of the colour, finish and texture of all new materials to be used on all external surfaces of buildings for that phase, together with samples of the facing bricks, render and roofing materials have been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details.
6. No built development shall commence, in any phase, unless and until details of all proposed walls, fences, railings and gates for that phase have been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details and no building shall be first occupied until the boundary treatments associated with that building have been installed.
7. No development shall commence in any phase unless and until full details of finished floor levels of all buildings and ground levels of all access roads, parking areas and footways within that phase have been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details.
8. No external lighting in public and communal areas, including street lighting, shall be erected in any phase unless and until full details of the type, design, light spillage and location of lighting for that phase have been submitted to and approved in writing by the local planning authority. Any lighting shall only be erected and installed in accordance with the approved details.
9. The landscaping scheme for any phase, as approved in relation to the Reserved Matters, shall be implemented no later than the first planting season following first occupation of that phase of

the development. If within a period of 5 years from the date of planting, any tree, shrub or hedgerow is removed, uprooted, destroyed or dies, or becomes in the opinion of the local planning authority seriously damaged or defective, another tree, shrub or hedgerow of the same species and similar size as originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variations.

10. No development shall commence, in any phase, unless and until the following details for that phase have been submitted to and approved in writing by the local planning authority:
- (i) a full Tree Survey/Report (BS5837:2012 – Trees in relation to design, demolition and construction – recommendations) including: constraints posed by existing trees (section 5.2, BS5837:2012);
 - (ii) details of trees and hedges to be retained;
 - (iii) an Arboricultural Impact Assessment (section 5.4 BS5837:2012) which evaluates the direct and indirect effects of the proposed design and, where necessary, recommends mitigation; and
 - (iv) an Arboricultural Method Statement (section 6, BS5837:2012) including a Tree Protection Plan (section 5.5, BS5837:2012)

Development shall not be carried out other than in accordance with the approved details.

11. No tree or hedge identified to be retained in the Tree Survey/Report submitted pursuant to Condition 10 (retained tree) shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the local planning authority. All tree protection works in any phase shall be carried out in accordance with BS5837:2005 (Recommendations for Tree Work) and shall be carried out before the commencement of any works within that phase.
12. No development shall take place in any phase which includes existing ponds unless and until a scheme for the provision and management of an 8 metre wide buffer zone alongside the ponds in that phase has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- (i) plans showing the extent and layout of the buffer zone;
 - (ii) details of any proposed planting scheme;
 - (iii) details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term; and
 - (iv) details of any proposed footpaths, fencing, lighting etc.

Development shall be carried out in accordance with the approved scheme.

13. No development shall commence in any phase unless and until a Habitat Management Strategy (HMS) for that phase has been submitted to and approved in writing by the local planning authority. The HMS shall include details of all newly created habitats on-site and cross sections of newly created lakes, ponds and attenuation features, details of measures to be implemented for ecological enhancement, habitat management and for the monitoring of outcomes, means of reviewing the strategy and the body or organisation responsible for implementation of the strategy. Development shall be implemented in accordance with the approved HMS at all times.
14. No development, including site clearance and demolition shall commence in any phase unless and until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the local planning authority. The CEMP shall comply with the British Standard BS 42020:2013 and include details of:
- (i) Pre-commencement checks for badgers, barn owls, reptiles, toads, hedgehogs, brown hares, bats, breeding birds (including ground nesting species such as skylark) and reptiles.
 - (ii) Measures to ensure there will be no impact to Peregrine Falcons that have been recorded as roosting on the off-site water tower to the east of the site, and may return and breed in future years.

- (iii) Appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on-site, including a method statement for:
 - Briefing on-site contactors regarding the occurrence of great crested newts and other previously unrecorded protected species on the site;
 - avoiding impacts to toads during site clearance; and
 - the appropriate demolition of the on-site barn and removal of any trees deemed to have potential to support bats.
- (iv) Measures to manage or eradicate any known or newly discovered invasive species present on-site.
- (v) Contingency/emergency measures for dealing with previously unrecorded protected species found during construction/implementation.

Development shall be carried out in accordance with the approved CEMP.

- 15. No phase of the development shall be first occupied until a scheme for the provision of water supplies and fire hydrants for that phase has been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 16. No phase of the development shall be first occupied unless and until details of the equipment and technology to be incorporated into that phase to achieve carbon emission reductions have been submitted to and approved in writing by the local planning authority. The minimum standards shall comprise a 10% carbon emissions reduction above the Building Regulations that are relevant at the time of the approval of the Reserved Matters for the relevant phase. The approved efficiency measures shall be implemented in accordance with the approved details and shall thereafter be retained in working order.
- 17. Prior to the determination of any of the Reserved Matters applications for any phase of development:
 - (i) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work, including trial trenching, across the site shall be submitted to and approved in writing by the local planning authority;
 - (ii) the programme of archaeological evaluative work and details of associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken and a report detailing the results shall be submitted to the local planning authority; and
 - (iii) an Archaeological Mitigation Strategy (AMS) document, including a Written Scheme of Investigation for any archaeological fieldwork proposed, shall be submitted to and approved in writing by the local planning authority. This document shall detail a strategy to mitigate the archaeological impact of the development which, dependent upon the results of the trial trenching, may include further archaeological fieldwork and/or the preservation in situ of any archaeological deposits worthy of conservation.

No development shall take place until any fieldwork detailed in the approved AMS document has been completed and approved in writing by the local planning authority. The post-excavation analysis, publication of results and archive deposition shall be undertaken in accordance with the approved AMS document.
- 18. No development shall commence in any phase of the development until a drainage strategy in general accordance with the Flood Risk Assessment (reference NTW/2198/FRA Revision C: BWB Consulting July 2014), and detailed design drawings and supportive calculations for the disposal of foul and surface water for that phase have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before first occupation of any buildings in the relevant phase.
- 19. No development shall commence in any phase of the development unless and until a Surface Water Maintenance Plan (SWMP) detailing how the surface water drainage system for that phase will be maintained and managed for the life of the development has been submitted to and

approved in writing by the local planning authority. Development in that phase shall not be carried out other than in accordance with the approved SWMP for that phase of the development.

20. No dwelling hereby permitted shall be first occupied unless and until highway works at the Dunchurch Crossroads have been implemented in general accordance with the details shown on the Proposed Dun Cow Improvements Traffic Signals plan Drawing No NTW/2198/100-05/P4 contained within the Further Addendum to Environmental Statement, June 2016.
21. No dwelling hereby permitted shall first be occupied unless and until the access arrangements at the western end of the site have been implemented in general accordance with Drawing No NTW/2198/100/P3.
22. No more than 150 dwellings hereby permitted shall first be occupied unless and until the access arrangements at the eastern end of the site have been implemented in general accordance with Drawing No NTW/2198/101/P4.
23. No more than 200 dwellings hereby permitted shall be first occupied unless and until highway works at the Cock Robin Roundabout have been implemented in general accordance with the details shown on the Proposed Toucan Crossings at the Cock Robin Roundabout Drawing No NTW/2198/105/P2 contained within the Environmental Statement.
24. No more than 100 dwellings hereby permitted shall be first occupied unless and until highway works at the Ashlawn Road/Barby Road junction have been implemented in general accordance with the details shown on the Proposed Ashlawn Road/Barby Road Junction Arrangement Drawing No NTW/2198/103/P2 contained within the Environmental Statement.
25. No more than 100 dwellings hereby permitted shall be first occupied unless and until a scheme for the improvement of the footway/cycleway on the northern side of Ashlawn Road between the Cock Robin Roundabout and the eastern site access has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the 200th dwelling hereby permitted.
26. Notwithstanding the details shown on the approved Pedestrian/Cycle Connections & Bus Gate Details plan, Drawing No NTW/2198/102/P2, full technical details of any cycle or pedestrian connection within a phase of the development, including details of any gates or barriers, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling within that phase.
27. At least 10% of dwellings hereby permitted with on-plot vehicle parking within a phase shall be provided with an external electric socket for the purposes of electric vehicle charging. The relevant dwellings shall not be first occupied until the external socket for the purposes of electric vehicle charging have been provided. All remaining dwellings with on-plot vehicle parking shall not be first occupied unless and until provision has been made to assist in retro-fitting an external socket for the purposes of electric vehicle charging in the future eg appropriate cabling and consumer unit.
28. No development shall commence in any phase of the development unless and until a detailed Noise Assessment (BS5228) for that phase, including details of any mitigation required, has been submitted to and approved in writing by the local planning authority. The mitigation measures in any relevant building shall be implemented in accordance with the approved details prior to the first occupation of that building.
29. No development shall commence in any phase of the development unless and until a Construction Method Statement (CMS) for that phase has been submitted to and approved in writing by the local planning authority. The CMS shall include details relating to:

- (i) The control of noise and vibration emissions from construction activities, including groundworks and the formation of infrastructure and arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) the control of dust, including arrangements to monitor dust emissions from the development site during the construction phase;
 - (iii) a full Asbestos Survey of buildings to be demolished;
 - (iv) measures to prevent deleterious material being carried onto the highway network;
 - (v) a Heavy Goods Vehicle construction routing plan;
 - (vi) hours of construction;
 - (vii) measures to protect Bridleway RB30 during construction; and
 - (viii) measures to prevent construction traffic using Norton Leys, Ecton Leys and Fawsley Leys.
- Development shall not be carried out other than in accordance with the approved CMS.

30. No development other than that required to be carried out as part of an approved scheme of remediation shall commence in any phase of the development until condition (a) to (d) below have been complied with for that phase. If unexpected contamination is found after development has begun, development shall be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the local planning authority until condition (d) below has been complied with in relation to that contamination.
- (a) An investigation and risk assessment shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be subject to approval in writing by the local planning authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report shall be subject to approval in writing by the local planning authority. The report of the findings shall include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to human health, existing or proposed property and buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s) to be conducted in accordance with Defra and the Environment Agency's Model Procedures for the Management of Land Contamination CLR 11.
 - (b) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared and subject to approval in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - (c) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared and subject to approval in writing by the local planning authority.
 - (d) In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition (a) and where remediation is

necessary a remediation scheme shall be prepared in accordance with the requirements of condition (b) which shall be subject to approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to approval in writing by the local planning authority in accordance with condition (c).

31. Prior to the first occupation of any dwelling hereby permitted, details of the implementation of a Travel Plan in general accordance with the Travel Plan, dated August 2014 (version NTW2198 TP rev 2) shall be submitted to and approved in writing by the local planning authority. The dwellings hereby permitted shall not be first occupied until the Travel Plan has been implemented in accordance with the approved details.

Richborough Estates

Annex B: SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
Bill Lewis	12 April 2017

Representations received in response to the Secretary of State's reference back to parties of 17 May 2017 and 23 May 2017

Party	Date
Gary Stephens	25 May 2017
Karen McCulloch	25 May 2017
Richard Holt	31 May 2017
Bill Lewis	31 May 2017
Gary Stephens	1 June 2017
Bill Lewis	4 June 2017
Bill Lewis	14 June 2017

Richborough Estates

Report to the Secretary of State for Communities and Local Government

by Martin Whitehead LLB BSc(Hons) CEng MICE

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

Date: 23 March 2017

Town and Country Planning Act 1990

Rugby Borough Council

Appeal by

David Wilson Homes (East Midlands)

and Gallagher Estates Ltd

Inquiry opened on 31 January 2017

Land at Ashlawn Road West, Rugby, Warwickshire CV22 5RZ

File Ref: APP/E3715/W/16/3147448

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Richborough Estates

File Ref: APP/E3715/W/16/3147448

Land at Ashlawn Road West, Rugby, Warwickshire CV22 5RZ

- 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 David Wilson Homes (East Midlands) and Gallagher Estates Ltd against the decision of Rugby Borough Council.
- The application Ref R13/2102, dated 18 August 2014, was refused by notice dated 27 January 2016.
- The development proposed is *'the demolition of existing buildings, erection of up to 860 dwellings, land for potential primary school, two vehicular accesses from Ashlawn Road and the provision of a bus link control feature to Norton Leys, open space, green infrastructure, landscaping and associated infrastructure, including sustainable urban drainage works'*.

Summary of Recommendation: That the appeal is allowed and that outline planning permission be granted.

1 Procedural and Preliminary Matters

1. The application was submitted in outline form with all matters of detail, except access, reserved for subsequent consideration.
2. I opened the inquiry on Tuesday 31 January at Rugby Town Hall, Evreux Way, Rugby and it sat for 4 days, closing on Friday 3 February. I undertook an unaccompanied site visit of the area surrounding the site, including Dunchurch crossroads, on 30 January prior to opening the inquiry, an unaccompanied site visit of Dunchurch crossroads between 0800 hours and 0830 hours on 3 February, and an accompanied site visit of the site and surrounding area on 3 February after the inquiry had closed.
3. The appeal was recovered for the Secretary of State's (SofS's) own determination by letter dated 6 May 2016. The reason given in the letter for this direction is that the appeal involves proposals for residential development of over 150 units or is 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.
4. 'Stop Ashlawn Road Development' (SARD) applied for Rule 6 status in a letter, dated 3 June 2016. It was granted Rule 6 status in a letter, dated 13 June 2016, and was represented at the inquiry. The grounds given in the letter for SARD's objection to the proposed development are that it would be unsustainable due to such matters that include air quality, impact on the highways, lack of civic space, lack of open space, inadequate treatment of bridleways, failure to make adequate provision for primary and secondary education and inadequate flood mitigation.
5. Statements of Common Ground (SoCGs) have been prepared by the appellants and agreed with Rugby Borough Council (the Council) or Warwickshire County Council (WCC), whichever was most appropriate. These include SoCGs on Education, Housing Supply, Heritage, Transport and Highway Matters and a final SoCG. A SoCG has been agreed between SARD and the Council. Following the close of the inquiry, the appellants have submitted an executed Agreement under Section 106 of the Town and Country Planning Act 1990 (S106), which takes on board matters arising from discussions at the inquiry.

6. Following the refusal of planning permission, a revised mitigation scheme has been produced for Dunchurch crossroads shown on Drawing No NTW/2198/100-05 Rev P4. WCC, as the Highway Authority (HA), has indicated in the SoCG on Transport and Highway Matters that it is satisfied that the proposed mitigation would provide betterment to the operation of the junction and would mitigate the appeal development's impact on the highway network in accordance with the National Planning Policy Framework (Framework), based on results from modelling the scheme using its model of the junction. The HA has therefore agreed that its reason for objecting to the proposal, which forms the basis of the 2 reasons for refusal, is no longer appropriate and has removed its objection on these grounds, subject to appropriate planning conditions and planning obligations.
7. The appellants have produced a 'Further Addendum' to the Environmental Statement (ES) which has assessed the likely significant environmental effects of the revised mitigation scheme and updated ecological surveys of the appeal site. I am satisfied that all the parties to the appeal have been adequately consulted with regard to these revisions to ensure that none of their interests would be prejudiced in accordance with the Wheatcroft Principles¹. In the light of the responses to this consultation, the Council has advised in the final SoCG that it would not produce any evidence to support its 2 reasons for refusal.

2 The Site and Surroundings²

8. The appeal site is about 39 hectares and is located on the southern edge of Rugby between the predominantly residential area of Hillside Estate and Ashlawn Road. It consists of arable farmland, which is divided into 3 large fields by mainly hedgerows and trees, and buildings associated with Martin's Farm. There are also some isolated trees and a pond on the site, and Bridleway RB30 crosses the site from the Hillside Estate to Ashlawn Road, where there is a Pegasus crossing.
9. The western boundary of the site is formed by Bilton Fields Farm and its vehicular access and a Sainsbury's superstore at the north end. Ashlawn Road runs along the southern boundary of the site and is connected to the A428 and A426. The A426 connects Rugby with Southam and forms a crossroads with the B4429 within the conservation area (CA) of Dunchurch, about 2 km south west of the appeal site. There is a Grade II Listed statue of Lord John Douglas Montague Douglas Scott and a standing milestone, which is a Scheduled Ancient Monument, adjacent to the crossroads.
10. To the south of Ashlawn Road, the land is mainly in agricultural use with a small number of residential and commercial properties that include North Lodge, which is a Grade II Listed Building to the south west.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982) 43 P&CR 233

² Based on the description given in Document SoCG1 paragraphs 3.1 to 3.6

3 Planning Policy

11. The development plan includes Rugby Borough Council Core Strategy, June 2011 (Core Strategy) and saved policies of the Local Plan, 2006 (LP).
12. Core Strategy Policy CS1 seeks to ensure that the location and scale of new development complies with a settlement hierarchy which places the primary focus for meeting strategic growth targets on the 'Rugby Urban Area' and resists new development in the countryside, only permitting it where national policy on the countryside allows. Core Strategy Policy CS5 indicates that the Council will take action to address an identified shortfall in the supply of strategic housing or employment development. It identifies a significant shortfall as being when the housing or employment trajectories in the Annual Monitoring Report (AMR) project an undersupply of deliverable and developable land greater than 10% at 2026 within two consecutive monitoring reports. In these circumstances, it states that a Development Plan Document (DPD) will be published to allocate, release and phase the land to the South West of Rugby Town.
13. The reasons for refusal refer to Core Strategy Policies CS11 and CS16. Policy CS11 permits new development where sustainable modes of transport are prioritised and measures are provided that mitigate the transport impacts which may arise from the development or cumulatively with other proposed development. It also seeks, amongst other things, to ensure that new development within a designated Air Quality Management Area (AQMA) mitigates any detrimental effects on air quality. Policy CS16 seeks to ensure that new development has a high quality, inclusive and sustainable design and does not cause any material harm to the qualities, character and amenity of the area and includes the requirement for new development not to have a significant impact on existing designated and non-designated heritage assets and their settings.
14. The emerging Local Plan 2011-2031 Publication Draft (Draft LP) was consulted upon in September 2016, November 2016 and for 6 weeks up to 11 January 2017. The Council has indicated that it will seek authority to submit the Draft LP to the SoS at a special Council Meeting to be held in March 2017. There are outstanding objections to policies within this document that are relevant to the appeal proposal. Draft Policy GP2 would permit new development within existing boundaries and as part of allocated Strategic Urban Extensions. Draft Policy DS1 sets a target to deliver 12,400 dwellings within the Borough between 2011 and 2031. The housing requirement is based on an objective assessment of housing need (OAN) for the Coventry and Warwickshire Housing Market Area taken from the Strategic Housing Market Assessment (SHMA) update 2015, which gives the OAN for Rugby as 9,600 dwellings, and 2,800 dwellings towards meeting unmet needs arising from elsewhere within the Housing Market Area³.

³ Document SoCG5 paragraphs 2.5 and 6.1

4 The Case for David Wilson Homes (East Midlands) and Gallagher Estates Ltd

I have reported the case on the basis of the closing submissions⁴ with additional references to the evidence submitted prior to the inquiry. The material points are:

15. It is agreed between the appellants and the Council that the Council cannot demonstrate a five-year housing land supply and the shortfall is significant and therefore relevant policies for the supply of housing cannot be considered up-to-date⁵.
16. Both of the reasons for refusal were technical reasons concerned with air quality and traffic. There has never been an 'in principle' policy objection raised by the Council against the scheme. The appeal proposal is in accordance with the development plan and there are no material considerations that warrant a determination other than in accordance with the development plan. The appeal must therefore be allowed.

Consultation

17. The appellants undertook an extensive consultation exercise in accordance with the Framework and the Council's Statement of Community Involvement September 2007⁶. In particular, the appellants held a public exhibition which was advertised by distributing 860 leaflets, displaying posters in 12 different locations and by newspaper advertisements, all of which exceeds the minimum requirements of law. The exhibition was attended by roughly 250 people and some 102 comment forms were completed. These responses were then carefully assessed and responded to in the Statement of Community Involvement submitted with the application.

Highways

18. Having identified South West Rugby as a direction of growth in the event of housing need in the Core Strategy, the big question for the decision maker when the appeal proposal was first put forward was whether or not some or all of the land notated by Core Strategy Policy CS5 could come forward without the construction of major infrastructure. The concerns of the HA revolved around the effect upon one junction in the centre of Dunchurch. There is no dispute that the site can be adequately serviced directly from Ashlawn Road, and the HA did not raise any other junction as problematic, subject to mitigation, notwithstanding the proposal for 860 dwellings. Thus, it is common ground that the appeal site is properly described as being accessible.
19. Dunchurch crossroads presently operates without any Practical Reserve Capacity (PRC) and over the next decade the degree to which it is assessed as operating in excess of that PRC is projected to increase. Without intervention the effect would be to result in substantially worse queuing. That is especially problematic travelling from the north where queues form, in part as a result of vehicles looking to turn right towards Coventry impeding traffic coming behind.

⁴ Document DOC34

⁵ Document SoCG5

⁶ Document PoEA10 paragraphs 7.2 to 7.8

20. The Draft LP promotes substantial new highway infrastructure, but that infrastructure will not come forward any time soon, and in any event only limited weight can be afforded to the allocations in the Draft LP which will in due course fund it. Thus, there is no immediate solution which would transform the operational capacity of the junction, and accordingly the HA very early in the process concluded that it needed to be proactive in considering whether works could be done to accommodate the proposed development.
21. Paragraph 32 of the Framework suggests that the correct test to be deployed in such circumstances is whether or not the residual highway effects would be 'severe'. That suggests that a scheme might be acceptable even where there is a negative impact upon the network, after cost effective mitigation has been secured. However, for Dunchurch crossroads the HA took the view that it was justified in requiring it to be demonstrated that the proposal could be accommodated within the existing network with 'no net detriment' after mitigation, when under Department for Transport (DfT) Circular 02/2013 and National Planning Practice Guidance (PPG) the development only has to mitigate its impact upon the highway network and enable the junction to operate at the existing level⁷.
22. The proposed scheme for Dunchurch crossroads has been the subject of very detailed analysis. That is not just the internal scrutiny of officers of WCC as the HA, but also its consultants, Vectos, who advise on traffic modelling. Moreover it was embodied in the Addendum to the ES⁸ which was the subject of consultation during the summer of 2016 and received no objections from statutory consultees, which includes Highways England and Historic England. The junction design in each of its iterations has been the subject of a number of Road Safety Audits by independent consultants unconnected with the designers.
23. No expert highway evidence has been raised by the objectors. Their scrutiny of the work⁹ has on occasion been misdirected and often based upon misunderstandings and misguided scepticism. Their case that the design of the mitigation at Dunchurch crossroads would result in an unsafe highway environment or that it would otherwise not operate satisfactorily has not been established in evidence. The results of the traffic count conducted by SARD over a 2¹/₂ hour period at the junction are consistent with baseline traffic flows that underpin the Addendum Transport Assessment¹⁰.
24. It is agreed by all of the relevant professionals and statutory bodies that the appeal scheme and off-site mitigation meets the 'no net detriment' test set by WCC. However, the evidence demonstrates that the 'agreed' mitigation would not merely result in no net detriment in the agreed design year (2026), but that the crossroads 'with development' and 'with mitigation' would operate materially better than against the 2026 baseline, both in relation to queue lengths and time through the junction compared to the 2026 baseline¹¹.

⁷ Document PoEC3 paragraphs 5.25 and 5.26, page 18

⁸ Documents APP6 and APP7

⁹ Document SARD5 and oral evidence given at the inquiry by Mr Ralph and SARD

¹⁰ Document PoEA3 paragraphs 7.6.1 to 7.6.7, including Table 7-4

¹¹ Document DOC20

25. The scheme has been tested in a LinSig model, which focusses on the operation of the signal junction itself, and a Cordon model, which is a dynamic model that allows for reassignment within the scope of the model. The Cordon model was devised because the wider Rugby Paramics model was not considered sufficient to provide the requisite robustness for interrogation down to the level of assessment of this junction. No reliance is placed upon the wider model at this junction, including its GEH inputs and its validation, which is of no relevance to the validity of the Cordon model. None of the criticisms raised against the wider model could be properly levelled at the Cordon model which has actually been used. Thus the Cordon model has been audited and fully validated using up-to-date 2016 data.
26. The only substantive criticism raised against the Cordon model, rather than the wider Paramics model, is that it did not include flows along Adkinson Avenue. However, this makes the programme more robust because, as queues lengthen along Rugby Road, the model does not allow vehicles to join the existing rat runners who use Adkinson Avenue, but rather loads them onto Rugby Road¹². Thus the effect is to overstate southbound queuing towards the crossroads.
27. The effect of the mitigation in 2026 would mean that queuing at the crossroads would be comparable to that in 2016 which is leading to the level of use of Adkinson Avenue. As such, those using Adkinson Avenue would not be any more likely to re-assign to the junction. The approach taken had been to make a robust assumption of pushing all of the southbound development traffic along Rugby Road to the crossroads.
28. With regard to the audit of the models carried out by Atkins¹³, the recommendations do not actually state that Paramics was more reliable than LinSig and the only LinSig model before Atkins was that within the 2014 Transport Assessment¹⁴ which is no longer relied upon. Whilst the diagrams showing queue lengths from the LinSig model are not the same in the evidence provided¹⁵, they have been produced using two industry standard audited models which both show that there would be a substantial reduction in queuing at the junction in the 2026 'with development and mitigation' compared to the baseline 2026 flows. The appellants accept that there have been some errors in the evidence provided, including in the ES¹⁶. However, in the context of the ES the % error has not made any difference to the outcome of the exercise.
29. In terms of trip generation, the appellants have considered the trip rate derived from TRICS at a nearby site at Cawston and used that generation rate at the appeal site, which was then agreed with the HA. They have then 'sense checked' that trip generation against 4 other recent schemes in Rugby¹⁷, which

¹² Mr Hutchings oral evidence at the inquiry

¹³ Document PoEA4 Appendix RGH-C pages 351 and 352: Atkins Technical Note Dunchurch Model Review pages 9 and 10

¹⁴ Document PoEA4 Appendix RGH-C page 343

¹⁵ Document PoEA3 pages 17 and 18 compared with Document PoEA4 Appendix RGH-C pages 024 and 025

¹⁶ Document DOC18: Environmental Statement Errata sheet

¹⁷ Document PoEA3 paragraph 7.4.9 and Table 7-1, page 31

all show lower generation rates, and have therefore concluded that the trip rates are suitably robust. The survey of this site carried out by SARD did not include vehicles entering the estate. The results are therefore meaningless, as there are obvious 'through routes' in the estate which makes it an inevitable over-estimate by a factor which is unknowable on the evidence. Thus, the 'best' evidence as to trip generation is that which has been presented to and agreed by WCC as the HA. The additional traffic associated with the proposed primary school has been shown by the evidence to be limited and to make no difference to the outcome of the exercise¹⁸.

30. The proposed layout of Dunchurch crossroads is to provide a mitigation scheme within an existing junction and the issue was whether the overall scheme was acceptable, not whether it was 'perfect'¹⁹. Thus, the mitigation scheme does not meet the physical requirements of the Design Manual for Roads and Bridges (DMRB) for a new junction, but does meet them for improving an existing junction. The southbound lanes approaching the junction would be wide enough to ensure that most of the traffic would have no difficulty in progressing alongside each other. Although two Heavy Goods Vehicles (HGVs) could choose to stagger rather than sit alongside at the junction, the likely HGV flows, of about 24 in the peak hour, would be sufficiently low to make it very unlikely that two HGVs would approach the junction at the same time²⁰.
31. The proposed additional southbound lane on Rugby Road would provide both a right turn lane, an area for stacking of right turning vehicles as well as a segregated area within the crossroads for right turning vehicles (north and south). For most vehicles using the crossroads the proposed lane widths would be more than adequate, and for all others they would be adequate. The effect would be to substantially reduce the occasions when right turning cars looking to travel to Coventry would impede following traffic, and thereby result in a substantial improvement in the operation of the junction. This is notwithstanding the robust assumptions that have been adopted in the operation of LinSig, with MOVA not being factored in and it being assumed that the pedestrian crossing would be called on every cycle. That improvement would not just be in the efficient operation for vehicles, but also for pedestrian safety using the crossing by the installation of a pedestrian on-crossing monitoring system. All of the requirements of the road safety auditor have been taken on board by the mitigation design.

Bus Provision

32. At the time of the application the principal local bus service operator, Stagecoach, was keen to divert the No 12 bus service from Ashlawn Road into the site and through the Hillside Estate via a bus gate. As a result, the description of development was amended to include the bus link, and the S106 Agreement includes provision to design and construct the bus gate in the event that one is required. However, the No 12 service has since been withdrawn and replaced with route 9. Stagecoach and the Council are keen to enhance

¹⁸ Document PoEA3 paragraphs 6.1.5 to 6.1.9, pages 21 and 22

¹⁹ Oral evidence given by Mr Hutchings at the inquiry

²⁰ Oral evidence given by Mr Hutchings at the inquiry

this existing service that serves the Hillside Estate. It does not require the use of a bus gate to head south and would be accessible by means of the proposed pedestrian link by residents of the new development. Thus the S106 obligation makes provision for £910,000 to be paid to enhance bus services. Whilst a bus link/gate is not now considered to be needed by the Council, Stagecoach or the appellants, this contribution is necessary and would bring wider benefits for the existing residents.

Accessibility

33. Most of Rugby is within an easy cycle ride of the appeal site. The town centre, schools, the local leisure centre, the hospital, employment areas and shops are all within an easy ride and the train station providing access to the wider sub-region is a relatively straightforward cycle ride. The proposal includes for enhanced cycle provision on the north side of Ashlawn Road together with money for off-site cycle improvements.
34. The existing bus service is good, and would be enhanced further providing a direct alternative to travel by private car for most journeys. Shops, including Sainsburys, are readily walkable from the site, as are schools, including the school on the site, and even the town centre is walkable in half an hour. The appeal site is well placed to take advantage of both existing facilities as well as proposed facilities that will come forward as the Draft LP progresses. It is entirely appropriate as a location for residential development.

Air Quality

35. The Council's Environmental Health Department has extensively scrutinised the air quality evidence submitted with the appeal proposal. It has considered the ES, the Addendum to the ES and the Further Addendum ES. Having done so, the Council does not now object to the appeal proposal on grounds of air quality. Further, WCC has determined as the competent authority that no additional mitigation is needed to prevent air pollution increases due to traffic²¹.
36. The Further Addendum ES is the most recently submitted information, which in turn is based upon the most up-to-date information on both air quality and traffic. The evidence of the existing air quality is based on the historic ambient air monitoring data collected by the Council and the assessment of the air quality impacts has been produced in accordance with the best practice guidance of the Institute of Air Quality Management using an orthodox methodology agreed with the Council²². This has had full regard to the Framework, relevant Local Policies, the UK's Air Quality Strategy, UK Regulations and European Directives. There is no equivalent assessment, or assessment of any kind, produced by any other party to the inquiry.
37. The proposed development would lie within an AQMA, which covers most of the urban area of Rugby. The declaration of the area as an AQMA was made as a result of monitored exceedances of the UK's air quality objective for annual mean Nitrogen Dioxide (NO₂) levels of 40 µg/m³. The focus on this

²¹ Document SoCG4

²² Document SoCG4 paragraphs 4.6 to 4.9

pollutant is informed by national evidence from road traffic pollutant monitoring done around the UK that shows that if one meets the annual mean standard then one will also meet the hourly mean standard. In the vicinity of the appeal site the relevant air quality objective is only currently exceeded at one monitoring site, at the Dun Cow. At the monitoring site most representative of the appeal site, the corner of Percival Road and Ashlawn Road, for each year from 2012 to 2015 the level has been between 24 $\mu\text{g}/\text{m}^3$ and 25 $\mu\text{g}/\text{m}^3$. This shows the existing air quality in the areas immediately adjacent to the appeal site is good.

38. As there is no risk of exceedance of the objectives for NO_2 away from the centre of Dunchurch, it is this area that has been the focus of the assessment. The modelled impacts of the proposed development on annual mean NO_2 concentrations in Dunchurch, even without the highway improvement works are negligible at all receptors²³ except one, R6, where there is a slight adverse impact. This is the case whether Defra's Emissions Factor Toolkit (EFT) or Air Quality Consultant's (AQC's) more cautious 'CURED' approach is used²⁴. At none of these receptors is the air quality objective limit exceeded.
39. The modelled impacts of the proposed development on annual mean NO_2 concentrations in Dunchurch in the design year, with development and with the highway improvement works using AQC's CURED approach, show a slight adverse impact at one receptor, a negligible adverse impact at 24 receptors but a positive impact at 58 receptors. As such, there would be a net overall reduction in exposure to NO_2 taking the village as a whole in comparison to the without development scenario. Further, at none of these receptors is the objective limit exceeded. Therefore, this shows that without the proposed improvements to Dunchurch crossroads, air quality levels for Dunchurch as a whole would be worsened.
40. The reduction in emissions would arise as a result of the highways mitigation²⁵. Defra publishes vehicle emission data which are based on the speed at which vehicles travel. The data shows that emissions increase at low speeds and high speeds. In particular, the emission increase at lower speeds is determined by the number of stop start manoeuvres. These emission rates have been factored into the models by taking account of the varying speed of vehicles as they move along the arms of Dunchurch crossroads. This model shows an improvement in the net speed, albeit a relatively small one, through the junction as a result of the highway mitigation works. Based on the Defra speed emission curves, this manifests itself in a decrease in emissions going through the junction.
41. The modelled results have been the subject of sensitivity testing using updates to Defra's EFT and AQC's CURED approach; revisions to the traffic data underpinning the air quality assessment; and the Council's air quality monitoring for 2015. The outcome of these sensitivity tests shows that the overall air quality testing is robust.

²³ Document PoEA8 Appendix B, page 28: Plan showing the location of the receptors

²⁴ Document PoEA7 paragraphs 4.2.15 to 4.2.26: CURED assumes a lower improvement over time than that assumed by Defra

²⁵ Dr Tuckett-Jones evidence in chief

42. The appellants are also proposing a mitigation strategy which would further reduce the air quality impact of the proposal. The mitigation would be secured through conditions and the S106 Agreement and dealt with at reserved matters. The key features of the proposed mitigation strategy are:
- (i) Site layout to allow easy access for pedestrian and cyclists;
 - (ii) Travel Plan measures to help minimise single occupancy car journeys and encourage sustainable transport options;
 - (iii) Vouchers to help towards the cost of purchasing a bicycle offered to new residents;
 - (iv) funding towards installation of bicycle stands near Dunchurch crossroads;
 - (v) provision of subsidised or free ticketing for public transport for new residents eg one month bus pass;
 - (vi) funding towards improving public transport in the local area; and
 - (vii) electric vehicle charge points installed within the new development.
43. The ES assessed the risk of air quality impacts during the construction phase of the appeal proposal. It accepted that there is a risk from dust pollution during this phase, but this risk can and would be addressed by a detailed Construction Method Statement which can be conditioned²⁶.
44. The Council's monitoring data demonstrates there is no particulate problem in Rugby. In 2015, the annual mean PM₁₀ concentration at the Council's monitoring site north-west of the centre of Rugby was 12.8 µg/m³, which is well below the annual mean PM₁₀ objective of 40 µg/m³, and there were just 3 occasions on which daily mean concentrations exceeded 50 µg/m³ in comparison to the permitted 35 exceedances per year. Annual mean PM_{2.5} was 6.6 µg/m³, which is also well below the UK's target of 25 µg/m³. The PM₁₀ impact of the appeal proposal has been modelled which demonstrates there is no risk of exceedance of PM₁₀ objectives²⁷.
45. The evidence before the inquiry is that the air quality impact of the scheme would be negligible overall and that the worst impact would be a slight adverse impact upon one receptor, where the air quality objective would not be breached at that location in any event.

Heritage

46. The impact of the proposal on three heritage assets needs to be considered:
- (i) North Lodge, Bilton Grange, which is a Grade II Listed Building;
 - (ii) Dunchurch CA; and
 - (iii) the statue of Lord John Douglas Montagu Douglas Scott²⁸.
47. The only impact on North Lodge is that sightlines would be available from within its setting towards the development on the appeal site, and that observers would experience additional traffic on Ashlawn Road. The appellants and the Council have agreed that this impact is 'less than substantial' and that

²⁶ Document DOC29 Condition 30 requires the submission of and compliance with a Construction Method Statement

²⁷ Document PoEA8 Appendix 1 Tables 6 and 7

²⁸ Grade II Listed Building

it is *'far outweighed by the public benefits of the proposal and does not constitute a reason to refuse consent for the proposed development'*²⁹. The balance required by paragraph 134 of the Framework is more than met. No concerns or representations regarding harm to this asset have been made to the inquiry.

48. The Council has confirmed from the outset that there is no heritage reason to justify withholding consent for the proposed development. A detailed assessment has been conducted of the significance of these assets and the impact of the appeal proposal upon them³⁰. The assessment has been produced in accordance with the Framework, PPG and relevant guidance from Historic England. There is no equivalent assessment produced by any other party and there is no objection on heritage grounds from any statutory consultee.
49. The potential impact on the CA and statue arise as a result of the potential for an increase in traffic as well as the highway improvement works at Dunchurch, which would result in a physical change to the area. The result of the proposed improvements to Dunchurch crossroads would be an overall betterment³¹. This betterment includes the relocation of the existing traffic signage which would result in a degree of visual de-cluttering; upgrading the traffic equipment resulting in an aesthetic design improvement; and the improvement to the traffic flow as a result of the introduction of MOVA which would reduce stationary traffic contributing to an improvement in the local scene³². All of these improvements can take place in the public highway³³ and would be secured by an Agreement under Section 278 of the Highways Act 1980.
50. The public highway has the capacity to physically contain the proposed improvement works. There is no evidence to show that the reduction of the width between the road carriageway and the statue from 5.6m to 3.0m would increase the risk of a collision with the statue. There are numerous examples from elsewhere in England of similar and shorter distances between road carriageways and statues where no collisions occur³⁴. Furthermore, the historical evidence shows that the shortest distance between the statue and the road carriageway was 1.67m. If there was no issue then, there would not be if the appeal proposal is approved. In addition the Swept Path Analysis³⁵ of the crossroads clearly demonstrates the physical capacity for HGV's to move safely through the junction.
51. Regarding potential archaeological remains on the appeal site itself, a suite of assessments were undertaken for the ES. Firstly a desk based assessment, then a geophysical assessment and then a trial trench evaluation. Following

²⁹ Document SoCG6

³⁰ Document APP3 Chapter 7: Heritage Assessment

³¹ Document PoEA6 paragraph 7.18

³² Document PoEA6 Appendix E: Photomontages of the proposed changes to the Dun Cow crossroads

³³ Document PoEA6: Plan of the highway maintainable at public expense

³⁴ Document PoEA6 paragraph 8.6, page 31

³⁵ Document PoEA4 Appendix RGH-I

these assessments there were a number of suspected archaeological remains identified dated to the pre-historic period. Any interest in those remains can be catered for in the planning process by the imposition of appropriate conditions³⁶.

52. In line with the above, whilst there is change to the Dunchurch CA and the setting of the statue, this change would not be harmful and instead the appeal proposal would lead to some betterment of these heritage assets. This therefore weighs in favour of approval of the scheme. As there is less than substantial harm to North Lodge, in accordance with the Framework, this harm needs to be balanced against the benefits of the appeal proposal. This harm is substantially outweighed by the benefits of the scheme³⁷. If some additional benefit were to be needed, the S106 Agreement makes provision for monies to be used in the public realm of Dunchurch which could be legitimately used to undertake works to the statue, as well as the more urgently needed works to the market cross³⁸.

Flooding

53. The appellants have produced a detailed Flood Risk Assessment (FRA) that is compliant with the requirements set out in the Framework and the PPG. The FRA was informed by a topographic survey, a Proposed Site Layout Plan, Environment Agency (EA) consultation, Ordnance Survey Explorer Series mapping, the Strategic FRA and Severn Trent Water sewer records. This was submitted with the planning application and then consulted upon by the EA, WCC as 'Lead Local Flood Authority' and Severn Trent Water, all of whom confirmed they had no objections to the appeal proposal subject to the imposition of appropriate planning conditions. The FRA has been supplemented and built upon before this inquiry³⁹.
54. It is accepted that there are pre-existing flooding issues in the area surrounding the appeal site⁴⁰. However, the evidence presented to the inquiry show that the appeal proposal would result in an improvement. No assessment of the flooding or drainage conditions that would arise following the implementation of the appeal proposal has been provided to set against the appellants' assessment.
55. The flood risk is created by surface water and ground water flows. The modelled pre and post development surface water flow rates⁴¹ show a clear and important reduction in surface water flows as a result of the appeal proposal. The reduction in discharge rates towards Brafield Leys and Ecton Leys would be a significant improvement, even though the improvement further downstream away from the site would be more marginal⁴². The

³⁶ Document DOC29: Condition 18 provides for archaeological investigation, evaluative work and a mitigation strategy

³⁷ Document PoEA10 paragraphs 8.2 to 8.26, pages 70 to 76

³⁸ Document PoEA6 Appendix D: Condition survey

³⁹ Documents PoEA1, PoEA2 and PoEA3

⁴⁰ Document DOC15 describes existing flooding

⁴¹ Documents PoEA1 page 15 Table 6.1

⁴² Mr Rassool's oral evidence given at the inquiry

introduction of the development to the appeal site would allow a drainage system to be installed which could control and therefore restrict the discharge rates from the appeal site, which comprises the catchment for much of the surface water flow that presently drains onto the Hillside Estate. This would be done by intercepting and storing rainwater on the appeal site and connecting surface water below ground to the local culverted watercourse. At present, surface water discharges from the appeal site in a largely uncontrolled manner during a storm event.

56. The assessment of the appeal site, in particular the borehole monitoring data, shows that, whilst there is some groundwater contribution to local flooding, the predominant contributor is surface water. The appeal proposal would also allow improvement to the ground water situation. There is little or no continuity of the sands and gravel under the appeal site into the surrounding area. As a result the development of the appeal site would reduce the surface permeability, reduce infiltration rates and thus reduce the ground water content of the site. Consequently, this would reduce the contribution of any ground water flow from the site to local flooding events and so would be a betterment of the existing situation⁴³.
57. With regard to the proposed details that show open water storage on the appeal site with the Sustainable Urban Drainage System (SUDS) storage located on higher ground than the pre-existing surrounding developments, the surface water scheme is indicative and would be the subject of detailed design at reserved matters. The indicative design is a conservative one eg it does not account for the storage which would exist in the below ground drainage system. As such, it is very much a worst case model in terms of the scale of attenuation. What is proposed is however a tried and tested approach in engineering terms and has been successfully and safely used throughout the UK. As to the system's capacity, the SUDS' ponds design criteria is to hold the 1 in 100 year event⁴⁴ with an allowance for climate change of an additional 40% on rainfall levels. This is the requisite design standard and entirely acceptable. The indicative design therefore contributes to a betterment of the pre-existing conditions rather than posing a new flood risk.
58. The sewer survey produced by BWB⁴⁵ indicates that the existing connecting pipe from the site is 375mm which discharges into a 900mm diameter culvert at Brafield Leys. Although not appearing on its records, Severn Trent Water has confirmed that this culvert is a Public Surface Water Sewer⁴⁶. If this culvert system was built now it would fail to satisfy current standards for the flows generated by the Hillside Estate, but it would be readily capable of dealing with the anticipated flow rates from the appeal site⁴⁷. The appeal

⁴³ Mr Rassool evidence in chief

⁴⁴ The events referred to in evidence have been 1 in 25 year events (ie 4% chance of occurring in any one year), whereas the system could accommodate the 1 in 100 year event ie 1% chance of occurring in any one year

⁴⁵ PlanA

⁴⁶ Document APP5 Appendix 10.A (Part 2): Flood Risk Assessment Appendix F letter from Severn Trent Water, dated 2 December 2013

⁴⁷ Mr Rassool's oral evidence at the inquiry

proposal would reduce the flows from the site by up to 75%, thereby reducing the burden on the existing system.

59. There are no foul water concerns and Severn Trent Water has confirmed that the existing network has the capacity to accommodate a further 400 dwellings. Severn Trent Water is therefore happy to allow a first phase of development on-site comprising 400 houses prior to any sewerage improvements being required on its network. It has also confirmed that this provides adequate time for it to implement the necessary improvements prior to the 400 dwelling threshold being reached.
60. The appeal proposal would deliver a sustainable drainage strategy which would incorporate allowance for the latest guidance on climate change, with provision for its future maintenance⁴⁸, and therefore it would allow for the lifetime of the development. The appeal proposal takes the opportunity to deliver betterment to a known flooding problem downstream and the reduction of this flooding problem is one of the planning benefits weighing in its favour.

Open Space

61. LP Policy H11 requires the provision of open space on new residential developments in accordance with the standards in LP Policy LR1, including amenity greenspace. Policy LR1 establishes open space standards for different typologies. The appeal proposal would meet or exceed the level of provision set for 'Provision for Young People' and 'Amenity Green Space' but would fall short in the other typologies. Overall 12.9 hectares of open space would be provided on-site against the 18.9 hectares that Policy LR1 identifies. The Policy does not include a requirement that all open space should be provided on-site.
62. The supporting text to Policy H11 acknowledges that financial contributions may be appropriate to allow for off-site provision of facilities, if agreement is reached with the Council. Both Policy H11 and Policy LR1 are saved from the original LP. The more recent Core Strategy at Policy CS10 states: *'In the first instance infrastructure contributions will be sought 'on-site'. However where this is not possible an off-site (commuted) contribution will be negotiated'*. The more up-to-date policy therefore explicitly recognises the acceptability of provision of facilities off-site provided they are secured by a financial contribution. Physically open space could always be provided on-site, so the Policy sensibly read must be directed towards whether it is appropriate to require full provision to be made on-site.
63. How contributions are to be sought through LP Policy H11 is informed by the Planning Obligations Supplementary Planning Document (SPD) which recognises at paragraph 4.9 that a different approach will be taken to Core Strategy allocated urban extensions *'due to their scale and site characteristics'*. Whilst the appeal proposal is not a Core Strategy allocated urban extension, its size and scale is akin to one and the same approach should therefore be followed.

⁴⁸ It has been agreed that the system would be adopted by Rugby Borough Council upon completion

64. The 'shortfall' in on-site provision measured against LP Policy LR1 is therefore proposed to be appropriately made up by off-site provision secured through financial contributions in the S106 Agreement. This approach has been arrived at in consultation with the Council, who has confirmed that such an approach is consistently used when determining large scale developments⁴⁹. The locations of the sites to which there would be contributions are all in South Rugby and readily accessible by the new resident population.
65. The provision of open space brought forward by the appeal proposal would not merely be policy compliant but would be a significant social benefit which would assist in the creation of a truly sustainable community.

Bridleway RB30

66. In accordance with Section 56(1) of the Wildlife and Countryside Act 1981 the definitive map and statement are conclusive evidence of the matters contained within them. The definitive map and statement show, and therefore prove conclusively, that the width of Bridleway RB30 is 2.43m⁵⁰. Therefore, this appeal must be determined on the basis that the extent of Bridleway RB30 is that set out in the definitive map and statement. It is possible that there might be higher rights and the definitive map and statement is not definitive as to what is not described. However, there is no evidence to substantiate the claim that because the route is obviously used beyond 2.43m that it must be wider than 2.43m⁵¹.
67. With regard to the safety of users of the Bridleway if the appeal scheme is approved, the subsequent consideration of any reserved matters provides an opportunity to improve the entrances to the Bridleway⁵², as well as to provide betterment if the Bridleway were extended to marry up with the Pegasus crossing. If the Bridleway was widened to 3m as is proposed, it would be an improvement for existing users of Bridleway RB30⁵³. The appeal proposal poses no concern for the Bridleway but offers an opportunity for betterment⁵⁴.

Other Matters

68. In determining whether the appeal site is a 'valued landscape', it is necessary to identify particular physical features in order for a non-designated landscape to be a 'valued landscape'⁵⁵. No such particular features have been identified, other than the existence of the Bridleway. Whilst the Bridleway will no doubt be valued locally there is nothing out of the ordinary about it to elevate the appeal site to being a 'valued landscape'.

⁴⁹ Document PoEA10 paragraphs 7.53 to 7.56, pages 62 and 63: Summary of the full extent of the contributions

⁵⁰ Document DOC17

⁵¹ Document PoES1: Mr Whittaker argues about the width of the bridleway

⁵² Condition 27

⁵³ Accepted at the inquiry by Andy Smith representing The Stables Riding School

⁵⁴ Mr Hutchings oral evidence at the inquiry

⁵⁵ Document SUP1: Judgment in *Stroud District Council v Secretary of State for Communities and Local Government* [2015] EWHC 488 (Admin)

69. The appeal site does not constitute Grade 2 Best and Most Versatile (BMV) agricultural land, as claimed by some of the objectors. The site has been assessed by a surveyor who has provided a professional opinion on the quality of the land. A breakdown of the agricultural land classification from locally available cartography has been set out in the ES⁵⁶, however he has gone on to analyse the soil quality and confirm that the site does not comprise BMV land. In the subsequent letter⁵⁷, the surveyor confirmed his opinion that on the basis of the information gathered and his analysis, the majority of the site would be reclassified as Grade 3b, and thus would not comprise BMV land.
70. In terms of the capacity of local health and education facilities, the appellants engaged with the Council during the pre-application process and through the application process. This engagement has led to the revision of the primary school provision by providing additional land in accordance with the Local Education Authority's (LEA's) request, which could enable a 2 form entry school to be constructed if it were ever needed. The LEA has confirmed it has no objection to the appeal proposal⁵⁸ and there is no evidence before the inquiry to suggest there is a lack of education provision. As with the LEA, the appellants engaged with the relevant National Health Service (NHS) bodies during the pre-application process and through the application process. There is no objection and no request for funding from any health body.
71. With regard to biodiversity, Warwickshire is one of the pilot authorities for trialling biodiversity offsetting in the Country. The process for assessing the effect of the development on biodiversity was undertaken as part of the application, and is included in the ES and was amended in light of comments from WCC's Ecologist in the ES Addendum. It is accepted that the proposal shows a negative effect, but that is not uncommon for a major residential development on a greenfield site and this effect is noted by the WCC's Ecologist as 'not significant' in her response⁵⁹. The S106 Agreement sets out the mechanism for assessing it at reserved matters stage, and addressing as necessary either through off-site provision or a financial contribution to off-site provision.

Housing Land Supply, Policy and Planning Balance

72. With regard to the principle of development of the appeal site, the salient policies are CS1 and CS5 of the Core Strategy. It is agreed between the Council and the appellants that there is no conflict with the adopted development plan, on that basis paragraph 14 of the Framework is engaged and the presumption in favour of sustainable development arises.
73. Policy CS1 provides a hierarchy of development within the Borough. At the top of the hierarchy is Rugby Town Centre, which is intended to be the primary focus for services and facilities. The next tier down is the Rugby Urban Area, which is the primary focus for meeting strategic growth targets. The

⁵⁶ ES Appendix 8.5: Total area circa 108.49 acres, Grade 5 - circa 91.049 acres (84%); Grade 3 – circa 16.882 (15.49%); Grade 1 – circa 0.559 acres (0.51%)

⁵⁷ Document DOC21

⁵⁸ Document SoCG3

⁵⁹ Document COU2

supporting text to this Policy at paragraph 2.5 elaborates and explains that the urban area is the primary focus for new residential development and it will be through extensions to the urban area that the vast majority of housing will be delivered. Any new extension will be into land outside the urban area and into the countryside. The appeal site is such a location, adjoining the urban area, and is clearly the type of location the Core Strategy envisages will provide housing up to 2026. The principle of a settlement hierarchy is consistent with the Framework⁶⁰ and in particular the focus on directing development to areas in and around the urban area is consistent with paragraph 32. The appeal proposal accords with Policy CS1 and the relevant paragraphs of the Framework.

74. Under Policy CS5, action is required if there is a shortfall in the supply of strategic housing and one such action available to the Council is to grant planning permissions to deliver housing⁶¹. Granting permission on the appeal site is therefore in accordance with this part of the Policy. Whilst taken as a whole the Policy is compliant with the Framework, the second paragraph of the Policy is not⁶². The Framework has shifted how housing assessment is to be undertaken, with a particular focus upon 5 years. Paragraph 47 requires Councils to '*identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements*' and so measuring against the 2026 housing targets as the trigger of concern is inconsistent with this requirement.
75. The supporting text to Policy CS5 at paragraph 3.23 recognises the importance of meeting 5 year targets in stating: '*Should there be an identified shortfall in 5 year land supply within the Core Strategy period, the Council will seek to bring forward land within the Broad Location to address the identified shortfall*'. As such, the Council in producing the Core Strategy clearly envisaged the need to bring forward housing sites when there is a 5 year housing supply shortage. The appeal site and proposal is such a site, and is located within the South West Rugby Broad Location area. As such the appeal proposal can help address the 5 year shortage, which is agreed to be 'significant' in the terms of the first part of Policy CS5 as well as paragraph 47 of the Framework. Consequently, the appeal proposal accords with Policy CS5 and is in overall accordance with the adopted development plan.
76. It is agreed between the Council and the appellants that the Draft LP is of limited weight and that granting planning permission for the appeal proposal would not prejudice the outcome of the plan-making process. In any event, the Draft LP indicates a direction of travel of planning within the Borough which the appeal proposal is in line with⁶³. This is a factor which weighs in its favour.
77. Having regard to paragraph 49 of the Framework, relevant policies for the supply of housing should not be considered up-to-date since there is no five-

⁶⁰ Mr Stephens' oral evidence at the inquiry

⁶¹ Mr Stephens' oral evidence at the inquiry

⁶² Mr Stephens' oral evidence at the inquiry

⁶³ Mr Stephens evidence in chief

year housing land supply. It has been established in recent case law⁶⁴ that 'relevant policies' can have a wide interpretation ie not just related to housing policies per se. This does not mean that relevant policies of the Core Strategy and the saved policies of the LP should be disregarded in the decision making process but the weight to be afforded to those policies must be considered in light of the fact that the Council cannot demonstrate a five-year housing land supply, and their weight diminished accordingly.

78. Three calculations of the five-year housing land supply have been made⁶⁵. It is agreed between the Council and the appellants that, whichever of these figures is used, the Council does not have a 5 year supply of housing and that the shortfall is significant. The appellants' position is that the appropriate figure to use is that of 3.15 years as this is the figure based on the most up-to-date SHMA evidence on housing requirement, whereas the higher figure of 4.36 years is based upon the outdated requirement of the pre-Framework Core Strategy. 3.15 years is consequently the Framework compliant figure and is well below the minimum 5 year requirement.
79. SARD's approach to calculating five-year housing land supply is overly simplistic and inconsistent with the Framework, especially footnote 11. It appears to have been calculated by totalling up the existing amount of planning permissions and then dividing this by the Draft LP target of 620 dwellings per annum. It has no regard to the realism of delivery. The Council's housing forecasts show that it anticipates a shortfall in delivery against its housing targets⁶⁶. This is why there is not a five-year housing land supply.
80. The appellants have assumed that the appeal proposal could contribute 300 dwellings towards the 5 year supply based on the period 2016/17 to 2020/21⁶⁷. The appellants consider that the site could produce up to 420 dwellings in this period⁶⁸. This is a strong material consideration to which considerable weight should be attached in the determination of the appeal given the substantial deficit against the 5 year supply.
81. It is also agreed between the Council and the appellants that the appeal proposal would make provision for up to 40% of the dwellings to be affordable housing (up to 344 dwellings), subject to financial viability, in accordance with Policy CS19 of the Core Strategy and the Housing Needs SPD. In light of the evidence of urgent need for affordable housing within the Borough, this is a material consideration to which substantial weight should be attached in the determination of the appeal.
82. It follows from the above that the appeal proposal is in accordance with the development plan and as a matter of law it should therefore be approved

⁶⁴ Document SUP2: Suffolk Coastal District Council v Hopkins Homes Ltd and others; Richborough Estates Partnership LLP v Cheshire East Borough Council and others [2016] EWCA Civ 168

⁶⁵ Document SoCG5

⁶⁶ Document PoE11 Appendix 12

⁶⁷ Document PoE10 paragraph 7.18

⁶⁸ Document DOC30

'without delay' unless there are any material considerations that indicate otherwise. There are no such material considerations.

83. In the event that some non-compliance with the adopted plan is found, a planning balance has been put forward⁶⁹. It is accepted by the appellants that, given the less than substantial heritage harm to North Lodge, in line with the decision in *Forest of Dean District Council v SofS*⁷⁰ the planning balance that must be conducted is an ordinary one.
84. The public benefits include:
- The delivery of market housing and the boost the development will provide to the five-year housing land supply.
 - The delivery of up to 40% affordable housing (up to 344) within an authority that accepts it has an acute need for more affordable homes for its residents.
 - The provision of construction jobs, employment in the primary school, and indirect economic benefits to the town economy and local services.
 - The provision of the primary school, and the capacity it will provide for pupils in the wider area beyond the development.
 - The improvements to open space provision within the site and in the wider area which will benefit existing residents.
 - The improvements to public transport services on the Hillside Estate, and off-site cycleway infrastructure.
 - The improvements to Dunchurch crossroads and the betterment it provides in terms of reduced queue lengths and overall reductions in air quality, alongside measures to protect and enhance heritage assets.
 - The improvements may also assist the early delivery of housing within the wider South West Rugby allocation should this be allocated, through delivering key infrastructure improvements at the crossroads.
 - The potential for improvements to the Bridleway access onto Ashlawn Road.
 - The reduction in flood risk downstream as a result of the sustainable drainage features.
85. Whilst it is accepted that there would be some harm in respect of landscape and visual impact, loss of Grade 3b agricultural land, and the less than substantial harm to the setting of the Grade II Listed Building, weighing these harms against the benefits of the scheme it is firmly submitted that the benefits of the scheme substantially outweigh any harm and the appeal proposal should be approved.

⁶⁹ Document PoE10 paragraphs 8.2 to 8.26, pages 70 to 76

⁷⁰ Document SUP3: *Forest of Dean District Council v Secretary of State for Communities and Local Government* [2016] EWHC 421

5 The Case for Rugby Borough Council

I have reported the case on the basis of the opening submissions⁷¹ with additional references to the evidence submitted prior to the inquiry⁷². The material points are:

86. The reasons for refusal are based on the unacceptable impacts of the proposed development on Dunchurch crossroads. This is reliant upon WCC's objections as the HA. The appellants have since amended the proposed scheme at Dunchurch crossroads to provide greater capacity and this has addressed the concerns of the HA. The HA has rigorously tested the amended scheme, including subjecting it to an independent Stage 1 Safety Audit and a test of the modelling. It has satisfied itself that the design improvements would perform better than the current arrangement. The modelling shows that, despite the introduction of an additional 860 dwellings, the queues would be shorter.
87. The reason for refusal on air quality is related to the concerns about Dunchurch crossroads. The subsequent reduction in the length of predicted queues would result in a reduction in the resulting pollution. There are no outstanding objections from the Council's Head of Environment & Public Realm. Therefore, the impact of the proposed development on air quality would be acceptable.
88. With regard to housing, there is currently a significant shortage of both market and affordable housing within the Borough, with 43% of households unable to access market housing. The Council accepts that it is unable to demonstrate a five-year housing land supply. Depending on what figures are used, the supply that can be demonstrated is either 3.15 years, based on the housing requirement set out in the Draft LP and the supply in the draft housing trajectory, or 4.36 years, based on the Core Strategy requirement. In respect of affordable housing, the Council has calculated that there is a need to provide it at a rate of 215 units per annum during the period of 2013 to 2031. Between 2013 and 2015, only 226 affordable homes were delivered which has resulted in a shortfall of 204 dwellings for the same period. Since 2006, supply has averaged 125 dwellings per annum⁷³.
89. The appeal site is in an accessible location adjacent to the urban area and within walking and cycling distance of a wide range of services and facilities. There are no objections from Highways England, Stagecoach or WCC's Rights of Way Officer⁷⁴.
90. The appeal site is not designated for its ecological or landscape value and is not a designated valued landscape. There are no objections from Natural England, the Wildlife Trust, the Council's Tree Officer and Landscape Officer or WCC's Ecologist⁷⁵.

⁷¹ Oral submissions made to the inquiry by Jack Smyth

⁷² Documents PoEC1, PoEC2, PoEC3 and SoCG1

⁷³ Document SoCG1 paragraphs 6.6 and 6.7

⁷⁴ Document SoCG1 paragraphs 6.29 to 6.33

⁷⁵ Document SoCG1 paragraphs 6.34 to 6.39

91. The appeal site lies within Flood Zone 1 and the proposal would make appropriate provision for a SUDS. There are no objections from the EA, Severn Trent Water or WCC Lead Flood Authority⁷⁶.
92. In terms of heritage, the closest heritage asset to the site is North Lodge, Bilton Grange, which is a Grade II Listed Building, located on the south side of Ashlawn Road. Sightlines would be available from the setting of the building towards the proposed development and observers from the setting would experience additional traffic on Ashlawn Road generated by the development. This would result in less than substantial harm to the significance of North Lodge which would be far outweighed by the public benefits of the proposal. In terms of Dunchurch crossroads, the proposed new road markings, upgraded suite of traffic signals, improved pedestrian crossing provision and rationalisation of the current signage would not only mitigate the predicted increase in traffic but would also provide for a degree of improvement within the settings of the heritage assets at Dunchurch⁷⁷. There is no objection from Historic England or WCC's Archaeologist⁷⁸.
93. The proposed development would make provision for all necessary infrastructure required to mitigate its impact, either through direct provision or financial contributions. This includes the provision of 1.5 hectares of land for a new primary school on-site and high quality and accessible on-site open space. The proposed development would preserve the route of the existing bridleway and make provision on-site for outdoor sports facilities. There are no objections from Sport England or the Council Parks Manager⁷⁹.
94. The appeal should be allowed and planning permission granted with conditions and subject to a S106 Agreement⁸⁰.

6 The Case for the Rule 6 Party (SARD)

I have reported the case on the basis of the Closing Statement⁸¹, proof of evidence of Henry Whittaker⁸² and Statements of Case⁸³ with additional references to the evidence presented at the inquiry. The material points are:

95. SARD is a residential group which opposes unsustainable development of Ashlawn Fields. Its position is that the immediate neighbourhood of Ashlawn Fields lacks excess infrastructure which could support a large housing development. Therefore, developing a sustainable community on Ashlawn Fields would be very expensive and, as Rugby's housing needs can be met elsewhere, Ashlawn Fields should not be zoned for housing for the foreseeable future⁸⁴.

⁷⁶ Document SoCG1 paragraphs 6.40 to 6.42

⁷⁷ Document SoCG6

⁷⁸ Document SoCG1 paragraph 6.47

⁷⁹ Document SoCG1 paragraphs 6.14 to 6.22

⁸⁰ Document SoCG1 paragraph 6.49

⁸¹ Document DOC33

⁸² Document PoES1

⁸³ Documents SARD1 to SARD11

⁸⁴ Document SARD1

96. SARD was formed following the inadequate pre-application consultation carried out by the appellants. Following the planning application, SARD held its own public exhibitions of the proposal. SARD was invited to a general meeting of Dunchurch Parish Council which was attended by hundreds of residents and the Parish Council resolved to object to the proposed scheme. A petition against the scheme was signed by 1011 people⁸⁵ and 188 households wrote to object⁸⁶.

Traffic and Highway Safety

97. With regard to the modal southbound movement at Dunchurch crossroads⁸⁷, Adkinson Avenue offers an alternative right turn route and many vehicles use it as such. Taking this movement into account, the modal southbound movement is a right turn, but if the analysis is restricted to Dunchurch crossroads itself the modal movement is straight ahead⁸⁸.
98. WCC as the HA has provided three different answers to the question of whether Dunchurch crossroads has the capacity to take the extra traffic from the appeal development. The first answer was *'the development cannot come forward without a significant upgrade ... in infrastructure which provides an alternative route which avoids the Dunchurch Crossroads'*⁸⁹. The second answer was the HA's revised response of no objection subject to conditions and planning obligations⁹⁰, and the third answer was *'... it is plausible for any benefits that could be delivered through unlocking additional capacity to be entirely eroded by the reassignment of suppressed demand through the junction. ... it is likely that improvements in traffic conditions could be short-lived and the improvements draw more traffic into the area, re-instating the current status quo'*⁹¹. Neither the appellants nor SARD can tell.
99. To determine whether Dunchurch crossroads would have the necessary capacity it would be necessary to know the number of people that would leave the appeal development, their mode of transport, their direction of travel and their behaviour in the vicinity of Dunchurch crossroads.
100. The number of trips from the development has been forecast using TRICS data that does not include any relevant Warwickshire sites⁹². SARD undertook a traffic count at a similar but slightly smaller development to the west of Rugby⁹³. During the morning peak hour SARD's traffic count gave 837 vehicles leaving the development, compared to the forecast 363 vehicles for

⁸⁵ Document COU3

⁸⁶ Document COU2

⁸⁷ Also referred to as 'the Dun Cow junction' or 'the Dun Cow crossroads'

⁸⁸ Document SARD5 page 7 Table 1

⁸⁹ Document PoEC3 Appendix B: Letter from Ben Simm, Warwickshire County Council, dated 30 November 2015, page 7

⁹⁰ Document PoEC3 Appendix I: Letter from Ben Simm, Warwickshire County Council, dated 15 July 2016

⁹¹ Document PoEC3 Appendix J: Strategic Transport Assessment Modelling Analysis and Overview, September 2016 paragraph 7.157 at page 127

⁹² Document PoEA4 Appendix RGH-F page 1; and cross examination of Mr Hutchings

⁹³ Document SARD1: Statement of Case paragraph 42

the appeal development. The appellants have not produced any alternative traffic counts.

101. The appellants have drawn their census data to determine mode of transport from Caldecott Ward. However, the appeal development Masterplan does not include a large public school whose residential staff have very short commutes, as in that Ward.
102. SARD has carried out a traffic count at Dunchurch crossroads⁹⁴. The results of this count are broadly consistent with the later work done by the appellants⁹⁵. The high volume of southbound traffic that is shown by the traffic counts to travel through Dunchurch crossroads is not consistent with the appellant's traffic assignment which is based on destination data that indicates a population that only wants to travel north⁹⁶.
103. In determining how traffic would behave at Dunchurch crossroads, you would need a traffic model which allows, as the Rugby Wide Area (RWA) model does but the Cordon model does not, for people to dynamically reassign between Adkinson Avenue and Rugby Road⁹⁷. SARD has not sought to challenge the use of 'Industry Standard' models, but it has sought to challenge the choice of models. There is only direct evidence for two processes approaching audit. Although not all the information required was provided, the Rugby Paramics Modelling Review⁹⁸ reported that the Cordon model, which was at that time under development, failed to include the Adkinson Avenue link⁹⁹ and its GEH levels exceeded DMRB standards¹⁰⁰. As for Warwickshire's RWA model, even Vectos, its authors, concluded that it should not be relied on to predict conditions at Dunchurch crossroads¹⁰¹.
104. The Cordon model was later audited by Atkins, who compared it with LinSig and found it superior¹⁰². Despite the advice of audit, the appellants' claims for the performance of their scheme rest on LinSig. The audit report does not support the wider claims that Atkins examined the appropriateness of either the choice of Caldecott Ward for modal split or the census data from 'Middle Layer Super Output Area 9' for destination. None of the anomalies in the traffic modelling data that have been discovered by SARD appear to have been raised by WCC, which indicates that the modelling has not been rigorously challenged. The data used to produce the diagrams in the appellants' evidence

⁹⁴ Document SARD9: Statement of Case (Addendum) paragraphs 7 to 11

⁹⁵ Document PoEA3 paragraph 7.6.6

⁹⁶ Document SARD9: Statement of Case (Addendum) paragraphs 11 to 13

⁹⁷ Document SARD9: Statement of Case (Addendum) paragraphs 14 to 16

⁹⁸ Document PoEA4 Appendix RGH-C pages 323 and 324: Rugby Paramics Modelling Review Ashlawn Road, Rugby Technical Note 01 paragraphs 1.1.2 and 3.1.6

⁹⁹ Document PoEA4 Appendix RGH-C page 324: Rugby Paramics Modelling Review Ashlawn Road, Rugby Technical Note 01 paragraph 3.1.8

¹⁰⁰ Document PoEA4 Appendix RGH-C page 325: Rugby Paramics Modelling Review Ashlawn Road, Rugby Technical Note 01 paragraph 3.1.15

¹⁰¹ Document PoEA4 Appendix RGH-C page 327: Rugby Paramics Modelling Review Ashlawn Road, Rugby Technical Note 01 paragraph 5.0

¹⁰² Document PoEA4 Appendix RGH-C pages 351 and 352: Atkins Technical Note Dunchurch Model Review pages 9 and 10; and Document PoEA4 Appendix RGH-C pages 019 and 020: BWB Dun Cow Crossroads Highway Capacity and Safety Technical Note paragraph 3.38

and the SoCG was not provided to the inquiry and therefore has not been tested.

105. SARD is concerned about the accuracy of traffic models. The models did not predict the chaos that has been reported at Elliott's Field¹⁰³, and already committed development will increase journey times through Dunchurch crossroads threefold¹⁰⁴ without the effect of these developments triggering alarm bells in the transport assessments presented to the planning committee. The appellants' claim that more houses on Ashlawn Road will lead to less traffic on Dunchurch Road¹⁰⁵ is only plausible if extra congestion on the gyratory¹⁰⁶ causes motorists to reassign.
106. With regard to highway safety, SARD has measured the dimensions of Dunchurch crossroads¹⁰⁷. Taking account of the dimensions of modern vehicles¹⁰⁸, and the proposal to accentuate the current jink to the right for southbound drivers and reduce the width of the southbound carriageway by about 1m, there are deep concerns about the safe operation of the proposed junction. The appellants have clearly failed to explain their proposal to local residents¹⁰⁹.

Air Pollution

107. Dunchurch crossroads has the worst air pollution record of anywhere in Rugby. NO₂ levels already exceed 40 µg/m³ and the trend is for it to get worse. This has a negative impact on the health of the local residents¹¹⁰. The proposed extra lane at the crossroads would result in more vehicles queuing in the immediate neighbourhood of the nearby houses where the location of buildings block the easy movement of NO₂ away from the road¹¹¹.

Sustainability

108. Sustainability has its three strands, which are economic, social and environmental. The appellants are proposing no shops, public houses, General Practice (GP) surgeries or community centre¹¹² and would be under-providing open space. Cars would be the dominant mode of transport. The poor design would cause many people to use their car to shop, even though Sainsburys is located adjacent to the site. The Government, through the Framework¹¹³ and its PREVENT strategy, aims to break down the barriers between people and create community.

¹⁰³ Document DOC10: Michael Judge's Statement

¹⁰⁴ Document PoEA4 Appendix RGH-C page 027: BWB Dun Cow Crossroads Highway Capacity and Safety Technical Note paragraph 4.16

¹⁰⁵ Document APP3 Environmental Statement Volume 1 Chapter 14 page 9 Table 14.5: row Dunchurch Road (north of Sainsbury's)

¹⁰⁶ Document REP1: Concerns of Neville Burton

¹⁰⁷ Document SARD9: Statement of Case (Addendum) paragraph 22

¹⁰⁸ Document DOC8: David Ralph's Statement

¹⁰⁹ Document DOC9: Ann Wright's Statement

¹¹⁰ Document SARD8

¹¹¹ Document SARD9 paragraphs 27 and 28

¹¹² Document SoCG7 paragraph 10

¹¹³ National Planning Policy Framework paragraph 69

109. The appeal proposal would result in a net loss of biodiversity on-site. It need not do so, as the addition of two hectares of wildflower meadow would have preserved the site's biodiversity¹¹⁴. The appellants have conceded that it would fail to meet the Council's standards for natural and semi-natural greenspace¹¹⁵. Instead of making the development sustainable, the appellants have preferred to pay a biodiversity offset. The future residents of the site would be likely to never know where the biodiversity offset is located and it is likely that, if they wanted to see where it is, it would involve a car journey.
110. The appeal scheme is car dominated because, as the appellants have explained, the standards set in paragraph 35 of the Framework are not mandatory. WCC has described the Dunchurch crossroads proposal as creating significant barriers for cyclists and pedestrians, which shows a disregard for these modes of transport. Off-site pedestrian movements have been illustrated by the production of maps showing the time journeys would take without considering whether or not it would be safe for pedestrians to undertake them.
111. Recent Government actions suggest it may have abandoned the priority it formerly attached to economic sustainability.

Open Space

112. An assessment of open space that has been carried out¹¹⁶ concludes that the appeal proposal would not meet the Council's planning policies with regard to leisure and recreation and would specifically contain too little space devoted to parks and gardens, allotments, outdoor sports, cemeteries and amenity greenspace. Rokeby & Overlade Ward is currently deficient in open space, as demonstrated by the maps provided by Nortoft¹¹⁷, and the appeal proposal would increase this deficiency. The Ward has neither park nor formal garden and has no teenage facilities, no allotments, no churchyard and no natural or semi-natural greenspace.
113. The proposed development would not meet the standards set by Core Strategy Policy LR1. The proposal would not provide funds for the Council to purchase additional land to make up for the shortage of natural and semi-natural greenspace. The contributions that would be provided to mitigate the shortfall in the provision of playing pitches and allotments would not be used to purchase the additional land required to meet Policy LR1 standards.
114. The proposal would fail to meet the distribution requirements for open space set by the Planning Conditions SPD¹¹⁸. The shortfall that has been

¹¹⁴ Document COU2: Warwickshire County Council Ecologist Louise Mapstone response to the planning application, dated 23 October 2014, page 11

¹¹⁵ Document DOC22

¹¹⁶ Documents SARD4 and COU2: R12/2012 An assessment against Rugby Borough Council's planning policies for Leisure and Recreation, Cllr Howard Avis and Richard Allanach

¹¹⁷ Document SARD10: Rugby Borough Council Open Space, Playing Pitch and Sports Facilities Study pages 38, 44, 49, 67 and 68; and Document SARD1: Statement of Case after paragraph 54

¹¹⁸ Document COU1: Rugby Borough Council Planning Obligations Supplementary Planning Document paragraphs 4.4 and 4.11 on pages 12 and 13

demonstrated¹¹⁹ has not been shown by any evidence from the appellants to be unable to be met on-site¹²⁰. The requirement could have been met on-site if the appellants had stuck to their original plan for no more than 800 houses¹²¹.

115. Proposed contributions would be used to enhance the Queen's Diamond Jubilee Centre, which is 'a good 30 minutes away'¹²² along one of two routes. The Barby Road approach would not be safe and the Southbrook Road approach is only a good route in daylight. A good route on a winter's evening would take significantly longer. Contributions would also be used to enhance Whinfield Recreation Ground, which lies in the same general direction as the Queen's Diamond Jubilee Centre but much further away¹²³. The safest, simplest way to prevent deterioration in the area's open space provision is to recommend refusal of the proposed development.

Bridleway RB30

116. Bridleway RB30 crosses the appeal site and it is not currently a footpath, as suggested in some of the appellants' evidence¹²⁴. It is used by the riding school, leisure riders, cyclists¹²⁵ and people out for a country walk¹²⁶, who are likely to experience the local birds. Its route is not unclear¹²⁷ but follows an existing feature of the landscape¹²⁸. It is in every English language sense of the word, with the possible exception of the English used for the Framework, a valued element of our local landscape. It is not 'unremarkable', as claimed by the appellants¹²⁹.
117. Evidence has been provided regarding the Bridleway¹³⁰, its use¹³¹ and the proper standards for construction, and in particular the proposed exit onto Ashlawn Road¹³². The Masterplan shows the main estate road running alongside the Bridleway, which is contrary to the advice in Defra 1/09¹³³. The appellants have not provided photographs of a satisfactory treatment of a

¹¹⁹ Document DOC13: Statement of Julian Woolley

¹²⁰ Gary Stephens in cross examination on the point of natural and semi-natural green space was unable to demonstrate that the requirement could not have been met on-site

¹²¹ Stated in a Meeting Note, dated 12 November 2013

¹²² Richard Hutchings oral evidence at the inquiry

¹²³ PlanE: Whinfield Recreation Ground from the boundary of the site is 4.3 km

¹²⁴ Document PoEA3 paragraph 7.2.1 page 26

¹²⁵ Document DOC14: Statement of Steve Fancourt

¹²⁶ Document DOC16: Statement of Councillor New; and oral evidence given at the inquiry by Councillor Dumbleton

¹²⁷ As claimed by Mr Hutchings

¹²⁸ As indicated by LIDAR evidence

¹²⁹ Photographs of the site and Documents COU2 and REP1: Letters indicating the appreciation of the local landscape

¹³⁰ Document SARD2: Sara Herrington, 1 May 2016

¹³¹ Document REP1: Letter from The Stables Riding School and oral evidence given at the inquiry by Andy Smith on behalf of the Riding School

¹³² Document PoES1: Proof of Evidence of Mr Whittaker

¹³³ Document PoES1: Appendix- Defra 1/09: Rights of Way Circular Version 2, October 2009

bridleway running alongside an estate road¹³⁴. The proposal does not include the betterment option of a protected ride to the crossing of Ashlawn Road, but shows a 3m entrance from the Bridleway onto the road, which is contrary to WCC's Local Transport Plan¹³⁵ and other safety advice¹³⁶. The appellants have not conducted a Road Safety Audit of their proposed treatment of the Bridleway's junction with Ashlawn Road.

118. The safest, simplest way of protecting the Bridleway is to recommend the appeal be refused and the next best option before the inquiry is to ensure that the Masterplan is not included in suggested Condition 3¹³⁷.

Primary Health Care and Education

119. Written evidence has been provided regarding education¹³⁸ and primary health care¹³⁹. This evidence concludes that the proposal would make inadequate primary and secondary school provision and would place additional demands on the inadequate health care facilities in the area. With regard to Draft LP Policy DS8, the appellants appear to be unaware of its implications for the delivery of primary health care or secondary education for any future residents of the site and could not demonstrate a sustainable transport link to those proposed facilities¹⁴⁰. The safest, simplest way of ensuring that residents would not be without access to these facilities is to refuse the appeal.

Flooding

120. There is an increased likelihood of severe flooding events which affect Brafield Leys that borders the appeal site¹⁴¹. SARD has produced a report on 'Flooding and Drainage Issues', dated December 2015¹⁴², and a video has been produced for that report of a flooding event that occurred in June 2007. This event resulted in water run-off from the appeal site flooding the gardens of 3 houses along Brafield Leys, which have since been protected by the householders building continuous brick walls along the rear boundaries with the appeal site. Further flooding of the area has been observed, but the houses have now been protected from it. The most recent serious flooding event occurred on 9 March 2016.
121. The above indicates that there have been 2 very bad flooding episodes in less than 10 years, which is due to surface water cascading off the adjacent fields that form the appeal site. SARD believes that this occurs due to a combination of the geology and topography of the site. This would present great technical

¹³⁴ Document PoEA11 pages 381 to 383: Pegasus Design Briefing Note, dated 21 December 2016, public bridleway plates 1, 2, 3 and 4

¹³⁵ Document PoES1: Appendix- Warwickshire Local Transport Plan 2011-2026 Policies RW5c and RW5d on pages 446 and 447

¹³⁶ Document PoES1: Proof of Evidence of Mr Whittaker

¹³⁷ Document DOC29: Suggested Planning Conditions

¹³⁸ Document SARD3: Sara Herrington, 3 May 2016

¹³⁹ Document DOC12: Statement of Councillor Nash

¹⁴⁰ Oral evidence given at the inquiry by Mr Hutchings

¹⁴¹ Documents SARD7, DOC6, DOC7 and DOC15 and oral evidence given at the inquiry by Mr Johnson

¹⁴² Document SARD7: Objections Flooding and Drainage Issues by John C Watts

challenges to the design of a safe and workable attenuation scheme, which is shown to be along the top of the slope of the site immediately adjacent to Brafield Leys. The topographical, hydrogeological and geological conditions on the site are such that the flooding of Brafield Leys would be likely to become more frequent and more severe if the proposed development takes place. Climate change will make this situation worse¹⁴³.

Bus Link

122. The appellants have never demonstrated how they could operate a bus link which would provide 100% discrimination between buses and emergency vehicles on the one hand and other motor vehicles on the other¹⁴⁴. Therefore, SARD is concerned that the 'bus link' could become just another road into the new estate. The appellants accepted at the inquiry that it no longer intended to provide a bus link into the proposed development.

Policy Considerations

123. With regard to Core Strategy Policy CS1, it is common ground with the Council that the site lies outside the urban boundary and in countryside¹⁴⁵. The appellants claim a right to expand into sites which touch the urban boundary but lie outside it. If this right exists, why was it necessary for the Core Strategy to declare Rugby Gateway, clearly already adjacent to the urban boundary, an urban extension? If this right exists, the Council were wrong in its report on Ridgeway Farm¹⁴⁶.
124. In terms of Core Strategy Policy CS5, paragraph 1 addresses the harm that the Policy seeks to avoid. The second paragraph sets the standard for triggering the Policy, and there have been no annual monitoring reports which identify a shortfall greater than 10%, as required by this paragraph¹⁴⁷. The third paragraph considers the actions the Council would take were the Policy to be triggered, but the Council has not prepared a specific DPD for the South West location¹⁴⁸. The fourth paragraph is not relevant to the appeal.
125. Turning to the evidence that Councillor Lewis had been told by the Council's officers which is, if it was ever necessary to implement the South West Broad Location, it would be implemented in stages by constructing a spine road from west to east¹⁴⁹. This is supported by paragraph 66 of the Inspector's Report on the Examination in Public of Rugby's Core Strategy DPD¹⁵⁰. The second sentence of paragraph 66 suggests that the South West Broad Location could be built in chunks and the third sentence of the paragraph suggests that the projected Southern Relief Road could also be built in chunks. It is therefore reasonable to infer that the chunks of road would have a close geographical

¹⁴³ Document SARD7: Representation by Bill Lewis, 3 May 2016

¹⁴⁴ Document SARD6

¹⁴⁵ Document SoCG7

¹⁴⁶ Document DOC4 paragraph 11

¹⁴⁷ Document DOC4 paragraph 12

¹⁴⁸ Document PoEA10 paragraph 3.16

¹⁴⁹ Document DOC6

¹⁵⁰ Document PoEA11 page 36: Rugby Borough Core Strategy DPD Inspector's Report May 2011

relationship with the chunks of housing. All that is then necessary to support the complete account given by Councillor Lewis is to ask whether the HA would be more likely to support a start in the west with a connection to the Western Relief Road and then gradually extend to the east or to start at Martin's Farm at the centre of the traffic hotspots¹⁵¹ and then gradually extend it to the west.

126. In terms of housing, in 2015 the Council had a stock of 8,129¹⁵² plots of land with planning permission for housing and by 2016 this had grown to 9,346¹⁵³. Not only does the Council already have a very large pool of unused housing permissions, it is growing that stock more than twice as rapidly as the developers are building houses in the Borough. Rugby does not have a shortage of land set aside for housing, but it does have a shortage of developers prepared to build. Even if planning permission were granted for the appeal development, the Council does not have meaningful powers to make the developer act on that permission.
127. Rugby has a shortage of housing and a significant shortage of affordable housing. The Core Strategy identifies the most viable sites for housing development as being Rugby Gateway and the Radio Mast site. The latest releases on the Rugby Gateway site will yield 4% affordable housing¹⁵⁴. None of the 350 houses currently being built on the Radio Mast site will be affordable¹⁵⁵. This indicates that there is a plausible risk of the developers' claims for 40% affordable housing not being met.

Conclusion

128. Rugby's experience of developers should not leave you to believe that a single person will be removed from the Council's housing waiting list by granting planning permission. To promote the social health of the Borough, the environmental health of the Borough and the long term economic health of the Borough, as well as the sustainability of the Borough, the only course is to dismiss the appeal.

7 The Cases for other Interested Parties

Oral representations were made at the inquiry. These are summarised below and are supported by written statements. The material points are:

Charles Johnson¹⁵⁶

129. As a resident of Norton Leys, Mr Johnson expressed his concern about existing flooding and drainage problems in Hillside Estate. He questioned the ownership and capacity of the sewers, which has resulted in flooding in Norton Leys and Dunchurch Road, and may prevent a suitable connection being permitted for the sewerage from the proposed development.

¹⁵¹ Document SARD1: Statement of Case paragraph 44

¹⁵² Document SARD1: Statement of Case paragraph 18

¹⁵³ Document PoEC3 Appendix K: Rugby Borough Council Local Plan 2011-2031 Publication Draft September 2016 paragraph 4.13 page 18

¹⁵⁴ Birch, S (2016) Service Request Ref 175042

¹⁵⁵ Birch, S (2016) Service Request Ref 175042

¹⁵⁶ Document REP1 and oral submission made by Charles Johnson at the inquiry

Richborough Estates

Councillor Bill Lewis¹⁵⁷

130. Councillor Bill Lewis is a Borough Councillor for the Rokeby & Overslade Ward and a retired geotechnical engineer. He is also a resident of the Hillside Estate and is the Chair of SARD, having contributed to its submissions.
131. He raised matters on his own behalf that he considered that other objectors had not raised. He suggested that at the time of his first involvement in 2010/11 with the possibility of housing development on Ashlawn Fields the expectation was that if the 'South West Board Location' was to be developed it would start in the west near Cawston and continue to the east until eventually reaching Ashlawn Fields in about 2026. Each development site was then to include a section of a spine road which would eventually connect Rugby Road east of Dunchurch to the roundabout on the Coventry Road at Cawston.
132. The residents' objections that he considered include the following:
- a) development not being necessary due to the Radio Mast site and Gateway site providing sufficient land;
 - b) roads in Rugby, and Dunchurch crossroads in particular, not being able to cope with the additional traffic without a southern relief road;
 - c) the impact of proposed changes to roads in Dunchurch on its CA, particularly with regard to the statue;
 - d) flooding in some parts of Hillside Estate; the danger to horses and riders using Bridleway RB30; the resulting loss of open space, wildlife habitat and food producing farm land;
 - e) the unnecessary construction of a buses only link onto Norton Leys and the lack of detail as to its operation to prevent it becoming an 'all vehicle rat run' onto the Hillside Estate;
 - f) the impact on traffic congestion in Rugby Town Centre due to future residents of the development accessing centres of employment that are mainly north of Rugby; and
 - g) the inadequate provision of primary health care.
133. The objections that he dealt with in more detail were regarding the effect of the proposed bus link, flooding and the proposed drainage connection. With regard to the latter, he suggested that water not only floods from the field at ground level but, due to the geology of the site, during high rainfall periods it also seeps up from below the ground into the gardens on Brafield Leys and Norton Leys¹⁵⁸. The proposed construction of large balancing ponds in the permeable sand and gravel very close to existing houses on Brafield Leys would increase the hydraulic gradient making it more likely that the seepage into the gardens below would increase.
134. His other concerns regarding drainage were whether Severn Trent Water has the authority to approve an additional connection into manhole MH0805 to take the discharge from the balancing ponds; and whether such a discharge would affect the water carrying capacity of the sewers to such an extent that the proposed system would be unviable, taking account of the identified diameters of the drainage pipes.

¹⁵⁷ Documents SARD6, DOC6 and DOC7

¹⁵⁸ Document SARD7

Neville Burton¹⁵⁹

135. Neville Burton's main concerns were regarding the effect of the proposed development on pollution in Rugby Town Centre due to the traffic that the development would generate. He considered that the proposed number of houses would result in at least 900 journeys from the appeal site in the early morning. NO₂ levels in Rugby have resulted in it becoming an AQMA in 2004 and pollution has become worse since that date. In Dunchurch, the 2015 results show a minimum of 36% above the legal limit and a maximum of 73% above it during school times. The pollution is causing premature deaths. The proposed development should not be permitted until the pollution levels are under control.

Save Dunchurch Action Group (SDAG)¹⁶⁰

136. SDAG was formed in late 2016 in response to the Draft LP to inform local residents. Having held meetings in Dunchurch, it has expressed the concerns of attendees about the appeal development. These include the impact of the traffic from the proposed development and other permitted development around Rugby on Dunchurch crossroads. The concerns about the junction proposal are regarding parking, HGVs negotiating the junction and accidents at the junction that could lead to damage to buildings and the statue, air pollution from vehicles and injuries to pedestrians. Adkinson Avenue is used as a rat run to avoid the crossroads and there have been 9 injury accidents in the village in the last 5 years, mainly on Adkinson Avenue. Dunchurch should have a by-pass to deal with the additional traffic rather than the proposed junction alterations. The necessary infrastructure should be in place before new homes and industrial units are built.
137. Other concerns expressed were regarding the impact of the appeal and other proposed developments on the local community and services in Dunchurch, including the Doctors' clinic.

David Ralph¹⁶¹

138. David Ralph is a local resident and a member of SARD, contributing to its submissions regarding the traffic impact. He has indicated that the proposal should not be permitted unless the 40% affordable housing target is met. Rugby has no ring road, and no effective north-south or east-west relieving transit routes. This causes extreme congestion, particularly in peak times and at weekends. The congestion has been made worse by developments such as Elliott's Field, which is a new and expanding retail park and causes a major bottleneck. This and other traffic restrictions in the area add to congestion on Rugby gyratory, which has experienced many accidents. Dunchurch crossroads is another major bottleneck that causes rat running on side roads.
139. With regard to the modelling used to predict traffic flows, WCC's Paramics Cordon model was based on 2009 traffic count data and probably did not include the traffic that would be generated by the 6,000 plus houses on the

¹⁵⁹ Document REP1 and oral submission made by Neville Burton at the inquiry

¹⁶⁰ Documents DOC5, DOC9 and DOC10

¹⁶¹ Document DOC8: Some of the matters raised are also raised by SARD

Rugby Radio Mast site or other known future developments. It therefore understated the traffic volumes. The modelling predicts that overall traffic travelling south towards Dunchurch at the peak period would reduce by 1.1% after the development¹⁶², which does not make sense; and a 144% increase in traffic on Percival Road, which is wrongly tabled as a 59% increase. The significant increase in traffic on Percival Road would be a problem as it is already used as a 'rat run', has on-street parking and is a pedestrian route for children going to Ashlawn School.

140. The trip destination assumed by the appellants is that most of the journeys from the appeal site would be north into Rugby and the congested gyratory. This would make the site not viable, but it does not reflect the likely journeys that would be made to access employment sites outside Rugby to which most would route through Dunchurch.
141. Another concern is regarding the safety of the proposed alterations to Dunchurch crossroads to add an additional lane by widening the approach at Rugby Road as a result of the following design details. The proposal would result in carriageway and footway widths that would not meet the Government requirements that specify 3.65m lane widths for the type of road and would not take account of cyclists. The available lane widths would not allow for the full width of an HGV with its mirrors. Also, the proposed right turn lane would exacerbate the oblique movement of traffic at the crossroads and bring vehicles closer to the statue. Dunchurch requires a by-pass before the appeal development is permitted.

Councillor Howard Roberts¹⁶³

142. Councillor Howard Roberts raised concerns as a resident of Dunchurch and also as a Parish, Borough and County Councillor. In terms of air quality at the Dun Cow, since monitoring commenced in 2012 annual mean NO₂ concentrations have exceeded the objective. The vision of WCC's Air Quality Strategy is '*to take a proactive approach to maintaining and improving air quality within the County where transport is causing unacceptable levels of air pollution, in order to improve quality of life for all*'. This follows one of the 12 core planning principles given in paragraph 109 of the Framework. The Council has identified major development that would result in 12,400 additional houses that would impact upon air quality.
143. The proposed alterations to Dunchurch crossroads would be unlikely to reduce NO₂ levels at that junction, as claimed by the appellants, when there would be a resulting increase in traffic from the appeal proposal and the other development. The Council should be asked to reduce NO₂ levels through conventional means, driven by health concerns, rather than rely upon the proposed scheme for Dunchurch crossroads.
144. The proposed alterations to Dunchurch crossroads would increase the area of paved carriageway and the number of vehicles in the centre of Dunchurch CA, which would fail to preserve or enhance the CA.

¹⁶² Document APP3 Chapter 14 Table 14.5

¹⁶³ Document DOC11

Paul Waller¹⁶⁴

145. Paul Waller is a resident of Dunchurch and has expressed concerns about the effects of the proposed alterations to Dunchurch crossroads on the CA and the statue. One issue is regarding the ownership of the land around the statue and whether it is public highway. There is also a concern about the lack of consultation with the Parish Council, local residents and Historic England about the proposed alterations. The proposed reduction in the area of grass in front of the statue could result in an increased risk of damage to the statue and harm to the CA.

Councillor Carie-Anne Dumbleton¹⁶⁵

146. Councillor Carie-Anne Dumbleton has been a Borough Councillor for Rokeby & Overslade Ward since 2016. The concerns that she expressed were regarding the lack of public open space in the Ward, the significant distance that the proposed development would be from the nearest leisure centre and the need for additional open space to be provided.

Councillor Marion Nash¹⁶⁶

147. Councillor Marion Nash is a resident of Rugby and a Borough Councillor for Rokeby & Overslade Ward. The concerns that she expressed were regarding the impact of the proposal on primary health care, although she also agreed with the other concerns of local residents.
148. She considered that the residents of the proposed development would require a minimum of 2 GPs and associated health care workers. The two closest surgeries to the site are Dunchurch Surgery and Central Surgery, both of which no longer accept new patients outside their catchment areas. There is already a shortage of health care in the area, and the residents of the proposed development would have problems finding a GP or dentist as no new health clinics would be provided by the proposal. This would create a further burden and cost to the local community.

Julian Woolley¹⁶⁷

149. Julian Woolley is a resident of Rokeby and a Chartered Landscape Architect and Urban Designer. He provided evidence to the inquiry to demonstrate a shortfall in the provision of open space when compared with the standards required by saved LP Policy LR1 and those recommended by the 'Fields in Trusts' Guidelines. He demonstrated that there would be a shortfall of 8.92 hectares of open space when applying the Council's open space standards. The inadequate provision of open space and play facilities would impact on the delivery of the Government's objective on childhood obesity. The area of open space provision for the development has been reduced as a result of the provision of land for the primary school.

¹⁶⁴ Document REP1: Letter of 21 July 2016

¹⁶⁵ Oral submission made by Councillor Dumbleton at the inquiry

¹⁶⁶ Document DOC12

¹⁶⁷ Document DOC13

150. The evidence that he provided to the inquiry also raised matters regarding the treatment of Bridleway RB30 and the need to safeguard its green corridor across the site and design quality. The following comments made on design quality related to the Design and Access Statement (DAS) and Parameter Plan. The development provides housing with no ancillary or community facilities. It requires a centre that could offer shops, doctors and other necessary facilities. The proposed density of housing, given as 38 dwellings per hectare, would be inappropriate for the countryside location and the density should vary throughout the development, with a lower density on the edge. The building heights of up to 3 storeys would also be inappropriate in some of the areas where it has been indicated.
151. He questioned the classification given to the agricultural land and referred to Natural England's classification of the site as Grade 2 agricultural land¹⁶⁸. This would make it BMV agricultural land, which paragraph 112 of the Framework seeks to preserve.

The Stables Riding School¹⁶⁹

152. The riding school was represented at the inquiry by Andy Smith who expressed concerns about the effect of the proposed development on the business that is run from Tower Farm and on the equestrian community in the area. Bridleway RB30 is widely used by riders from the stables and elsewhere. He suggested that its use over the summer was by about 20 horses at weekends and about 5 times a day during the week¹⁷⁰. Changes to the Bridleway and increases in traffic as a result of the development would harm this usage.

Steve Fancourt¹⁷¹

153. Steve Fancourt is a resident of Dunchurch and a Chartered Landscape Architect and Urban Designer. His concerns were based on the inadequacy of the transport infrastructure; the fragmented approach that has been taken to delivery of sustainable development, including the promotion of sustainable transport; the effect that the proposal and other planned development would have on the future supply of water; and the loss of Grade 2 agricultural land. He has suggested that the development should not proceed until an equitable funding mechanism has been identified to provide a sustainable permanent solution to traffic problems in Dunchurch.

Anthony Rogers¹⁷²

154. Anthony Rogers is a resident of Brafield Leys and has expressed concerns about the loss of the farmland for the development, the proposed bus link leading to rat running through the Hillside Estate and the development leading to an increase in flooding. With regard to flooding, he provided evidence and photographs to the inquiry that identify existing flooding incidents, including at

¹⁶⁸ Agricultural Land Classification Map West Midlands Region (ALC004)

¹⁶⁹ Document REP1: Letter dated 18 January 2017 and oral submission made to the inquiry by Andy Smith

¹⁷⁰ Answer given by Andy Smith to a question by the Inspector

¹⁷¹ Document DOC14

¹⁷² Document DOC15

Brafield Leys, which have occurred in June 2007, April 2008, November 2015 and March 2016. He is particularly concerned about whether the proposed drainage design would ensure that flooding would not be made any worse by the proposed development that is shown to include ponds on higher ground than Brafield Leys.

Councillor Noreen New

155. Councillor Noreen New is a resident of Rokeby and Hillside and a Councillor for Paddox Ward. She expressed concerns about the impact of the proposal upon traffic and air quality on Ashlawn Road, Dunchurch Road, and in particular Rugby gyratory; its impact on wildlife; and that the primary school proposed on the site would encourage more traffic. Ashlawn Road serves the largest secondary school in Rugby and the Crematorium and Cemetery. It has been part of WCC's accident reduction scheme due to the number of accidents and deaths that have occurred. Percival Road would become more congested as a result of the traffic using it as a 'rat run' to access Hillmorton Road. The extra traffic that would be generated would pose a risk to ambulances and emergency services that use Ashlawn Road and Barby Road. New development should be targeted towards the most sustainable brownfield sites, such as the Radio Mast site and not to BMW agricultural land.

Written representations

Written representations were made at the appeal stage by over 100 parties¹⁷³ and at the application stage¹⁷⁴, including petitions with a total of over 1,000 signatures¹⁷⁵, of which the main concerns expressed are similar to those raised at the inquiry.

Warwickshire Police

Written representations were submitted to the inquiry by Warwickshire Police¹⁷⁶. The material points were:

156. Warwickshire Police (WP) requested a sum of £185,278 towards police infrastructure that would mitigate the impact of the proposed development. This contribution has not been disputed and should be secured in a S106 planning obligation. It reflects the precise need that would arise from the development of up to 860 new homes on the appeal site based on WP's experience policing development in the area. The contribution would be used to mitigate the impact on infrastructure where there is no spare capacity and would accord with Core Strategy Policy CS10. Appendix 3 of the Core Strategy includes police as one of the critical infrastructure requirements to ensure delivery and mitigation, which are expected to be included in a S106 Agreement.
157. WP objects to the development proceeding without the necessary contributions as the resulting development could not be adequately policed, contrary to Core Strategy Policy CS13 and policies within the Framework. There is extensive

¹⁷³ Document REP1

¹⁷⁴ Document COU2

¹⁷⁵ Document COU3

¹⁷⁶ Document DOC32

evidence in WP's written representations which cover how the contribution request was calculated¹⁷⁷ and compliance with Community Infrastructure Levy Regulations (CIL) Regulation 122 and 123(3)¹⁷⁸. Each element of the contribution would be spent on an individual 'project' to meet the needs of the development alone, without the need for any pooling of contributions.

8 Planning Obligations

158. I have examined the planning obligations in the S106 Agreement to determine whether they meet the tests in CIL Regulation 122. These are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonable related in scale and kind to the development.
159. CIL Regulation 123(3) indicates that a planning obligation may not constitute a reason for granting planning permission to the extent that five or more separate planning obligations that relate to planning permissions granted for development within the area of the charging authority and which provide for the funding or provision of that project or type of infrastructure have been previously entered into. I have therefore also examined whether the planning obligations contravene CIL Regulation 123(3).
160. The Council, WCC and WP have provided documents to demonstrate CIL compliance¹⁷⁹. I have not received any evidence to demonstrate that the planning obligations would contravene any of the above Regulations. The obligation to secure up to 40% Affordable Housing on the site in each phase, subject to a viability report, is necessary to ensure compliance with Core Strategy CS19 and the Housing Needs SPD and meet the Borough's needs.
161. The obligations to secure contributions towards youth services and libraries in Dunchurch would be directly related to the development as some of the proposed dwellings would be within that Parish and their occupants would be likely to increase demand for these services. The contributions would be necessary to ensure that these services would be able to cope prior to the resulting revenue from the Community Charge being made available. As such, they would accord with Core Strategy Policy CS10 and the Planning Obligations SPD. The obligation towards improvements to the public realm in Dunchurch CA would be necessary to mitigate the effect of the proposed alterations to the junction.
162. The obligations to secure contributions towards the maintenance of on-site open space and the provision and maintenance of indoor sports facilities at the Queen's Diamond Jubilee Centre and off-site open space, allotments and outdoor sports facilities, including at Rokeby open space, Ashlawn recreation ground, Whitehall recreation ground and Whinfield recreation ground, would be necessary to mitigate increased demand for these facilities that would be generated by the proposed development. Whilst some of the facilities would be over a half hour walking distance away from the site, I am satisfied that the

¹⁷⁷ Document COU2: Letters dated 17 September 2014 and 3 October 2014

¹⁷⁸ Document DOC27

¹⁷⁹ Documents DOC25, DOC26, DOC27, DOC28 and DOC32

resulting improvements to them would be directly related to the proposed development, as the use of them would be likely to increase as a result of the proposed development, being some of the closest facilities to the appeal site. These contributions would also accord with LP Policies LR1 and H11.

163. The obligations to secure contributions towards education facilities, including the proposed on-site primary school and a new off-site secondary school, would be necessary as the existing facilities would be insufficient to cater for the additional demand from future occupants of the dwellings. The contribution towards libraries run by WCC would be used to finance additional stock and targeted collections and promotions to inform new residents of the services. I am satisfied that this would be necessary to mitigate the impact of the development on these services prior to money being made available from the Community Charge.
164. The obligations towards a travel pack, and contributions to finance public transport and improvements to public rights of way and cycleways in the area of the development would be used to encourage the use of sustainable means of transport and reduce the reliance on the private car by future residents of the development. The money would be targeted towards the infrastructure that would be closest to the development and therefore most likely to be used by its occupants. An obligation to secure the necessary funding for highway improvements at the junction of Ashlawn Road with Hilmorton Road would help to address the impact of the increase in traffic that would be generated by the development.
165. A contribution to be used to enhance and secure management of biodiversity within the Borough at Ryton Pools Country Park and at local farms would be directly related to the biodiversity loss due to development of agricultural land. It would be directed towards improvements in biodiversity near to the site. The obligations to secure a Police contribution would ensure that the money would be spent on police equipment, premises and vehicles that would be necessary to police the new development.
166. Based on the above, I have found that the planning obligations in the S106 Agreement meet the tests in CIL Regulations 122 and 123(3) and paragraph 204 of the Framework. I have therefore taken them into account in my conclusions and recommendations.

9 Planning Conditions

167. Should the SofS be minded to grant planning permission, I recommend that the conditions set out in Appendix C of this report be imposed. They are based on the conditions suggested by the Council should the appeal be allowed that have been discussed at the inquiry and subsequently amended.
168. Conditions regarding reserved matters approval¹⁸⁰ and the standard timescales¹⁸¹, together with conditions referring to the plans and the DAS details¹⁸² and any phasing of the development¹⁸³ are necessary in the interests

¹⁸⁰ Document DOC29 Condition 1

¹⁸¹ Document DOC29 Condition 2

¹⁸² Document DOC29 Condition 3

of expediency and certainty. Although the application was submitted in outline form with access to be considered, the only accesses that have been detailed are the 2 vehicular accesses onto Ashlawn Road. I have amended the reserved matters accordingly.

169. SARD has argued at the inquiry that the DAS and plans showing the bus gate and the internal roads that run alongside part of the Bridleway should not be included in Condition 3¹⁸⁴. However, the DAS and these plans provide the best indication of the layout and, without reference to the details provided by them, there would be limited guidance on reserved matters. Furthermore, the Council has indicated that it would consult at the time of the reserved matters applications and work to the guidelines to determine the acceptability of the proposal, including the Bridleway details and whether a bus gate would be required.
170. Conditions requiring approval of details of materials¹⁸⁵, boundary treatments¹⁸⁶, finished floor and ground levels¹⁸⁷ and landscaping¹⁸⁸ for each phase of the development are necessary to ensure a co-ordinated approach to the development of the site and in the interests of visual amenity. A condition to control external lighting¹⁸⁹ is necessary to ensure that acceptable living conditions and visual amenity would be provided for future residents of the development and to protect the ecology of the area. Conditions to ensure that existing trees and hedges would be surveyed and assessed¹⁹⁰ and protected when identified to be retained¹⁹¹ are necessary in the interests of biodiversity and visual amenity.
171. The conditions that are necessary to protect and enhance the ecology of the area, including protected species, are to secure a buffer zone around the ponds¹⁹², a Habitat Management Strategy¹⁹³ and a Construction and Environmental Management Plan¹⁹⁴. A condition to ensure an adequate water supply and fire hydrants would be provided at an appropriate time for each phase of the development¹⁹⁵ is necessary for health and safety interests.
172. At the inquiry, the appellants argued that suggested conditions regarding compliance with Building Regulation requirements are unnecessary and not in accordance with paragraphs 203 to 206 of the Framework¹⁹⁶. The Council has indicated that these conditions are necessary to ensure compliance with Core Strategy Policy CS17, regarding sustainable buildings, and its Sustainable

¹⁸³ Document DOC29 Condition 4

¹⁸⁴ Oral evidence given at the inquiry by Mr Allanach

¹⁸⁵ Document DOC29 Condition 5

¹⁸⁶ Document DOC29 Condition 6

¹⁸⁷ Document DOC29 Condition 7

¹⁸⁸ Document DOC29 Condition 9

¹⁸⁹ Document DOC29 Condition 8

¹⁹⁰ Document DOC29 Condition 10

¹⁹¹ Document DOC29 Condition 11

¹⁹² Document DOC29 Condition 12

¹⁹³ Document DOC29 Condition 13

¹⁹⁴ Document DOC29 Condition 14

¹⁹⁵ Document DOC29 Condition 15

¹⁹⁶ Document DOC23

Design and Construction SPD¹⁹⁷. It has also indicated that the conditions are necessary to ensure that the dwellings are constructed to meet the Building Regulations current at the time of the approval of reserved matters for that phase of development¹⁹⁸. Having considered these arguments, I find that a condition requiring general compliance with the Building Regulations¹⁹⁹ to be unnecessary and unreasonable. However, in accordance with the Written Ministerial Statement of March 2015, I am satisfied that a condition to secure compliance with an energy standard that exceeds the energy requirements of Building Regulations²⁰⁰ is necessary to ensure that the proposal would accord with Core Strategy Policy CS17 in the interests of energy efficiency.

173. In accordance with the recommendations of WCC's Archaeologist, a condition requiring further archaeological work to be undertaken²⁰¹ is necessary for historical recording. Conditions regarding a drainage strategy²⁰² and Surface Water Management Plan²⁰³ are necessary to reduce the risk of flooding and associated pollution. Conditions to secure the proposed highway works at Dunchurch crossroads²⁰⁴, Cock Robin Roundabout²⁰⁵ and Ashlawn Road/Barby Road junction²⁰⁶ and the vehicular accesses to the development at appropriate stages²⁰⁷ are necessary to protect highway safety and prevent unacceptable traffic congestion. Conditions to ensure that the footway/cycleway on Ashlawn Road is improved²⁰⁸ and to control cycle, pedestrian and equestrian connections²⁰⁹ are necessary for safety reasons and to encourage the use of sustainable means of transport.
174. A condition requiring facilities for electric vehicles²¹⁰ is in the interests of the environment and sustainable transport. A condition requiring a noise assessment and mitigation for each phase of the development²¹¹ is necessary to ensure acceptable living conditions for future residents of the proposed development, given that the site is located near to a busy road.
175. A condition to ensure that construction of the development is carried out in accordance with an approved Construction Method Statement²¹² is necessary in the interests of health and safety and amenity. I have added measures to protect Bridleway RB30 to address concerns expressed by users of that bridleway and have included measures to prevent construction traffic using

¹⁹⁷ Document DOC24

¹⁹⁸ Oral submission made at the inquiry by Karen McCulloch for the Council

¹⁹⁹ Document DOC29 Condition 16

²⁰⁰ Document DOC29 Condition 17

²⁰¹ Document DOC29 Condition 18

²⁰² Document DOC29 Condition 19

²⁰³ Document DOC29 Condition 20

²⁰⁴ Document DOC29 Condition 21

²⁰⁵ Document DOC29 Condition 24

²⁰⁶ Document DOC29 Condition 25

²⁰⁷ Document DOC29 Conditions 22 and 23

²⁰⁸ Document DOC29 Condition 26

²⁰⁹ Document DOC29 Condition 27

²¹⁰ Document DOC29 Condition 28

²¹¹ Document DOC29 Condition 29

²¹² Document DOC29 Condition 30

roads in Hillside Estate to address a concern of residents of that estate. I have included a condition regarding contamination, including surveys and how to deal with any arising unexpectedly²¹³, to reduce the risk of pollution for health and safety reasons.

176. Although the S106 Agreement would secure measures to reduce the need to travel by private car, I consider that a condition to secure a Travel Plan is necessary for sustainability reasons. I am satisfied that all the above mentioned conditions are reasonable and necessary and I have worded them to reflect the advice in the PPG.
177. The conditions suggested by SARD²¹⁴ were discussed at the inquiry. A condition to ensure that all the buildings would be completed within 5 years would not meet the tests of being reasonable and enforceable. Conditions to control the design of the development adjacent to the Bridleway, with reference to the standards, is unnecessary as the application is in outline form and at the time of consultation for approval of reserved matters guidelines may have changed. Furthermore, the route of the Bridleway is shown on a Plan referred to in the conditions²¹⁵.
178. A condition requiring the provision of civic space is unnecessary as the community use of the proposed primary school would be secured by the S106 Agreement. Conditions requiring specific provisions of urban park or formal gardens, adult football pitches, allotments or community gardens, amenity greenspace and play area and recreational facilities are unnecessary, as the proposal would make on-site provision for some of these facilities and also contributions for off-site provision in the S106 Agreement. A condition requiring the offset for biodiversity loss to be on-site is unnecessary, given that the application is in outline and matters of detail would be determined later when a more detailed design has been submitted.
179. SARD accepted at the inquiry that conditions to secure land for a two form entry primary school, an annex to Ashlawn secondary school and flood containment works have been dealt with by the S106 Agreement and the design. A condition requiring land to be made available on-site for a health clinic/GP surgery has not been shown to be necessary, based on the responses from the statutory consultees.

²¹³ Document DOC29 Condition 31

²¹⁴ Document SARD1 Appendix 1

²¹⁵ Document DOC29 Condition 27

10 Inspector's Conclusions

The numbers in square brackets [] refer back to earlier paragraph numbers which are relevant to my conclusions.

180. Based on the reasons for refusal, I consider that the main issues are the effect of the proposal on the flow of traffic and highway safety at Dunchurch crossroads (A426/B4429); and its effect on air quality in the surrounding area. Other issues that I have dealt with, based on those raised by SARD, include the effect of the proposal on the settings and significance of heritage assets, its effect on drainage and the risk of flooding, its effect on the provision of open space and recreational facilities, its effect on Bridleway RB30 and its effect on educational and health facilities.

Traffic and Highway Safety

181. Whilst concerns have been raised by objectors about the effect of the proposal on traffic using the Rugby gyratory, this is not given as a reason for refusal. Furthermore, I have been given no substantive evidence that shows that the number of vehicles that would be generated by the appeal proposal would have any significant harmful cumulative effect on the flow of traffic in Rugby Town Centre or at any other junction, apart from Dunchurch crossroads. There is no substantive evidence to demonstrate that the proposed junctions on Ashlawn Road would result in any unacceptable traffic or highway impact as a result of the proposed 860 dwellings being directly accessed from them. Neither the HA nor the Council has raised any objections regarding the impact of the appeal proposal on traffic and highway safety in the area following mitigation, apart from at Dunchurch crossroads. Both have now agreed that their objections regarding the effect of the proposal on Dunchurch crossroads have been overcome by the proposed alterations, which the HA has independently scrutinised to satisfy itself that it would not harm highway safety and would result in no detriment to traffic flows at that junction. **[6, 18, 24, 86, 104, 132, 138 and 155]**
182. The main outstanding objections to the proposal on traffic and highway safety grounds are from some of the objectors and in particular SARD. None of these objectors have provided expert evidence to support their concerns. Traffic surveys have been carried out by members of SARD with regard to vehicles leaving a similar size and type of development in Rugby to that proposed, but they have not been verified as to their accuracy by any independent expert and SARD has accepted that they did not take account of the number of vehicles entering the development. Also, SARD has surveyed the movement and number of vehicles using Dunchurch crossroads during a 2¹/₂ hour period, the results of which the appellants have shown to be generally consistent with the baseline traffic flows that it has used to assess the capacity of the junction. **[23, 29, 100 to 102 and 136]**
183. Whilst the use of WCC's Paramics Model has been criticised by some objectors, the appellants have indicated that the Cordon model which was actually used had been audited and fully validated using up-to-date 2016 data. I am satisfied by the evidence provided, including the independent audits of the data, that the Cordon model that was used allowed for up-to-date traffic data and took account of future committed development. As such, there is

insufficient evidence to show that the information used by the appellants to inform its traffic modelling of the effect of the proposal on the highway network is inaccurate or inappropriate. **[25, 103, 139 and 140]**

184. All the parties appear to me to accept that Dunchurch crossroads is currently operating at its design capacity during peak times and that this is likely to be made worse by the traffic that would be generated by new and committed development in the area. The longest queues that have been identified are those travelling south towards the junction on Rugby Road and I observed that they were the worst queues at the junction when I visited it during the morning peak time on Friday 3 February. One of the main alterations proposed would be to widen Rugby Road on its approach to the junction to enable an additional lane to be provided, giving a separate lane for right turning traffic into Coventry Road. **[19, 31 and 105]**
185. Dunchurch crossroads has been modelled using LinSig, which is a widely recognised model for signal controlled junctions. The modelling has shown that, for the design year of 2026, the junction would be operating above 100% degree of saturation during the am and pm peak hours for all scenarios. However, the predicted queue lengths and times with the proposed development and junction alterations would be better than against the 2026 baseline and similar to those in 2016. Furthermore, this model has not included potential improvements to the efficiency of the signal operation by using MOVA to control the signals, which would be particularly effective during off-peak times when the junction would be less likely to be operating at or above capacity. Also, the modelling has allowed for the proposed pedestrian crossings to be called on every cycle, which may not always be the case, and has not excluded the traffic that does and could use Adkinson Avenue as a 'rat run' to avoid the junction. As such, I am satisfied that the modelling of the junction is robust. **[24, 26, 27, 31, 97, 103 and 104]**
186. The use of TRICS data to estimate the traffic that would be generated by the development is a standard method. The TRICS figures used for the local Cawston development have been agreed with the HA as being appropriate to be considered for the appeal development. Even though none of the developments used for the TRICS are in Warwickshire, the appellants have verified them against 4 recent schemes in Rugby. They have also demonstrated that trips that would be generated by the proposed primary school on the site would not make any significant difference. Whilst some mistakes and/or anomalies have been identified in the reporting and interpretation of the modelling results, there is nothing that has been put before me that would make any significant difference to the overall findings, which I am satisfied have been thoroughly checked and verified by independent experts. **[28, 29, 100, 139 and 155]**
187. With regard to highway safety, the Dunchurch crossroads scheme has been subject to Stage 1 Road Safety Audits and the HA has not put forward any highway safety concerns. The widening of the carriageway on Rugby Road would result in an increase in the width to be crossed and no additional cycle facilities would be provided at the junction. However, the proposed widening has been shown to reduce traffic queues and additional pedestrian crossing facilities would be provided, which would offer some highway safety benefits

compared with the existing design and layout. The lane widths would not meet the requirements of DMRB for a new junction and an objector has calculated that they would not be wide enough for two HGVs to pass each other. However, the traffic figures show that the junction is not used by a large number of HGVs and plans of swept paths have demonstrated that they should be able to safely negotiate it. Furthermore, as the junction is not on a trunk road, the DMRB design standards are not mandatory. **[30, 31, 50, 106 and 141]**

188. Whilst the construction of a 'spine road' or 'by-pass' would be the ideal solution to the existing and potential future traffic problems in the Rugby area, there is nothing before me to show that such a scheme would be likely to be financed or completed within the foreseeable future. In the meantime it is necessary for Rugby to meet its need for housing and, in doing so, to mitigate the impact of such development as best it can. The most successful short term way of mitigating the traffic impact of the appeal development on Dunchurch has been shown to be the proposed alterations to Dunchurch crossroads. **[18, 20, 30, 125, 131, 136 and 141]**
189. Taking account of the above, together with representations from the Council and HA and the concerns expressed by objectors, I find that the residual cumulative transport impacts of the proposal would not be severe and it would not result in any significant harm to highway safety, including at Dunchurch crossroads. As such, it would accord with paragraph 32 of the Framework and Core Strategy Policies CS11 and CS16 with respect to these issues, as it would provide measures to mitigate the resulting cumulative transport impacts. **[13 and 21]**

Air Quality

190. The concerns that have been expressed about air quality are regarding the pollution that would be caused by vehicles from the proposed development and other committed development in the area, mainly in Dunchurch. Such pollution is generally measured in terms of levels of NO₂. The failure to mitigate increases in air pollution at Dunchurch crossroads was given as one of the reasons for refusal but the Council has indicated that it is now satisfied that the impact of the proposed development on air quality would be acceptable. **[35, 87, 107, 135, 136, 142, 143 and 155]**
191. The appellants have demonstrated that in Dunchurch there would be a decrease in NO₂ levels in 2026 compared with current levels, due mainly to forecast overall improvements in vehicle emissions, and that the levels at all receptors would be below the air quality objective, even though currently one receptor indicates levels above that limit of 40 µg/m³. The figures that have been calculated are based on the traffic modelling, which I have found to have been thoroughly tested and verified. The calculations that have been carried out and the assumptions made, which have been shown to be robust, demonstrate that NO₂ levels for 2026 as a whole would be worse without the appeal development than with it and the proposed junction alterations. This would be due to resulting improvements in the net speed of traffic through the junction. As such, and in the absence of any calculations and measurements to show otherwise, I am satisfied that the proposal would not cause any

significant harm to air quality in Dunchurch, and could result in minimal improvements. **[39 to 41, 45 and 84]**

192. Whilst the appeal site is within an AQMA, as a result of the annual mean NO₂ levels exceeding the UK's air quality objective of 40 µg/m³, monitoring of NO₂ levels near to the site have shown the existing air quality to be good. Measures to encourage more sustainable travel have been proposed to mitigate the impact of the proposal on air quality, including a Travel Plan, and funding towards improvements in public transport and cycle facilities. **[36, 38 and 42]**
193. Based on the evidence provided, I conclude on this issue that the proposal would not have a significant adverse effect on air quality in the surrounding area. As such, it would accord with Core Strategy Policy CS11 with regard to this issue, as it would mitigate any detrimental effects on air quality within a designated AQMA. **[13]**

Heritage

194. I have considered the statutory duties under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which are to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and to pay special attention to the desirability of preserving or enhancing the character or appearance of a CA. The Framework does not distinguish between listed buildings and CAs in terms of designated heritage assets. In this respect, it identifies in paragraph 132 that development within the setting of a heritage asset can harm its significance.
195. There have been 3 heritage assets mentioned as being affected by the proposal. Whilst the appellants have accepted that the proposal would result in harm to the setting of North Lodge Grade II Listed Building due to the resulting increase in traffic on Ashlawn Road, there have been very few objections to the development based on this harm. I am satisfied that the conclusions reached by the appellants' heritage expert, which are not disputed by the Council, are an accurate reflection of the resulting less than substantial harm to the building's significance, which I have later balanced against the benefits of the proposal, in accordance with paragraph 134 of the Framework. **[46, 47, 52 and 92]**
196. The other heritage assets that would be affected are at Dunchurch. In this respect the appellants have suggested that the measures that would be undertaken at the crossroads would result in improvements to the setting of the Grade II Listed statue and hence would improve the character and appearance of the CA. However, whilst historical records have shown that the statue has been surrounded by a variety of protective measures and space, there has been a resulting increase in traffic passing by it. Whilst I consider that the loss of some of the grassed area in front of the statue to allow the carriageway to be widened would cause some harm to its setting due to traffic passing nearer to it, this harm would be mitigated by a proposed reduction in visual clutter around it and improvements to the flow of traffic. As such, I am satisfied that the setting, and hence the significance of this heritage asset would be preserved. **[49, 50, 92, 144 and 145]**

197. The proposed improvements to the public realm in Dunchurch, funded through a S106 planning obligation, would mitigate the impact of the resulting additional traffic and carriageway widening at Dunchurch crossroads to ensure that the proposal would preserve the character and appearance of Dunchurch CA. I therefore conclude on this issue that the proposal would preserve the setting of heritage assets in Dunchurch and the character and appearance of Dunchurch CA but would result in less than substantial harm to the setting and significance of North Lodge Listed Building, which should be weighed against the benefits. As such, it would accord with Core Strategy Policy CS16 in this respect, as it would not have a significant impact on any designated and non-designated heritage assets. **[13, 52 and 161]**

Drainage and Flooding

198. The appeal site is within Flood Zone 1, where there is a low risk from flooding, and a FRA has been produced which has resulted in there being no objections, subject to planning conditions, from the EA, WCC or Severn Trent Water. I have been made aware of existing flooding problems on the adjacent Hillside Estate, which appear to me to be due to run-off from the appeal site and excessive water entering the sewer through the existing outlet from the site during times of relatively heavy rainfall. The appellants have employed experts to examine these problems and I am satisfied that they have demonstrated that the proposed use of SUDS would help to regulate the flow of water from the site and reduce the risk of flooding. **[53 to 58, 60, 84, 91, 120, 121, 129, 133 and 134]**
199. As the appeal proposal is in outline, the SUDS and drainage designs would be provided in more detail at a later stage, secured by appropriate planning conditions. Although some of the SUDS' ponds have been shown on higher ground than some properties in Brafield Leys, I have been provided with sufficient information at this stage to show that the SUDS and drainage would be able to be designed to ensure that the development would not result in an increased risk of flooding. Also the appellants have demonstrated that the proposal could potentially lower the risk of flooding in the surrounding area. Based on the records provided, I am satisfied that the existing storm and foul water sewerage would be capable of accommodating up to an additional 400 dwellings without any need for improvements, which would be able to be carried out when necessary. Therefore, I find on this issue that the proposal would not result in any drainage problems or increase the risk of flooding and could result in a reduction in that risk in some adjacent areas. **[57, 58, 59 and 154]**

Open Space and Recreation

200. The planning obligations in the S106 Agreement would secure the community use of the proposed primary school. They would also secure contributions towards allotments on land north of Ashlawn Road, indoor and outdoor sports facilities at the Queen's Diamond Jubilee Centre and Whinfield Recreation Ground respectively, natural and semi-natural off-site open space and parks and gardens. As such, the Council is satisfied that the shortfall in on-site provision against the requirements of LP Policy LR1 would be addressed by this off-site provision. **[61 to 64, 93, 112, 113, 146, 149 and 162]**

201. A number of objectors have suggested that some of the facilities that would be improved are significant distances away from the development and that the contributions would not increase the area of natural and semi-natural greenspace in an area of Rugby that is deficient in such facilities. However, the appeal site is reasonably well related to Rugby Town Centre and the facilities within it, including sports and recreation. These facilities would be accessible from the site by a relatively long walk, by bicycle, possibly using links through Hillside Estate, or public transport, with contributions being made to improve the frequency of the nearest accessible service to the site. I am satisfied that the accessibility of the site to such facilities would be similar to that at existing residential areas within Rugby. Furthermore, these improved facilities would also benefit existing residents and additional open space and recreational facilities would be provided on the site. **[33, 34, 64 and 112 to 115]**
202. Whilst it would be possible to provide all the open space and recreation requirements under LP Policy LR1 on-site, this would be likely to result in a significant reduction in the number of much needed dwellings and/or the loss of the proposed new school. As such, I find that an acceptable balance in on-site provision and contributions towards off-site provision has been reached that would ensure compliance with the objectives of LP Policies H11 and LR1 and Core Strategy Policy CS10, regarding developer contributions. **[61 to 63, 93 and 114]**
203. I conclude on this issue that, taking account of the contributions that would be made by the S106 planning obligations, the proposal would not have a significant adverse effect on the provision of open space and recreational facilities in the area. As such, it would in principle accord with LP Policies H11 and LR1.

Bridleway RB30

204. The appeal proposal as shown indicatively on the Masterplan identifies that the route of the existing Bridleway RB30 across the site would be preserved. Whilst some of the documents submitted by the appellants do not refer to it as a bridleway, I am satisfied that sufficient evidence has been provided to show that its use as a bridleway would be protected. **[67, 93 and 116]**
205. As the proposal is in outline form, there are limited details of the proposed treatment of the Bridleway and its interaction with the infrastructure and buildings and these could be subject to change when further details would be submitted under reserved matters approval. However, there is nothing to prevent the safety of the route for horses being secured in the detailed design. This should include the provision of an adequate width of green corridor, which has been identified on the illustrative plans as being wider than it has been specified on the definitive map and statement, appropriate paving and potential improvements to the crossing on Ashlawn Road. In addition, I am satisfied that users of the Bridleway would be adequately protected during construction by securing appropriate measures under a planning condition. **[66, 67, 84, 116, 117, 150 and 152]**

Educational and Health Facilities

206. The appeal proposal has made provision for land on the site to construct a primary school. The S106 Agreement would secure financial contributions towards this school and either a new secondary school to be constructed off-site or alternative provision to address the shortfall in school places that would result from the proposed development. These contributions have been agreed with WCC, as the LEA. I am also satisfied that the relevant NHS bodies have been consulted and have not objected or requested any funding. As such, there is insufficient substantive evidence to show that the proposal would have any significant adverse effect on educational and health facilities. **[70, 119, 137, 148 and 163]**

Other Matters

207. The description of the proposed development includes the provision of a 'bus link control feature to Norton Leys' and this is shown on the Masterplan. SARD and some of the other objectors have expressed concern that there are insufficient details of this link, which has also been referred to as a 'bus gate', to determine how it would operate and whether it would allow more than just buses to pass, leading to the potential use of Hillside Estate as a rat run. **[122, 132e) and 154]**
208. Although the appellants have indicated at the Inquiry that the 'bus gate' should remain as part of the proposal, they consider that it would currently not be necessary to be provided, as the bus operator no longer requires it for its bus service. However, the S106 Agreement includes an obligation to make provision for enhancements to the bus service, which could still include a bus gate. If a bus gate were to be included in the final layout, the suggested planning conditions require further details of its design to be approved, which I am satisfied would ensure that such a feature would not be used inappropriately. **[32 and 164]**
209. A number of objectors have provided evidence to show that the appeal site is included as Grade 2 agricultural land, which would make it BMV agricultural land in accordance with the Framework. However, this evidence is not sufficiently detailed to be reliable and the latest information provided by a qualified surveyor is that most of the site is Grade 3b, which does not qualify as BMV agricultural land that should be preserved in accordance with paragraph 112 of the Framework. **[69, 151 and 153]**
210. The S106 Agreement would secure funding for biodiversity measures to offset the harm that the proposed development would cause to biodiversity on the site. This would be assessed using an adopted procedure by WCC. The proposed Masterplan identifies that most of the existing hedgerows and trees would be retained and that additional space would be provided that would be suitable for wildlife, including at the proposed sustainable drainage ponds. There have not been any objections from Natural England, the Wildlife Trust or WCC's Ecologist. As such, there is nothing before me to show that the proposal would result in any significant adverse effect on biodiversity or wildlife following the mitigation that would be secured by the S106 planning obligation and planning conditions. **[71, 90, 109, 132d), 155 and 165]**

211. Whilst the level of consultation has been criticised by some of the objectors' particularly with regard to the proposed alterations at Dunchurch crossroads, the appellants have provided details to show that the appropriate consultation has been carried out. Furthermore, the responses to the appeal, including attendance at the inquiry by SARD and other objectors, have been sufficient to demonstrate to me that none of the parties' interests have been prejudiced. **[17, 22, 96 and 145]**

Planning Balance and Overall Conclusions

212. The Council has agreed that it cannot demonstrate a five-year supply of deliverable housing sites, and therefore relevant policies for the supply of housing should not be considered up-to-date. I consider it unnecessary to explore the extent of this shortfall, given the different figures, as I have insufficient evidence before me to make a well-reasoned judgement and it would make very little difference to my overall conclusions on the acceptability of the proposed development. **[78 and 88]**
213. Whilst some of the objectors, including SARD, have referred to the provision of new housing on the Rugby Radio Mast site and Rugby Gateway site meeting the Borough's housing need, the Council has accepted that this would not be sufficient to ensure that it would have a five-year supply of housing land in accordance with the Framework, due to the future phasing of that development. I therefore agree that the Council cannot demonstrate a five-year supply of deliverable housing sites in accordance with the Framework. **[15, 79, 88, 127 and 132]**
214. In terms of Core Strategy Policy CS1, the appeal site would be located adjacent to the built up area of Rugby. Therefore the proposed development would represent an extension to the urban area where the Policy envisages most new housing development would be delivered to meet the housing targets up to 2026. Whilst SARD has argued that the proposal would be in the countryside, as it would not be within the defined boundary of Rugby, the explanatory text to the Policy indicates that the focus of development in the 'Rugby Urban Area' also includes extensions to that urban area. As such, I am satisfied that the proposal would accord with this Policy. **[73 and 123]**
215. With regard to Core Strategy Policy CS5, the Council has accepted that it has demonstrated a significant shortfall in the supply of strategic housing, whichever five-year housing land supply figure is used. The explanatory text in paragraph 3.23 indicates that in such circumstances, the Council will seek to bring forward land within the 'South West Broad Location', in which the appeal site is located. Although SARD has suggested that the Council's intentions were to phase this development in line with the construction of the proposed Southern Relief Road from west to east, this does not form part of the Policy or explanation. Also, the second paragraph in the Policy, regarding the method to be used to identify a shortfall, has been superseded by the requirements given in paragraph 47 of the Framework and therefore I have attached limited weight to it in accordance with paragraph 215 of the Framework. The appellants have accepted that the Council has not published a DPD as required by the Policy, but development of the appeal site would be in line with the Draft LP's emerging policies. Even though I have attached limited weight to these emerging policies, due to the unresolved objections, the appeal

development would not undermine them. Therefore, taking account of the above, I find that the proposal would be in general accordance with Policy CS5. **[74, 75, 76, 78, 88, 124 and 125]**

216. For the reasons given above, I am satisfied that the appeal proposal would be in accordance with the development plan when taken as a whole. As such, it would represent sustainable development in accordance with the Framework and planning permission should be granted unless material considerations indicate otherwise. I have considered the other material considerations in the context of the Framework and the presumption in favour of sustainable development. **[82]**
217. As I have found that the proposal would cause less than substantial harm to the significance of North Lodge, which is a Grade II Listed Building, I have applied the ordinary planning balance to that harm in accordance with paragraph 134 of the Framework. In doing so, I have looked at the benefits of the proposal, which include the provision of up to 860 new houses, of which up to 40% would be affordable. **[81, 83 and 84]**
218. Of the new housing that would be provided, the appellants have assumed that about 300 would contribute towards the five-year supply between 2016/17 and 2020/21, but has provided a trajectory that indicates that this could well be more. The S106 Agreement seeks to ensure that the appropriate percentage of affordable housing would be provided at each phase of the development to help it represent a mixed community. Although SARD has questioned whether the viability of the scheme would result in substantially less than a 40% provision of affordable homes, as it has suggested has happened at Rugby Gateway and the Radio Mast site, there is nothing before me to indicate that these circumstances would apply to this appeal proposal. **[80, 81, 84, 88 and 127]**
219. The benefits associated with the additional housing include indirect economic benefits to the economy and local services in Rugby. There are other economic benefits in terms of jobs that would be created in the construction of the development and at the new primary school. The social benefits include the affordable housing, the community use of the school, which would be protected under the S106 Agreement, the improved recreational and sporting facilities and improvements to public transport and cycle infrastructure. There would also be benefits to the environment due to the air quality improvements from the alterations at Dunchurch crossroads and improvements to the drainage of the site. **[84]**
220. In terms of the heritage balance, I have attached considerable weight to the desirability of preserving the heritage asset's significance. However, the public benefits that I have mentioned above outweigh the less than substantial harm that I have found that the proposal would cause to the significance of North Lodge. I am therefore satisfied that there are no material considerations that indicate that planning permission should not be granted.
221. Should the SofS decide that the proposal would not accord with the development plan, I have considered the proposal in the circumstances where relevant development plan policies are out-of-date. As such, paragraph 14 of the Framework indicates that planning permission should be granted unless

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted. As I have found that the harm to the heritage asset would be outweighed by the benefits of the proposal, the specific heritage policies in the Framework indicate development should not be restricted.

222. I have already stated the main benefits of the proposed development. In terms of the adverse impacts, in addition to the harm to the setting of a heritage asset, I accept that the proposed built development on open agricultural land would result in some harm to visual amenity and landscape and the loss of what has been classified as not BMV agricultural land. However, I conclude that the adverse impacts of the appeal development would not significantly and demonstrably outweigh its benefits and the proposal would represent sustainable development in accordance with the Framework. **[85]**

223. My overall conclusions are that, taking account of the planning obligations in the S106 Agreement and all relevant matters raised, the appeal should be allowed.

11 Recommendations

224. I recommend that the appeal be allowed, and planning permission be granted subject to the conditions set out in Appendix C. If the SofS is minded to agree, I also recommend that the S106 Agreement take effect as indicated at paragraph 166.

M J Whitehead

INSPECTOR

APPENDIX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jack Smyth of Counsel, instructed by Debra Tyrrell, Solicitor,
Rugby Borough Council

FOR THE APPELLANTS:

Paul Tucker QC and

Freddie Humphreys of Counsel,
both instructed by Gary Stephens, Marrons
Planning

They called

Iqbal Rassool BEng CEng Service Director, BWB Consulting
MCIWEM

Eur Ing Richard Hutchings Director Transportation and Infrastructure,
BSc CEng MICE FCIHT WSP/Parsons Brinckerhoff
CMILT MAPM

Anthony Martin BA MA Nexus Heritage
MCIfA

Dr Bethan Tuckett-Jones Technical Director and Head of Air Quality,
PhD CEnv MIAQM Environmental Group, WSP/Parsons Brinckerhoff

Gary Stephens BA(Hons) MA Planning Director, Marrons Planning
DipUD MRTPI

FOR THE RULE 6 PARTY (SARD):

Richard Allanach

He called

Henry Whittaker LLB MSc Partner of Environmental South West, Director of
Domiciliary Care Agency Cygnet Care (Devon)
Ltd and Whittaker Equestrian and Countryside
Consultancy

INTERESTED PERSONS:

Charles Johnson Local resident

Councillor Bill Lewis Rugby Borough Councillor for Rokeby &
Overslade Ward

Neville Burton Local resident

Nicholas Long Save Dunchurch Action Group

Ann Wright Secretary of Save Dunchurch Action Group

Michael Judge MBE	Save Dunchurch Action Group
David Ralph MSc	Local resident
Councillor Howard Roberts	Dunchurch Parish Councillor, Borough Councillor for Dunsmore Ward and Warwickshire County Councillor for Dunchurch
Paul Waller	Local resident
Councillor Carie-Anne Dumbleton	Rugby Borough Councillor for Rokeby & Overslade Ward
Councillor Marion Nash	Rugby Borough Councillor for Rokeby & Overslade Ward
Julian Woolley CMLI	Local resident
Andy Smith	The Stables Riding School
Steve Fancourt CMLI	Local resident
Anthony Rogers	Local resident
Councillor Noreen New	Rugby Borough Councillor for Paddock Ward

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APPENDIX B: DOCUMENTS

Appellants' Documents

- APP1 Application Submission Documents A.1 – A.13 & B.1 –B.13 (R13/2012)
APP2 Letter from Marrons Planning, dated 7 July, with attached details of consultation
APP3 Environmental Statement Volume 1, August 2014
APP4 Environmental Statement Volume 2: Appendices Part 1 Chapters 1-7
APP5 Environmental Statement Volume 3: Appendices Part 2 Chapters 8-14
APP6 Further Addendum to Environmental Statement, June 2016 Volume 1
APP7 Further Addendum to Environmental Statement, June 2016 Volume 2
APP8 Draft V6 Section 106 Agreement

Council's Documents

- COU1 Council's Questionnaire and attachments regarding the planning application
COU2 Responses to the planning application
COU3 Petitions against the proposed development
COU4 Draft planning conditions suggested by the Council

Representations

- REP1 Letters and e-mails in response to the appeal

SARD's Documents

- SARD1 SARD's Statement of Case
SARD2 Representations by Sara Herrington on behalf of SARD regarding
bridleways
SARD3 Representations by Sara Herrington on behalf of SARD regarding schools
SARD4 Representations on behalf of SARD regarding public open space other
than civic space
SARD5 Representations on behalf of SARD regarding traffic forecasts
SARD6 Representations by Bill Lewis on behalf of SARD regarding the Bus Link
SARD7 Representations on behalf of SARD regarding flooding and drainage
issues
SARD8 Representations by Joanne Sheridan on behalf of SARD regarding Air
Pollution
SARD9 SARD's Statement of Case (Addendum) and Appendices
SARD10 SARD's observations on the Final Statement of Common Ground
regarding the draft Local Plan and draft Supplementary Planning
Document
SARD11 Documents submitted by Richard Allanach referred to by SARD in
response to the appeal

Proofs of Evidence

- PoEC1 Proof of Evidence of Karen McCulloch for Rugby Borough Council
PoEC2 Summary of Proof of Evidence of Karen McCulloch for Rugby Borough
Council
PoEC3 Highway Authority Statement of Ben Simm for Warwickshire County
Council
PoEA1 Proof of Evidence and Appendices of Iqbal Rassool: Flood Risk &
Drainage
PoEA2 Summary of Proof of Evidence of Iqbal Rassool
PoEA3 Proof of Evidence of Richard Hutchings Volume 1: Highways & Transport
PoEA4 Proof of Evidence of Richard Hutchings Volume 2: Figures and
Appendices

PoEA5	Summary Proof of Evidence of Richard Hutchings
PoEA6	Proof of Evidence and Appendices of Anthony Martin: Heritage
PoEA7	Proof of Evidence of Dr Bethan Tuckett-Jones: Air Quality
PoEA8	Appendices to Proof of Evidence of Dr Bethan Tuckett-Jones
PoEA9	Summary Proof of Evidence of Dr Bethan Tuckett-Jones
PoEA10	Proof of Evidence of Gary Stephens including a Summary
PoEA11	Appendices to Proof of Evidence of Gary Stephens
PoES1	Proof of Evidence and Appendices of Henry Whittaker on behalf of SARD
	Statements of Common Ground
SoCG1	Final Statement of Common Ground between the appellants and Rugby Borough Council
SoCG2	Transport and Highway Matters Statement of Common Ground between Warwickshire County Council and the appellants
SoCG3	Education Statement of Common Ground between Warwickshire County Council and the appellants
SoCG4	Air Quality Statement of Common Ground between the appellants and Rugby Borough Council
SoCG5	Housing Supply Statement of Common Ground between the appellants and Rugby Borough Council
SoCG6	Heritage Statement of Common Ground between the appellants and Rugby Borough Council
SoCG7	Statement of Common Ground between SARD and Rugby Borough Council
	Documents submitted at the inquiry
DOC1	Planning Obligations Compliance Statement for Rugby Borough Council, submitted by the Council on 31 January
DOC2	Planning Obligations Compliance Statement for Warwickshire County Council, submitted by the Council on 31 January
DOC3	Opening Submissions on behalf of the Appellants made on 31 January
DOC4	Opening Statement for SARD made on 31 January
DOC5	Copy of Nicholas Long's speech to the inquiry given on 31 January
DOC6	Statement of Councillor Bill Lewis made on 31 January
DOC7	Attachments to Statement of Councillor Bill Lewis
DOC8	Copy of David Ralph's statement made to the inquiry on 31 January
DOC9	Copy of Ann Wright's statement made to the inquiry on 31 January
DOC10	Copy of Michael Judge's statement and attachments made to the inquiry on 31 January
DOC11	Copy of Councillor Howard Robert's statement made to the inquiry on 31 January
DOC12	Copy of statement by Councillor Marion Nash made to the inquiry on 31 January
DOC13	Personal Statement of Julian Woolley made to the inquiry on 31 January
DOC14	Personal Statement of Steve Fancourt made to the inquiry on 31 January
DOC15	Witness Statement of Tony Rogers made to the inquiry on 31 January
DOC16	Copy of statement of Councillor Noreen New made to the inquiry on 31 January
DOC17	Warwickshire County Council Written Statement of footpaths and bridleways and copy of the Definitive Map with dimensions of Bridleway RB30, submitted to the inquiry by the appellants on 1 February
DOC18	Environmental Statement Errata sheet, submitted to the inquiry by the appellants on 1 February

- DOC19 Extract from Warwickshire Local Transport Plan, submitted to the inquiry by Warwickshire County Council on 1 February
- DOC20 Summary of LinSig input and output data, submitted to the inquiry by the appellants on 2 February
- DOC21 Letter from Fisher German, dated 2 February 2017, regarding land classification of the appeal site, submitted to the inquiry by the appellants on 2 February
- DOC22 Copy of e-mail from Jane Gardner, Marrons Planning, dated 21 December 2015, regarding a breakdown of public open space into typologies, submitted to the inquiry by SARD on 2 February
- DOC23 Briefing Note to assist the public inquiry, January 2017, regarding proposed planning conditions 16 and 17, submitted to the inquiry by the appellants on 2 February
- DOC24 Note from Rugby Borough Council's Development Strategy regarding proposed conditions 16 and 17, submitted to the inquiry by the Council on 2 February
- DOC25 Planning Obligations- Rugby Borough Council Compliance Statement, submitted to the inquiry by the Council on 2 February
- DOC26 Planning Obligations- Warwickshire County Council Compliance Statement, submitted to the inquiry by the Council on 2 February
- DOC27 Planning Obligations- Warwickshire Police Compliance Statement, submitted to the inquiry by the Council on 2 February
- DOC28 Rugby Borough Council Compliance Statement Appendices, submitted to the inquiry by the Council on 2 February
- DOC29 Suggested Planning Conditions, submitted to the inquiry by the Council on 3 February
- DOC30 Housing Site Trajectory, submitted to the inquiry by the appellants on 3 February
- DOC31 Technical Note on Air Quality Analysis, dated 2 February 2017, submitted to the inquiry by the appellants on 3 February
- DOC32 Closing submission on behalf of Warwickshire Police, submitted to the inquiry by Warwickshire Police on 3 February
- DOC33 Closing Statement by SARD, submitted to the inquiry by SARD on 3 February
- DOC34 Closing Submissions on behalf of the Appellants, submitted to the inquiry by the appellants on 3 February
- DOC35 Site Visit Details, submitted to the inquiry by the appellants on 3 February
- Plans Submitted at the inquiry**
- PlanA Preliminary Sewer Survey Plan Drawing No DWH-BWB-00-XX-DR-EN-00010 S2 Rev 1, submitted to the inquiry by the appellants on 1 February
- PlanB Bus Service plans, submitted to the inquiry by the appellants on 1 February
- PlanC Proposed Pedestrian/Cycle Connections and Bus Gate Preliminary plan Drawing No NTW/2198/102, submitted to the inquiry by SARD on 1 February
- PlanD Proposed Dun Cow Improvements Traffic Signals Preliminary plan with dimensions Drawing No NTW/2198/100-05 Rev P4, submitted to the inquiry by the appellants on 1 February
- PlanE Distances to Open Space plan Drawing No NTW2198, submitted to the

PlanF	inquiry by the appellants on 3 February Amended Proposed Dun Cow Improvements Traffic Signals Preliminary plan with dimensions Drawing No NTW/2198/100-05 Rev P4, submitted to the inquiry by the appellants on 3 February Inquiry Documents
INQ1	Attendance Sheets Supporting Documents submitted after the close of the inquiry
SUP1	Stroud District Council v Secretary of State for Communities and Local Government [2015] EWHC 488 (Admin)
SUP2	Suffolk Coastal District Council v Hopkins Homes Ltd and others; Richborough Estates Partnership LLP v Cheshire East Borough Council and others [2016]
SUP3	Forest of Dean District Council v Secretary of State for Communities and Local Government [2016] EWHC 421
SUP4	S106 Agreement

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APPENDIX C: RECOMMENDED CONDITIONS

1. Details of the appearance, landscaping, layout, access (with the exception of two vehicular accesses from Ashlawn Road) and scale, (hereinafter called 'the Reserved Matters') for each phase of the development within the phasing plan approved under Condition 4 shall be submitted to and approved in writing by the local planning authority before any part of that phase of development takes place and the development shall be carried out as approved.
2. Application for approval of the Reserved Matters shall be made to the local planning authority not later than 3 years from the date of this permission for phase one within the phasing plan approved under Condition 4 and the development shall take place not later than 2 years from the date of approval of the last of the Reserved Matters to be approved for that phase. The Reserved Matters for all subsequent phases approved under Condition 4 shall be submitted to the local planning authority before the expiration of 6 years from the date of this permission and the development shall commence not later than 2 years from the date of approval of the last of the Reserved Matters to be approved for each phase.
3. The development hereby permitted shall be carried out in general accordance with the following approved plans and documents:
 - (i) Site Location Plan Drawing No EMS.2482_03E
 - (ii) Western Proposed Site Access Arrangements Drawing No NTW/2198/100/P3
 - (iii) Pedestrian/Cycle Connections & Bus Gate Details Drawing No NTW/2198/102/P2
 - (iv) Eastern Proposed Site Access Arrangements Drawing No NTW/2198/101/P4
 - (v) Design and Access Statement
 - (vi) Concept Masterplan Drawing No EMS.2482_02P
 - (vii) ES Parameters Plan Drawing No EMS.2482_08i
4. No development shall commence unless and until a phasing plan for the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved phasing plan.
5. No built development shall commence in any phase unless and until full details of the colour, finish and texture of all new materials to be used on all external surfaces of buildings for that phase, together with samples of the facing bricks, render and roofing materials have been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details.
6. No built development shall commence, in any phase, unless and until details of all proposed walls, fences, railings and gates for that phase have been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details and no building shall be first occupied until the boundary treatments associated with that building have been installed.
7. No development shall commence in any phase unless and until full details of finished floor levels of all buildings and ground levels of all access roads, parking areas and footways within that phase have been submitted to and approved in

writing by the local planning authority. Development shall not be carried out other than in accordance with the approved details.

8. No external lighting in public and communal areas, including street lighting, shall be erected in any phase unless and until full details of the type, design, light spillage and location of lighting for that phase have been submitted to and approved in writing by the local planning authority. Any lighting shall only be erected and installed in accordance with the approved details.
9. The landscaping scheme for any phase, as approved in relation to the Reserved Matters, shall be implemented no later than the first planting season following first occupation of that phase of the development. If within a period of 5 years from the date of planting, any tree, shrub or hedgerow is removed, uprooted, destroyed or dies, or becomes in the opinion of the local planning authority seriously damaged or defective, another tree, shrub or hedgerow of the same species and similar size as originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variations.
10. No development shall commence, in any phase, unless and until the following details for that phase have been submitted to and approved in writing by the local planning authority:
 - (i) a full Tree Survey/Report (BS5837:2012 – Trees in relation to design, demolition and construction – recommendations) including: constraints posed by existing trees (section 5.2, BS5837:2012);
 - (ii) details of trees and hedges to be retained;
 - (iii) an Arboricultural Impact Assessment (section 5.4 BS5837:2012) which evaluates the direct and indirect effects of the proposed design and, where necessary, recommends mitigation; and
 - (iv) an Arboricultural Method Statement (section 6, BS5837:2012) including a Tree Protection Plan (section 5.5, BS5837:2012)

Development shall not be carried out other than in accordance with the approved details.

11. No tree or hedge identified to be retained in the Tree Survey/Report submitted pursuant to Condition 10 (retained tree) shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the local planning authority. All tree protection works in any phase shall be carried out in accordance with BS5837:2005 (Recommendations for Tree Work) and shall be carried out before the commencement of any works within that phase.
12. No development shall take place in any phase which includes existing ponds unless and until a scheme for the provision and management of an 8 metre wide buffer zone alongside the ponds in that phase has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - (i) plans showing the extent and layout of the buffer zone;
 - (ii) details of any proposed planting scheme;
 - (iii) details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term; and
 - (iv) details of any proposed footpaths, fencing, lighting etc.Development shall be carried out in accordance with the approved scheme.

13. No development shall commence in any phase unless and until a Habitat Management Strategy (HMS) for that phase has been submitted to and approved in writing by the local planning authority. The HMS shall include details of all newly created habitats on-site and cross sections of newly created lakes, ponds and attenuation features, details of measures to be implemented for ecological enhancement, habitat management and for the monitoring of outcomes, means of reviewing the strategy and the body or organisation responsible for implementation of the strategy. Development shall be implemented in accordance with the approved HMS at all times.
14. No development, including site clearance and demolition shall commence in any phase unless and until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the local planning authority. The CEMP shall comply with the British Standard BS 42020:2013 and include details of:
 - (i) Pre-commencement checks for badgers, barn owls, reptiles, toads, hedgehogs, brown hares, bats, breeding birds (including ground nesting species such as skylark) and reptiles.
 - (ii) Measures to ensure there will be no impact to Peregrine Falcons that have been recorded as roosting on the off-site water tower to the east of the site, and may return and breed in future years.
 - (iii) Appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on-site, including a method statement for:
 - Briefing on-site contactors regarding the occurrence of great crested newts and other previously unrecorded protected species on the site;
 - avoiding impacts to toads during site clearance; and
 - the appropriate demolition of the on-site barn and removal of any trees deemed to have potential to support bats.
 - (iv) Measures to manage or eradicate any known or newly discovered invasive species present on-site.
 - (v) Contingency/emergency measures for dealing with previously unrecorded protected species found during construction/implementation.Development shall be carried out in accordance with the approved CEMP.
15. No phase of the development shall be first occupied until a scheme for the provision of water supplies and fire hydrants for that phase has been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority.
16. No phase of the development shall be first occupied unless and until details of the equipment and technology to be incorporated into that phase to achieve carbon emission reductions have been submitted to and approved in writing by the local planning authority. The minimum standards shall comprise a 10% carbon emissions reduction above the Building Regulations that are relevant at the time of the approval of the Reserved Matters for the relevant phase. The approved efficiency measures shall be implemented in accordance with the approved details and shall thereafter be retained in working order.
17. Prior to the determination of any of the Reserved Matters applications for any phase of development:
 - (i) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work, including trial trenching, across the site

shall be submitted to and approved in writing by the local planning authority;

- (ii) the programme of archaeological evaluative work and details of associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken and a report detailing the results shall be submitted to the local planning authority; and
- (iii) an Archaeological Mitigation Strategy (AMS) document, including a Written Scheme of Investigation for any archaeological fieldwork proposed, shall be submitted to and approved in writing by the local planning authority. This document shall detail a strategy to mitigate the archaeological impact of the development which, dependent upon the results of the trial trenching, may include further archaeological fieldwork and/or the preservation in situ of any archaeological deposits worthy of conservation.

No development shall take place until any fieldwork detailed in the approved AMS document has been completed and approved in writing by the local planning authority. The post-excavation analysis, publication of results and archive deposition shall be undertaken in accordance with the approved AMS document.

- 18. No development shall commence in any phase of the development until a drainage strategy in general accordance with the Flood Risk Assessment (reference NTW/2198/FRA Revision C: BWB Consulting July 2014), and detailed design drawings and supportive calculations for the disposal of foul and surface water for that phase have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before first occupation of any buildings in the relevant phase.
- 19. No development shall commence in any phase of the development unless and until a Surface Water Maintenance Plan (SWMP) detailing how the surface water drainage system for that phase will be maintained and managed for the life of the development has been submitted to and approved in writing by the local planning authority. Development in that phase shall not be carried out other than in accordance with the approved SWMP for that phase of the development.
- 20. No dwelling hereby permitted shall be first occupied unless and until highway works at the Dunchurch Crossroads have been implemented in general accordance with the details shown on the Proposed Dun Cow Improvements Traffic Signals plan Drawing No NTW/2198/100-05/P4 contained within the Further Addendum to Environmental Statement, June 2016.
- 21. No dwelling hereby permitted shall first be occupied unless and until the access arrangements at the western end of the site have been implemented in general accordance with Drawing No NTW/2198/100/P3.
- 22. No more than 150 dwellings hereby permitted shall first be occupied unless and until the access arrangements at the eastern end of the site have been implemented in general accordance with Drawing No NTW/2198/101/P4.
- 23. No more than 200 dwellings hereby permitted shall be first occupied unless and until highway works at the Cock Robin Roundabout have been implemented in general accordance with the details shown on the Proposed Toucan Crossings at the Cock Robin Roundabout Drawing No NTW/2198/105/P2 contained within the Environmental Statement.

24. No more than 100 dwellings hereby permitted shall be first occupied unless and until highway works at the Ashlawn Road/Barby Road junction have been implemented in general accordance with the details shown on the Proposed Ashlawn Road/Barby Road Junction Arrangement Drawing No NTW/2198/103/P2 contained within the Environmental Statement.
25. No more than 100 dwellings hereby permitted shall be first occupied unless and until a scheme for the improvement of the footway/cycleway on the northern side of Ashlawn Road between the Cock Robin Roundabout and the eastern site access has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the 200th dwelling hereby permitted.
26. Notwithstanding the details shown on the approved Pedestrian/Cycle Connections & Bus Gate Details plan, Drawing No NTW/2198/102/P2, full technical details of any cycle or pedestrian connection within a phase of the development, including details of any gates or barriers, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling within that phase.
27. At least 10% of dwellings hereby permitted with on-plot vehicle parking within a phase shall be provided with an external electric socket for the purposes of electric vehicle charging. The relevant dwellings shall not be first occupied until the external socket for the purposes of electric vehicle charging have been provided. All remaining dwellings with on-plot vehicle parking shall not be first occupied unless and until provision has been made to assist in retro-fitting an external socket for the purposes of electric vehicle charging in the future eg appropriate cabling and consumer unit.
28. No development shall commence in any phase of the development unless and until a detailed Noise Assessment (BS5228) for that phase, including details of any mitigation required, has been submitted to and approved in writing by the local planning authority. The mitigation measures in any relevant building shall be implemented in accordance with the approved details prior to the first occupation of that building.
29. No development shall commence in any phase of the development unless and until a Construction Method Statement (CMS) for that phase has been submitted to and approved in writing by the local planning authority. The CMS shall include details relating to:
 - (i) The control of noise and vibration emissions from construction activities, including groundworks and the formation of infrastructure and arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) the control of dust, including arrangements to monitor dust emissions from the development site during the construction phase;
 - (iii) a full Asbestos Survey of buildings to be demolished;
 - (iv) measures to prevent deleterious material being carried onto the highway network;
 - (v) a Heavy Goods Vehicle construction routing plan;
 - (vi) hours of construction;
 - (vii) measures to protect Bridleway RB30 during construction; and
 - (viii) measures to prevent construction traffic using Norton Leys, Ecton Leys and Fawsley Leys.

Development shall not be carried out other than in accordance with the approved CMS.

30. No development other than that required to be carried out as part of an approved scheme of remediation shall commence in any phase of the development until condition (a) to (d) below have been complied with for that phase. If unexpected contamination is found after development has begun, development shall be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the local planning authority until condition (d) below has been complied with in relation to that contamination.
- (a) An investigation and risk assessment shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be subject to approval in writing by the local planning authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report shall be subject to approval in writing by the local planning authority. The report of the findings shall include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to human health, existing or proposed property and buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s) to be conducted in accordance with Defra and the Environment Agency's Model Procedures for the Management of Land Contamination CLR 11.
 - (b) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared and subject to approval in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - (c) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared and subject to approval in writing by the local planning authority.
 - (d) In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition (a) and where remediation is necessary a

remediation scheme shall be prepared in accordance with the requirements of condition (b) which shall be subject to approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to approval in writing by the local planning authority in accordance with condition (c).

31. Prior to the first occupation of any dwelling hereby permitted, details of the implementation of a Travel Plan in general accordance with the Travel Plan, dated August 2014 (version NTW2198 TP rev 2) shall be submitted to and approved in writing by the local planning authority. The dwellings hereby permitted shall not be first occupied until the Travel Plan has been implemented in accordance with the approved details.

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APPENDIX D: ABBREVIATIONS & GLOSSARY

AMR	Annual Monitoring Report
AMS	Archaeological Mitigation Strategy
Appellants	David Wilson Homes (East Midlands) and Gallagher Estates Ltd
AQC	Air Quality Consultant
AQMA	Air Quality Management Area
CA	Conservation Area
CEMP	Construction and Environmental Management Plan
CIL	Community Infrastructure Levy Regulations 2010
CMS	Construction Method Statement
Core Strategy (the) Council	Rugby Borough Council Core Strategy, June 2011 Rugby Borough Council
DAS	Design and Access Statement
DCLG	Department for Communities and Local Government
Defra	Department for the Environment, Food and Rural Affairs
DfT	Department for Transport
DMRB	Design Manual for Roads and Bridges
DPD	Development Plan Document
Draft LP	Rugby Borough Council Local Plan 2011-2031 Publication Draft
EA	Environment Agency
EFT	Defra's Emissions Factor Toolkit
ES	Environmental Statement
FRA	Flood Risk Assessment
Framework	National Planning Policy Framework
GEH	Statistic used in traffic modelling, based on a formula
GP	General Practice
HA	Highway Authority
HGV(s)	Heavy Goods Vehicle(s)
HMS	Habitat Management Strategy
km	kilometres
LEA	Local Education Authority
LinSig	Computer software for modelling signalled junctions
LP	Rugby Borough Council Local Plan, 2006
m	metres
MOVA	Microprocessor Optimised Vehicle Actuation traffic signal control software

NHS	National Health Service
NO ₂	Nitrogen Dioxide
OAN	Objective assessment of housing need
PM _{2.5}	Particulate Matter (particles diameter of 2.5 micrometres or less)
PM ₁₀	Particulate Matter (particles diameter of 10 micrometres or less)
PPG	National Planning Practice Guidance
PRC	Practical Reserve Capacity (of a highway junction)
RWA	Rugby Wide Area (traffic model)
SARD	Stop Ashlawn Road Development (Rule 6 Party)
SDAG	Save Dunchurch Action Group
SHMA	Strategic Housing Market Assessment
SoCG(s)	Statement(s) of Common Ground
SofS	Secretary of State
SPD	Supplementary Planning Document
SUDS	Sustainable Urban Drainage System
SWMP	Surface Water Maintenance Plan
S106	Section 106 of the Town and Country Planning Act 1990
TRICS	Trip Rate Information Computer System database for trip rates for developments
WCC	Warwickshire County Council
WP	Warwickshire Police
WSI	Written Scheme of Investigation for archaeological remains
µg/m ³	The concentration of an air pollutant in micrograms (one-millionth of a gram) per cubic metre air

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.