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## Appeal Decision

Inquiry held on 9 - 12 May and 1 June 2017

Site visit made on 1 June 2017

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

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

**Decision date: 12 July 2017**

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**Appeal Ref: APP/F4410/W/16/3158500**

**Land off Westminster Drive, Dunsville, Doncaster, South Yorkshire DN7 4QF**

- 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 Faith Homes Ltd against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 14/02965/OUTM, dated 17 December 2014, was refused by notice dated 18 March 2016.
  - The development proposed is the erection of 97 dwellings on approximately 3.37ha of land (approval being sought for access).
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 97 dwellings on approximately 3.37ha of land (approval being sought for access) on Land off Westminster Drive, Dunsville, Doncaster, South Yorkshire DN7 4QF in accordance with the terms of the application Ref 14/02965/OUTM, dated 17 December 2014, subject to the conditions in the attached schedule.

### Procedural Matters

2. On the original planning application form the description of development is stated as residential development including access and drainage. I note from Question E of the appeal form that the description was changed by agreement and therefore I have used that description in the banner heading above.
  3. The application was made in outline with access to be considered. The other matters of appearance, landscaping, layout and scale are reserved for future consideration. I have considered the appeal on that basis.
  4. The appeal submission includes a revised illustrative masterplan Drawing No. P16-0162 001 Rev A. This includes land within the applicant's ownership but outside the planning application boundary where it is proposed to provide an area of informal public open space including footpaths through existing woodland and a bird hide next to an existing water body. This plan was not formally considered by the Council and has not been the subject of consultation. It is clear from Annex M of the Planning Appeals – England Procedural Guide 2016 that the appeal process should not be used to evolve a scheme and it is important that the scheme I consider is essentially that considered by the Council and on which interested people's views were sought.
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Whilst I agree with the appellant that the proposed open space area could be a potential benefit to future and existing residents, I consider it is not appropriate to consider it as part of this appeal.

5. A completed legal agreement under Section 106 of the Town and Country Planning Act 1990 (s106) between the appellants, Doncaster Metropolitan Borough Council, the landowner and named beneficiaries was submitted at the Inquiry. The s106 agreement contains obligations relating to affordable housing, on site public open space, enhancement of the highway network, transport improvements, upgrading of bus shelters, education and a contribution to infrastructure supporting the delivery of the DN7 Unity Project.
6. A Statement of Common Ground (SoCG) dated 11 April 2017 was submitted before the Inquiry. In addition a further SoCG dated 1 June 2017 with regard to Five Year Housing Land Supply was submitted at the event.

### **Main Issues**

7. I consider that the main issues in this case are:
  - whether the Council can demonstrate a 5 year supply of housing land sufficient to meet the fully objectively assessed need (FOAN) for housing and the implications for national and local plan policy;
  - whether the principle of development in the countryside outside the settlement boundary would be acceptable with regard to the policies of the development plan and the impact of the development on rural character;
  - whether the site is a suitable location for development in terms of its accessibility to local services and facilities with particular regard to pedestrian access.

### **Reasons**

#### **Housing Requirement and Supply**

8. The Core Strategy (CS) in Policy CS10 sets down a housing target of 1230 dwellings per annum for Doncaster, amounting to 18,450 dwellings across the 15 year plan period to 2028. However in considering the Council's Sites and Policies Development Plan Document (DPD), the examining Inspector found that this target was not objectively assessed being based on the revoked Yorkshire and Humber Regional Strategy. The requirement was therefore non-compliant with the Framework. Since then the Council has withdrawn the Sites and Policies DPD and is preparing a new Local Plan for Doncaster. This is due to be published for consultation in autumn 2017. As part of the evidence base for this document the Council prepared a Housing Needs Assessment (HNA) in 2015 and identified an objectively assessed need (OAN) of 920 dwellings per annum.
9. I was advised at the Inquiry that the Council has started using the above OAN figure in order to assess their housing supply, though I have been provided with no evidence that it has been formally adopted by the Council. The appellant challenges the methodology used in the OAN assessment and considers that the OAN should be much higher at 1370 dwellings per year. I note that the Council's HNA has been the subject of a Peer Review with the

Planning Advisory Service and the University of Sheffield, though I was advised that this was in terms of the overall approach taken rather than an assessment of the final document. The Assessment has not been the subject of formal consultation particularly with the development industry, has had only limited discussion with adjoining authorities and has yet to be tested through the examination process. The appellant's OAN figure has resulted primarily from the use of a bespoke modelling tool. In this regard I consider that both OAN's can be considered of relatively equal status.

10. It is not the role of a S.78 appeal to determine the housing requirement for the borough; this should clearly be considered in much more depth through the examination of the local plan. However for the purposes of this appeal it is necessary for me to determine, based on the evidence before me, what the OAN for Doncaster should be so that I can then assess whether the Borough has a deliverable 5 year housing land supply.

### **Objectively Assessed Need (OAN)**

11. Planning Practice Guidance (PPG) states that there is no one methodological approach or use of a particular dataset that will provide a definitive assessment of development need.<sup>1</sup> It states that needs should be assessed in relation to the relevant housing market area (HMA). In this case the parties agree in the Housing SoCG that Doncaster is the appropriate HMA.
12. The Council's methodology looks at 2 scenarios for considering economic growth. Firstly they consider the Strategic Economic Plan for the Sheffield City Region (SCR) 2015-2025. This provides a very ambitious plan to grow business activity and jobs. The Plan aims to achieve 70,000 jobs of which 16% would be in Doncaster ie 11,825. This equates to 1182 jobs per annum. The second scenario looks at various projects coming forward in the Borough and assesses their likely job creation (1487 jobs per annum). In order to assess housing need the Council then uses three methods, the Experian REM model, the Edge Analytics PopGroup model and finally a third model using analysis of population projections and employment rates (EAR'S).
13. The appellant uses a bespoke model called HEaDROOM, which employs the PopGroup model to assess future demographic trends and then uses a Derived Forecast add-on tool to provide household, dwelling and labour force estimates. The appellant undertakes an assessment of past trends, (17.4 % growth on average, 1374 jobs per year over a 15 year period<sup>2</sup>) and also future baseline economic forecasts which indicate lower growth in Doncaster of 8.11% on average.
14. The Council has challenged the appellant's approach as it uses only one model, albeit with different assumptions used for the scenarios tested; whereas their assessment uses different models which they consider provides a more robust approach to identifying housing need.
15. I have been provided with no evidence that the single model used by the appellant is flawed. It is based on the PopGroup model which the Council also uses and from the evidence before me it clear it has been used by Mrs Braithwaite's consultancy in a number of appeals and to support the

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<sup>1</sup> PPG ID 2a-005-20140306

<sup>2</sup> Table 8.2 Page 65 of Mrs Braithwaite's Proof

- preparation of a number of development plans. I therefore have no reason to doubt the robustness of the appellant's model.
16. The appellant has criticised the Council's approach of using three different models as it is argued that this makes it difficult to contrast and compare the results or consider a range of outcomes. However I have no evidence to demonstrate that this approach is flawed as the different models could result in a close range of results effectively validating the end figure produced. As I have already stated in paragraph 11, there is no one methodology that could be used to assess the OAN.
  17. A further area of dispute between the parties relates to demographic projections and household growth figures. The Council uses the 2012 ONS Sub National Population Projections (SNPP) whilst the appellant uses the more up to date figures of the 2014 SNPP with the 2015 mid-year estimates. It is clearly appropriate to use the most up to date projections as advised in the PPG<sup>3</sup>. However the 2014 based SNPP suggests a lower rate of household growth than anticipated in 2012. The parties agreed at the Inquiry that this difference makes no significant impact on the final OAN figure.
  18. With regard to household formation rates, the Appellant applies a partial catch up (PCU) to compensate for low rates of household formation in the 25/34 age group. This results from the impact of the recession and affordability rates preventing these younger persons setting up in their own homes. The Council disputes the need for this uplift as they argue that the 2012 Sub National Household Projections (SNHP) take account of this factor. However the assumptions underlying the SNHP are based on past demographic trends. They are therefore based on a scenario with lower household formation rates for the 15-34 age groups.
  19. The PPG<sup>4</sup> recognises that household projections are based on an estimate of need and may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends. Recent trends in Doncaster of falling rates in household formation and a slowing in the decline of household size supports this approach. I therefore consider that a PCU as applied by the appellant is appropriate to take account of the needs of these younger people. The actual difference in terms of dwelling numbers would be 39 per year. The parties agree that this would make only a marginal difference to the OAN.
  20. The appellant has questioned the validity of the Council's Experian REM model as it appears that the model has been constrained by a fixed view of the local population. However it seems to me that this is not the case as the Council's HNA states that this model uses the national projections<sup>5</sup>.
  21. A further area of dispute between the parties is in respect of affordable housing need. The Council's HNA update 2016 identifies affordable housing need as 361 units per year. However the Council has found that, of persons on the waiting list for more than a year, 36% have failed to bid for a property. The Council has taken the view that this demonstrates that some households must not be in need of affordable housing as much as they were when they were

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<sup>3</sup> PPG ID 2a-016- 20150227

<sup>4</sup> PPG ID 2a-015-20140306

<sup>5</sup> HNA 2015- Page 74 second to last paragraph

- originally assessed. The Council argues that planning for an affordable housing need at this level would overestimate the level of actual need. Accordingly, taking a different approach to that in the 2015 HNA, the Council reduces the affordable housing need figure to 149 dwellings per year.
22. It appears to me that this is a unique approach to take. It may well be the case as suggested by the Council that some people are 'cherry picking', waiting for the house they want in the right location near to family and friends. However this assertion, or any other possible explanation for this behaviour, is not supported by any robust evidence. Furthermore this approach has no basis in terms of PPG or the Strategic Housing Market Assessment Guidance. I therefore consider that an affordable housing need figure of 361 dwellings per year should be planned for in the borough.
23. Mrs Braithwaite for the appellant conceded that in her assessment the affordable housing need per annum should not have been considered over the 17 year plan period. The difference being that the 361 dwellings needed per year should be delivered over the first 10 years of the plan period. Neither party suggests that the OAN figure should be uplifted to deliver affordable housing needs. So whilst there are areas of dispute they are not determinative to the calculation of the overall OAN.
24. The key difference between the parties appears to be with the approach to calculating future jobs growth in particular the application of different economic activity and employment rates. It is agreed between the parties that Doncaster's Economic Activity and Employment Rates have been increasing over the period 2004 – 2014 so that they have been catching up with the national average. The Council's Edge Analytics and PopGroup models assume that these rates will continue to rise and eventually pass the national average. However the appellant has provided evidence that in 2015 and 2016 this trend has in fact reversed. Whilst Doncaster has achieved good economic growth in the past, and no doubt training and learning initiatives in the borough will improve skills and have a positive impact, I consider that the Council's assumptions that new jobs will be taken up by continuing efficiency from the existing labour market are overly optimistic.
25. The appellant makes use of the Office of Budget Responsibility (OBR) projections on future economic activity and applies this to all scenarios. The Council have advanced the case that it is logically inconsistent to assume growth in employment rates without assuming continued improvement in economic activity rates. The Council makes reference to evidence from Cristina Howick in an appeal in Redcar and Cleveland<sup>6</sup> which shows that OBR rates result in a lower employment growth in the future than in the past and using Experian EAR's, which the Council has employed, result in a much lower level of predicted jobs growth. I was presented with no evidence to demonstrate what actual impact this would have on the OAN, whether it would be significant or would be more marginal. Furthermore under cross examination Mrs Braithwaite pointed out that improvements to employment rates would be driven by a range of factors, not just an increase in economic activity. I therefore am not persuaded that the logical inconsistency point would have a significant impact on the appellant's OAN figure.

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<sup>6</sup> Rebuttal evidence of Cristina Howick, Land North of Woodcock Wood and West of Flatts Lane, Normanby. Appeal Ref : APP/0728/W/16/58336

26. I note that Cristina Howick in her evidence at paragraph 4.38 states that whilst she considers that the higher activity rates predicted by Experian are more likely to be correct than the OBR alternative, the question is uncertain and different planning inspectors have taken different views. The Appellant has brought my attention to two appeals where OBR rates have been accepted, Longbank Farm<sup>7</sup> and Plantation Road Boreham<sup>8</sup>. Furthermore the Council's witness, Mr Brown, in cross examination agreed that the use of the OBR was an acceptable approach. Consequently having regard to the evidence before me I see no reason to take the view that the use of the OBR rate is unacceptable.
27. The Council's methodology includes an increase of 7 dwellings per year to account for past trends. The PPG<sup>9</sup> states that constraints should not be applied to the overall assessment of need such as limitations imposed by the supply of land, historic underperformance, viability, infrastructure or environmental constraints. Therefore this increase whilst only small is not supported by guidance.
28. The Council also subtracts 60 dwellings per year to account for empty homes coming back into use. Mr Brown accepted in cross examination that an adjustment for empty homes was not relevant to the assessment of housing need. It is however relevant to housing supply. I consider that this approach is flawed and 60 dwellings should not be discounted.
29. The Council have justified their OAN figure with reference to the previous level of housing delivery during the pre-recession period. The 920 OAN figure is 29% higher than the last growth period's average delivery of housing. However this assessment confuses housing supply with housing need. Actual completions on the ground can be affected by a number of factors including the market, supply of land or the availability of an up to date development plan allocating sites for development. Delivery is not reflective of the actual housing need in the borough. Therefore I consider this comparison and justification to be inappropriate.
30. In conclusion, it is clear that the assessment of housing need is a matter of judgement. The Council's closing submission states that their OAN is robust and that the assumptions regarding EARs and Employment Rates are conservative. However it appears to me that the job growth scenarios with sensitivities applied assume EARs above national average and therefore underestimate the housing need. The Council's method looks at future forecasts of economic growth unlike the appellant who also considers past trends. The PPG<sup>10</sup> states that it is important to take account of change in job numbers based on past trends and/or economic forecasts. Whilst the Council's approach is not inconsistent with this guidance, Mr Brown agreed in cross examination that it would have been sensible for the Council to have included this assessment as part of their approach.
31. The appellant in evidence clearly set out the assumptions used in their methodology. The Council's HNA however did not include the same level of detail in all respects so that there were some uncertainties with regard their approach, in particular the EAR rate used in Method 1.

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<sup>7</sup> Appeal Ref APP/V0728/W/15/3018546 Longbank Farm, Ormesby.Middlesborough dated 9 March 2016

<sup>8</sup> Appeal Ref APP/W1525/W/15/3049361 Land off Plantation road, Boreham , Essex dated 25 May 2016

<sup>9</sup> PPG ID2a -004-20140306

<sup>10</sup> PPG ID2a-018-

32. In coming to a view on an appropriate OAN figure I note that the appellant's assessment was based on Scenarios D (SCR jobs growth- 1541 dwellings per annum(dpa)) and F (Experian Forecast – 1200 dpa) which were considered to provide the most reliable indicators. Scenario H based on past trends which resulted in a high OAN figure of 1770 dwellings per year including PCU was not taken into account as it was considered to form the most optimistic level of economic growth expected in Doncaster. This suggests a balanced and reasonable approach.
33. I note that the Examining Inspector for the Doncaster Sites and Policies Development Plan Document<sup>11</sup> suggested that having regard to the significant growth in jobs set out in the SCR Growth Plan, there was evidence that the Council's housing requirement (1230 dwellings) would support only a fraction of the jobs sought by the Council's regeneration strategy. This all goes to support my view that the Council has underestimated housing need and that the appellant's approach based on the evidence before me at this Inquiry is, on the balance of probabilities, the more reliable of the two.

#### *Conclusion on OAN*

34. It is agreed that some areas of dispute between the parties with respect to their methodologies, for example the different household and population projections used and the assessment of affordable housing, make little effect on the final OAN figure. The key difference relates to differing economic activity and employment rates. For the reasons given above, I consider the appellant's view to be the most robust and reliable, bearing in mind the growth aspirations of the borough and the SCR. Accordingly I consider that based on the evidence before me, the OAN for the purposes of this appeal should be 1370 dwellings per year.

#### **The supply of housing land**

35. In the Housing Statement of Common Ground, the parties agree that the base date for the 5 year housing land supply calculation is 1 April 2015. The Council's most recent 5 year housing land supply position is set out in the 5 year Deliverable Housing Land Supply Statement 1 April 2016- 31 March 2021 published in April 2017.
36. There are a number of areas of dispute between the parties including past delivery, the buffer, the windfall allowance and the deliverability of a number of sites within the 5 year supply. I shall look at each area in turn.

#### *Past delivery*

37. In 2015/16 the net completions for new dwellings in the borough totalled 1170. The Council, bearing in mind their OAN figure of 920, consider that in light of the oversupply of 250 dwellings in the first year of the supply period that these dwellings should be deducted from the five year requirement. However the housing requirement is a minimum figure, it is not a ceiling. This is recognised in paragraph 5.10 of the Core Strategy. Whilst the Framework advises how to deal with under delivery, increasing the buffer to 20% to provide a realistic prospect of achieving the planned supply, there is no specific mention of over delivery. Any restriction or deduction in future years supply would clearly go against the Government's aim to significantly boost the supply of housing. The

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<sup>11</sup> Letter to Council dated 3 June 2014 re the Doncaster Sites and Policies Development Plan Document

Council have not provided a justified rational for this approach which I consider to be flawed and unsupported by national guidance.

38. Notwithstanding the above, as I have determined that the OAN should be 1370, the net completions of 1170 in the first year of the 5 year supply period equates to an under delivery. This shortfall should therefore be added to the remainder of the supply period.

#### *The Buffer*

39. The Framework in paragraph 47 requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their requirements with an additional buffer of 5% to ensure choice and competition in the market. However where there is a record of persistent under delivery of housing the Framework states that authorities should increase the buffer to 20% to provide a realistic prospect of achieving planned supply. The Council considers that a buffer of 5% should be applied however the appellant argues it should be 20%.
40. Planning Practice Guidance (PPG) in paragraph 035 advises that the approach to identifying a record of persistent under delivery involves questions of judgement for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing. The factors behind persistent under delivery may vary from place to place and therefore there is no universally applicable test or definition of the term. The PPG acknowledges that the assessment of a local under delivery is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.
41. Bearing in mind the above advice, the appellant has considered past delivery over a 10 year period 2006/07 to 2015/16. Assessing delivery against the 1230 dwelling requirement in the adopted Core Strategy, it is clear that only in the last year (2015/16) has delivery met this figure. The Council argues however that the Core Strategy figure does not represent an objectively assessed need. It would therefore be inappropriate to use this figure to assess whether there has been any under delivery. The Council therefore assesses delivery against the new OAN figure, 920 dwellings, for 2015/16, just one year. As in that year, delivery exceeded the requirement the Council considers that a persistent under delivery cannot be concluded.
42. However, as advised in the PPG, consideration of persistent undersupply requires looking back at a number of years. Furthermore the only requirement against which past delivery can be assessed, is that in place at the relevant time. In this case that is the Core Strategy figure of 1230 dwellings.
43. Having regard to completions over the 10 year period assessed by the appellant I consider that a persistent under delivery has been demonstrated and the buffer should therefore be 20%.

#### *Windfalls*

44. I have been made aware by the Council that windfalls in the past have made up a significant proportion of completions in the Borough. This averaged 670 (gross) per year 2014-2016. The Council considers that this trend will continue and that a windfall figure of 1200 dwellings (400 per year with two years



discounted to avoid double counting with small sites) should be added to the supply calculation.

45. The appellant however makes the case that the reason for this high windfall level is likely to be the absence of an up to date development plan that allocates sites for development. It has therefore been inevitable that a high number of completions have resulted from unallocated sites. I concur with this view. The appellant therefore applies a windfall rate of 10% of the requirement, 619 dwellings over a 5 year period.
46. Paragraph 48 of the Framework states that any windfall allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends. The Local Plan for Doncaster is expected to be adopted by 2018. This will allocate appropriate sites for development so that the number of windfalls would most likely then reduce. I therefore consider that the Council's windfall figure is too high. Bearing in mind the likely time in which the development plan will be adopted and the discounting for 2 years, I consider that the windfall rate should be 400 dwellings for year 3 of the supply period and then applying the appellant's 10% rate, 124 dwellings (619 divided by 5) for each of years 4 and 5 of the supply period. This gives a total windfall figure of 648 dwellings over the supply period.

#### *Disputed Sites*

47. At the Inquiry a round table discussion was held to consider a number of sites within the 5 year supply disputed between the parties. Despite concessions by both parties, there remain a total of 717 dwellings which the appellant considers should be discounted as in their opinion they will not be deliverable in the 5 year period for a range of reasons.
48. I do not intend to go through each disputed site in detail in this decision. A number of the disputed sites are in Council ownership and are either being brought forward for development following an assets review by the Council or there are ongoing discussions with registered providers to prepare schemes for affordable or specialist housing. Whilst many of these sites do not currently have planning permission, they are relatively small in scale and I consider that there is a realistic prospect that they could be delivered within the 5 year supply period. These include Site Refs 350, 262, 261, 253, 415, 389 and 375.
49. Other sites are included in the Council's Housing and Economic Land Availability Assessment (HELAA), have resolutions to grant planning permission subject to the signing of a Section 106 Agreement, form part of wider site currently being developed, or are supported through the draft Neighbourhood Plan. I consider that these too have a realistic prospect of being delivered (Site Refs 111, 374 and 510).
50. In respect of Site Ref 687, whilst planning permission is in place the developer has withdrawn due to viability issues. I have no evidence that this can be overcome and therefore I consider that this site will not come forward. I deduct 24 units from the supply. With regard to Site Refs 397, 470, 133 and 263 whilst these sites may be identified in the HELAA I have been provided with very little if any evidence that these sites have landowner commitment or developer interest. I therefore consider there is no realistic prospect of them coming forward and I reduce the supply figure by a further 120 dwellings.

51. I am advised that Site 838 has stalled and that a new planning application will be required. Accordingly I consider the Council's estimate that the site will deliver 140 dwellings to be overly optimistic bearing in mind the likely lead in times. I agree with the appellant's view that the site could deliver in the last 2 years of the supply period and I therefore deduct 70 dwellings.
52. Finally with regard to Site 418, the Unity development, this is a strategic extension which relies on the delivery of key infrastructure. Viability issues have been brought to my attention and I note that the site will not deliver affordable housing in the first phase due to the costs of infrastructure provision. It is a complex site in multiple ownership and will take some time for development to commence on site. I note that outline planning permission has been granted and the Section 106 agreement has recently been signed. However having regard to the above issues and likely lead in times, I consider the Council's estimate of 105 dwellings to be a little too optimistic. The site could deliver houses in the last year of the supply period and assuming 2 developers this could amount to 80 dwellings. I therefore deduct 25 units from the supply.
53. In summary I deduct 239 dwellings to give a total 5 year housing land supply figure including windfalls of 7316 dwellings.

*Conclusion on 5 year housing land supply*

54. Having regard to the above, the following table sets out my findings:

Annual requirement	1370
5 year requirement	6850
Past Delivery	+200
20% Buffer	1410
Total requirement	8460
Annualised average requirement	1692
Councils Base Supply from 5yhs Statement	7032
Discounted Sites Includes deductions agreed by the parties (125)and those I have made (239)	364
Base Supply less Discounted sites (7032-364)	6668
Windfall Allowance	648
Total supply (6668+648)	7316
No. of years supply	4.32

55. Accordingly I conclude that the Council cannot demonstrate a 5 year supply of housing land.

### **Principle of development in the countryside.**

56. The appeal site lies within Countryside Policy Area (CPA) as defined in Saved Policy ENV2 of the Doncaster Unitary Development Plan (UDP) 1998. This area extends to all land within the eastern part of the borough that is not in the Green Belt. Saved Policy ENV 4 of the same document sets out the type of development that will be permitted in the CPA. Whilst accepting that the appeal proposal conflicts with Saved Policies ENV2 and ENV4, the appellant argues that these policies are not consistent with the Framework and should therefore be given limited weight in the determination of this appeal.
57. Turning first to Saved Policy ENV2, whilst it is not referred to in the Council's reason for refusal it sets out the purpose of the CPA. Eight intended purposes are stated, including assisting to safeguard the countryside from encroachment, providing an attractive setting to towns and villages, preventing settlements coalescing and providing opportunities for outdoor sport and recreation.
58. Saved Policy ENV4 sets down the Council's overall development management policy within the CPA. The Policy states that development will not normally be permitted in the CPA for purposes other than agriculture, forestry, outdoor sport and recreation, infilling within settlements, and amongst other things the reuse of buildings.
59. The appellant has provided a detailed analysis of Saved Policy ENV2 in relation to the Framework. I agree with the conclusions that there are no Framework requirements for many of the stated purposes of the policy for example safeguarding the countryside from encroachment or preventing settlements from coalescing. The supporting text to Saved Policy ENV2 in paragraph 5.23 states that the CPA shares many similar purposes with the Green Belt. In paragraph 5.24 it is stated that central government guidance recognises that policies controlling development apply with equal force to Green Belt and countryside outside the Green Belt. This is clearly no longer the case.
60. Saved Policy ENV4 is restrictive in nature and only permits development in a certain set of circumstances. Its approach to development in the countryside is not consistent with the Framework which in paragraph 28 supports economic growth in rural areas in order to create jobs and prosperity, taking a positive attitude to sustainable development. Furthermore I consider it significant that the Council in cross examination conceded that Saved Policies ENV2 and ENV4 do not contain a form of wording that would be promoted in the new Local Plan.
61. The CPA designation applies to all countryside. The appellant makes the point that there has been no assessment undertaken to consider the relative value of the countryside and whether all parts of it are worthy of such protection in order to achieve the stated purposes of the policy. The appellant therefore questions the validity of the designation.
62. By way of confirmation of this view it has been brought to my attention that in a letter following the Examination of the now withdrawn Sites and Policies DPD, the Planning Inspector considered the use of the term Countryside Policy Protection Area as misleading. The Inspector commented in paragraph 38 of his letter that the area so designated has not been assessed for its special

- qualities and there is no policy either in the Core Strategy or the DPD which gives it any special status.
63. I acknowledge that Saved Policies ENV2 and ENV4 aim to give protection to the countryside. In general terms they accord with paragraph 17 of the Framework recognising the intrinsic character and beauty of the countryside. However the above points lead me to the conclusion that in terms of providing guidance on development in the countryside, these policies are not consistent with the Framework and in line with paragraph 215, should be given limited weight.
64. The Council have made reference to two appeal decisions<sup>12</sup> where Inspectors have come to a contrary view. These were both dealt with by means of written representation and proposed small schemes of fewer than 10 dwellings. The circumstances in these cases were therefore different to the appeal before me, where there was the benefit of detailed cross examination of evidence. Each case must be considered on its merits in light of the evidence available.
65. There was some discussion at the Inquiry with regard to the boundary of the CPA as outlined on the UDP proposals map and whether it is out of date. The settlement limits defined in the map were set out nearly 20 years ago. The growth strategy for the borough has now changed and many sites outside the boundary have received planning permission and are being developed. The Council accepted at the Inquiry that it would be further changed by the emerging local plan. The Council suggested in cross examination that moderate weight should be afforded to it however I consider that, as it has been subject to a number of changes since it was first drawn up and will be changed again in the future, it cannot be regarded as up to date and should be given limited weight.
66. The UDP was adopted in 1998 and covers the period 1986-2001. In 2012 the Council adopted the Core Strategy which sets out a different growth strategy for the borough. I consider that in this regard the Core Strategy supersedes the UDP and should be given greater weight in this appeal. Policy CS2 sets out where new housing development should be located. The area of Stainforth and Hatfield, (including Duncroft and Dunsville) is designated as a Potential Growth Town where significant housing growth will be accommodated. The Policy goes on to state that housing growth will be supported subject to the coordinated delivery of jobs and infrastructure. The Council conceded at the Inquiry that Saved Policy ENV4 was in conflict with Policy CS2 and that this conflict should be resolved in favour of the Core Strategy, the most up to date plan.
67. Policy CS3 aims to take forward Saved Policies ENV2 and ENV4 with regard to the protection and enhancement of the countryside and states that the countryside east of the borough will be continued to be protected through a Countryside Protection Policy Area (CPPA). Part B1 of the Policy recognises that in order to achieve the Growth and Regeneration Strategy identified in Policy CS2, new urban extension allocations will be required including sites in the countryside on the edge of the Potential Growth Town. Clearly such allocations have not yet been made as new composite Doncaster Local Plan is

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<sup>12</sup> Appeal Decision Ref APP:F4410/W/16/3151727 Land to the rear of Field Cottage, Main Street, Hatfield Woodhouse, Doncaster and Appeal Decision Ref APP:F4410/W/16/3155192 New Mill Field Road, Hatfield, Doncaster.

still under preparation and not due to be published for consultation until autumn 2017.

68. The CS does not adopt the CPA boundary of the UDP as the boundary of the CPPA. It denotes the CPPA on the key diagram. Its defined boundaries will need to be clarified in the new Local Plan. The appellant has argued that as the precise boundary of the CPPA has not been defined the Policy area does not currently exist and therefore those parts of Policy CS3 which refer to it cannot be applied. However the general area of the CPPA is shown on the Key Diagram. The wording of the Policy refers to the continued protection of the countryside in the east of the borough. It appears to me to be reasonable to assume that the area of the CPPA will, with some necessary amendments taking account of approved development, be similar to that of the CPA. In addition there is nothing in the CS document to suggest that this policy does not come into effect until these areas have been formally defined in a later Site Allocations DPD. I therefore conclude that the relevant parts of Policy CS3 should be applied.
69. Policy CS3 in Part C considers proposals which are outside development allocations and states they will only be supported subject to certain criteria being met. The parties agree that as the appeal site is not allocated then this part of Policy CS3 is applicable and that the proposal would be in conflict with this section of the policy. However as there are no allocations of land within the Potential Growth Town due to lack of adoption of a new Local Plan, if the appeal development is considered to be necessary as part of the Council's Growth and Regeneration Strategy, ie compliant with Policy CS2, the proposal would also be compliant with Part B1 of Policy CS3. It appears to me that the Council has adopted this approach in approving other sites for development in the countryside including the 400 dwellings at Doncaster Road, Hatfield<sup>13</sup> and the Unity development<sup>14</sup> comprising 3100 dwellings and other economic and community facilities.
70. The appellant has brought my attention to an appeal decision for a residential development in Armthorpe<sup>15</sup> where the Inspector gave consideration to the conflict between Saved Policy ENV4 and Policy CS3. There are parallels to the case here. The Inspector concluded that Policy CS3 was more up to date, recognising the importance of urban extensions to the growth and regeneration strategy. He concluded that this policy is more closely aligned with the Framework which seeks to support economic development whilst recognising the value of the countryside.
71. Accordingly I conclude that greater weight should be given to Policy CS3, the more up to date policy. The appeal scheme would in principle be consistent with the regeneration and growth objectives of the development plan. There is clear support in the Core Strategy for the growth of Stainforth, Hatfield (including Dunsville and Duncroft) and it is accepted that such growth would take place on land in the countryside outside the settlement.
72. Core Strategy Policy CS2 indicates the development of around 1200 dwellings over the plan period to 2028 in the Potential Growth Town. The Council's evidence has shown that there are extant permissions amounting to 3822 units

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<sup>13</sup> Planning application ref 16/00998/OUTM

<sup>14</sup> Planning application ref 15/01300/OUTA

<sup>15</sup> Appeal Ref APP/F4410/A/12/2169858

in this area and that 1143 units are considered deliverable in this location in the 5 year housing land supply. The Council therefore argues that there is no plausible basis on which it can be regarded as necessary for permission to be granted to the appeal site in order to deliver the Growth and Regeneration Strategy.

73. However, whilst there may be over 1100 dwellings in the 5year housing land supply, there is no guarantee that they will all be delivered. The Council suggest that there is potential supply of 5152 dwellings over the 15 year plan period. This is made up of 37 sites and includes the Unity development of around 3100 dwellings. As I have already discussed this is a long term strategic site which is expected to deliver over a 20-30 year period. It requires significant infrastructure and I am advised that there are viability issues. The appellant estimates that Unity may deliver 665 units over the plan period applying the anticipated delivery rates. This figure of course could be less if financial or legal difficulties are experienced resulting in delays. Having regard to these uncertainties I am not persuaded that the appeal site is not necessary to contribute towards the delivery of the Growth and Regeneration Strategy.
74. In the reason for refusal the Council considers that the appeal proposal would represent a substantial encroachment of new development into the open countryside which would harm the rural character of the area. The appeal site comprises 3.37 hectares of land located west of the existing residential estate off Westminster Drive. It is located at the western most end of the built up area of Dunsville. The site is in agricultural use and is generally flat. It is bounded to the east by existing residential development and to the south there is a line of mature trees beyond which lie farm buildings located to the north of the A18 Doncaster Road. On the northern and western site boundaries are areas of maturing woodland planted approximately 10 years ago.
75. In order to assess the impact of the development on landscape character the appellant has produced a Landscape and Visual Impact Assessment (LVIA). This identifies that the site lies in the Humberhead Levels National Landscape Character Area. The Council's Landscape Character and Capacity Assessment of Doncaster Borough March 2007 describes the site as within the Sandland Heaths and Farmland Landscape Character Area, a diverse area with arable farmland, and designated nature sites associated with watercourses, water filled gravel pits and scattered woodland. The area is considered to be of moderate quality and value. It is agreed by the parties that the site does not form a valued landscape as described in paragraph 109 of the Framework. I see no reason to disagree.
76. The LVIA concludes that the development would result in a high level of change for the site itself and therefore the landscape impact would be moderate adverse. However in terms of the wider landscape the effect is assessed as being negligible. I agree with the appellant that the site is contained by existing development to the west and woodland to the north, south and east. Whilst the development would form an encroachment into the countryside the resultant harm to the character of the landscape would be limited.
77. In terms of visual impact, on my site visit I observed the significant screening provided by the woodland to the north and west of the site. This forms young woodland which is still maturing so that the mitigation effect would increase over time. I also viewed the site from the A18 Doncaster Road. Only limited

glimpses of the site could be obtained due to the effectiveness of existing woodland. I acknowledge that the rooftops of the proposed houses may at certain points be visible on the approach to Dunsville but I consider that the overall visual impact on the area would be limited. The Council agreed with this analysis on cross examination. I accept that that the greatest visual impact would be experienced by nearby residential properties on Westminster Drive and Cathedral Court. However appropriate separation distances to protect privacy and prevent overlooking can be achieved and landscape mitigation measures would assist to filter views.

78. I therefore consider that the appeal site forms a logical extension to Dunsville causing very limited harm to the rural character of the area.

### **Suitable Location for Development**

79. The Council is of the view that the appeal site does not form a suitable location for development due to its poor accessibility, particularly for pedestrians. I note that Dunsville scores highly in terms of primary and secondary services and facilities in the Doncaster Settlement Audit 2107 and that in the SoCG the parties agree that Dunsville forms a sustainable settlement.
80. Dunsville provides a primary school, health centre, pharmacy, a small supermarket with Post Office and a number of takeaways. Both parties have assessed the walking distances from the site to these facilities though have used different guidance documents in order to do this. The Council makes reference to The Institute for Highways and Transportation (IHT) 'Guidelines for Providing Journeys on Foot' published in 2000. This advises in Table 3.2 that a desirable walking distance for trips on foot outside town centres would be 400 metres with a preferred maximum of 1200 metres. With regards to schools it suggests a desirable distance of 500 m with a preferred max of 2000m. In terms of the appeal site whilst the walking distances to the health centre shop/Post Office and takeaways exceed the desirable distance they would be within the preferred maximum. This is also the case with the Primary School.
81. The appellant has assessed the development against the South Yorkshire Residential Design Guide, a Supplementary Planning Document (SPD) adopted by the Council and other neighbouring authorities in 2011. The Council does not make reference to this document. The authors of the SPD took account of the IHT guidelines and the Council in cross examination accepted that greater weight should be given to this later document.
82. Paragraph N.1.2 of the Guide considers walking times rather than distances and suggests a walk time of 15 minutes to local services and a 20 minute walk to primary health and education facilities. On my site visit I walked the route to the Londis store and the Primary School. It took approximately 10 mins to walk to the shop and 20 mins to the school. I can therefore confirm that the appeal site meets all of the criteria in the SPD. The route was flat, sufficiently wide, lit and not unpleasant considering it was along a busy main road.
83. I acknowledge that the above walking times would be greater for older people, those with mobility problems or very young children. I also recognise that walking to the Primary School would involve a round trip of 40 minutes which may be too far for many parents /carers especially if they also have younger pre-school children.

84. It is also important to also consider the availability and frequency of public transport and the proximity of bus stops to the site. It is agreed between the parties that the distance to the outbound bus stop is approximately 300m from the centre of the site and to the inbound bus stop around 400m, a walk of no more than 5 minutes. The walk time to the bus stops would meet the guidance in the South Yorkshire Design Guide and the IHT document 'Guidelines for Providing Journeys on Foot'.
85. The latter distance to the inbound bus stop however assumes that a user will cross the road close to the stop rather than walk to the nearest crossing facility. If a user were to do that the distance would be in the region of 680 metres. I heard from a number of local residents and local Councillors that the A18 is a very busy road and difficult to cross particularly at peak times. I saw this for myself on my site visit.
86. The appellant has suggested a pedestrian refuge as part of the scheme. This did not form part of the original submission to the Council. Whilst I am aware that such a facility would be supported by the local residents, I am informed by the Council that the Highway Authority have expressed technical and safety concerns. In light of the uncertainty that it can be safely implemented, I do not consider it appropriate to consider the inclusion of the refuge as part of this appeal scheme.
87. The Council has raised concern that there is no direct pedestrian route from the appeal site to local bus stops. Whilst I agree that this would make it more convenient for users to access public transport, it is often the case that a user has to walk a short distance through a residential estate to access the main road and the bus route. In this case the distance to walk is short; no more than 5 minutes and the route itself is safe and not unattractive. I therefore consider the development is acceptable in this regard.
88. I am advised that there are two bus services between Doncaster and Moorends running along High Street/Doncaster Road. Service 87/87a runs every 10 minutes during the day, every 20 minutes in the evening and half hourly on Saturdays and Sundays. Service 8, 8a runs hourly Mondays to Saturdays with no Sunday service. I consider this provides a good standard of public transport in the area. I observed this to be the case on my site visit.
89. In terms of Secondary School provision I was advised at the Inquiry by residents that the site is within the catchment of Hungerhill School, which lies over 3 km from the appeal site. This is clearly not within an acceptable walking distance. However at secondary school level it is not uncommon for young people to take the bus to school. Many of them would be required to cross the road to get to bus stop and I have already discussed the difficulties of crossing the road above.
90. I am mindful that the Framework in paragraph 29 seeks to give people real choice about how they travel. In the case of the appeal site I consider that local facilities and services would be within an acceptable walking distance though I acknowledge that some of these distances, for example to the primary school, would be on the margin of acceptability having regard to the guidance. The Council has argued that there are other sites with planning



permission that are in more accessible locations than the appeal site. I do not doubt this but the question for me to consider in this appeal is whether the appeal site has an acceptable level of accessibility, not whether there are other better sites.

91. There is a good public transport service which would provide access to Doncaster and Edenthorpe to the south west and the shopping facilities they provide but would also provide access to Dunsville, Duncroft and Hatfield to the north east. I have noted the intention to upgrade the bus stops and provide a shelter as part of the scheme which would improve this provision for users. I have also had regard to the proposed measures in the Travel Plan to encourage non car means of travel. I also note there is no objection to the development in terms of accessibility from the Highway Authority. Whilst the South Yorkshire Passenger Transport Executive raised concerns that the site was not sustainably located they did not raise an objection to the development.
92. Bringing the above points together and bearing in mind compliance with the walking times in the Councils SPD, and the good availability of public transport, I consider that the site would provide a choice of travel options for future residents. The development would therefore meet the sustainable transport objectives of the Framework and Policies CS1 and CS14 of the Doncaster Core Strategy 2012.

### **Other matters**

93. Local residents have raised concern with regard to highway matters and flood risk. In terms of highway issues, there is concern regarding the increased traffic from the development on Westminster Drive and the impact for vehicles trying to exit the junction onto the A18. I acknowledge that the A18 is a very busy road at peak times. It is set out in the Statement of Common Ground that the proposed access arrangements are acceptable to serve the development in terms of their location, design and that traffic generated from the development can be satisfactorily accommodated on the local road network. The highway authority has raised no objection to the scheme and I therefore have no reason to take a different view.
94. In terms of flood risk, a local resident provided photographs of a flooding event in March 2017. The appellant's Flood Risk Assessment recognises that there is a problem of standing water due to the nature of superfluvial deposits. Recommendations contained within the report would address this issue and ensure that the proposed development would not exacerbate the problem and would be able to significantly reduce the effects of rainfall.

### **Planning Balance**

95. I have found that in relation to housing land supply the Council cannot demonstrate a 5 year supply based on an OAN of 1370 dwellings per year. In accordance with paragraph 49 of the Framework, relevant policies for the supply of housing are out of date. Paragraph 14 of the Framework is therefore engaged. I must therefore consider whether the adverse impacts of the development significantly and demonstrably outweigh the benefits such that the proposal does not form sustainable development.

96. In cross examination Mr Bedwell for the appellant argued that the presumption in favour of sustainable development was triggered because the plan could be regarded as silent. He argued that this was because allocations which were anticipated when the Core Strategy was adopted had not been forthcoming. However the development plan would only be silent for the purposes of paragraph 14 of the Framework if there was a policy gap with no guidance on how development should be considered. Whilst I accept that allocations of land have been delayed with the slow progress with the emerging local plan for Doncaster, the plan is not silent in all other respects. This was accepted by Mr Bedwell on cross examination. I therefore reject this argument.
97. Turning to the benefits of the development, the contribution that the appeal scheme makes to the supply of housing, 97 dwellings, must be given significant weight in the absence of a five year housing land supply. The scheme would also provide 25 affordable houses. Given the Borough's past under delivery in this regard, the contribution that the development would make also attracts significant weight.
98. With regard to the economic contribution of the development, future residents would make use of local shops and facilities and the construction of the dwellings would create employment and demand for materials from local suppliers. The development would also generate New Homes Bonus and increased Council Tax revenue. This would provide economic benefits to which I attach moderate weight.
99. I acknowledge that the scheme would provide improvements to local infrastructure, such as bus stops and a financial contribution for additional school places. However as these measures are required to mitigate the impacts of the development I consider they form neutral considerations in the overall planning balance. The development would also make a financial contribution towards the West Moor Link Road and the future delivery of the Unity project supporting the growth and regeneration objectives for the area in line with Policies CS2, CS10 and CS12 of the Core Strategy. These contributions also weigh in favour of the scheme.
100. Turning to adverse impacts of the scheme, the development would result in the loss of an area of open countryside in conflict with Saved UDP Policy ENV4. However I have found that this policy is not consistent with the Framework or the Core Strategy and therefore I attribute limited weight to this conflict.
101. The appeal scheme would result in the loss of agricultural land, the majority of which falls within grade 3b. As I am advised that there is land of higher quality in the locality, the loss of this land would not result in any significant harm. I have given consideration to the effect of the development on the rural character and concluded that that the proposal would result in limited harm in this respect. The proposal would result in encroachment in to the countryside but this would be limited to the site itself and have little impact on the wider area.
102. With regard the other main issue, that of accessibility and whether the site is a suitable location for development, I have found that site would provide a choice of travel options for future residents. There is good public transport serving the site and services and facilities in Dunsville are within an acceptable walking distance having regard to the Council's SPD.

103. In conclusion I consider that the adverse impacts of the development would not significantly or demonstrably outweigh the benefits when considered against the policies of the Framework when taken as a whole. The proposal would therefore form sustainable development. I have determined that Policy CS3 of the Core Strategy is more up to date than the policies of the UDP aimed at protecting the countryside. There is clear support in the Core Strategy for the growth of Stainforth, Hatfield (including Dunsville and Duncroft) and it is accepted that such growth would take place on land in the countryside outside the settlement. The appeal scheme would therefore in principle be consistent with the regeneration and growth objectives of the development plan and so, quite apart from my finding above in respect of the balance of harm and benefits in the context of paragraph 14 of the Framework, the appeal should succeed.

### **Planning Obligation**

104. The appellant has submitted a planning obligation dated 12 May 2017 under Section 106 of the Town and Country Planning Act 1990. The obligation is intended to provide for a number of matters. Firstly it makes provision for 26% of the total number of dwellings to form affordable homes in compliance with Core Strategy Policy CS12. I am satisfied that there is a clear basis for this requirement.

105. The obligation also provides for the provision and management of on-site public open space. This complies with Saved UDP Policy RL4 and CS Policy CS17. In relation to highway matters, a financial contribution is made towards the West Moor Link Road, a major highway scheme which would be used by traffic generated from the proposed development. A Transport Improvement Bond securing a commitment to meeting the travel plan targets is required in order to mitigate any traffic in the event that the trip rates exceed those predicted in the transport assessment. As these contributions directly relate to the proposal I consider they are appropriate.

106. Financial contributions to upgrading nearby bus stops and to enhance local education provision are also provided for in the planning obligation. These infrastructure improvements are necessary to mitigate the impact of the development. Finally the obligation provides for a contribution to support the future delivery of the DN7 Unity project in providing new infrastructure and job creation in the Potential Growth Town. This accords with Policy CS2 of the Core Strategy which ties new housing to the delivery of jobs and infrastructure. I am satisfied that this is necessary.

107. In respect of the above obligations I am advised by the Council that they have collected no more than 5 contributions in respect of each of the above matters and therefore the pooling restrictions of Regulations 123 of the CIL Regulations are not breached. I am also satisfied that the obligations are necessary to make the development acceptable in planning terms, that they are directly related to and are fairly and reasonably related in scale and kind to the development. I therefore consider that the submitted obligation meets the tests set out in paragraph 201 of the Framework and the CIL Regulations 2010 and should be given significant weight.

## Conditions

108. The Council has suggested a number of conditions that it considers would be appropriate should I be minded to allow the appeal. These were discussed at the inquiry and revisions made. I have considered the conditions in light of the Framework and Planning Practice Guidance. For ease of reference I refer to the numbers in the attached schedule.
109. Condition 1 limits the timeframe of the permission and conditions 2 and 4 relate to the submission of reserved matters. These conditions are necessary in order to comply with Section 92 of the Town and Country Planning Act 1990. Condition 3 requires the development to be carried out in accordance with the approved plans and is necessary in the interests of clarity.
110. In order to record any areas of archaeological interest on the site condition 5 is necessary. Conditions 6 and 7 require on site assessment of any potential contamination and appropriate mitigation measures should any be found. These are required in order to safeguard any future occupiers of the site and the wider environment.
111. In the interests of ecology and sustainability, I consider that conditions with regard to the provision of a Construction Environmental Management Plan (8), the protection of birds during the nesting season (9), tree protection measures (10), the retention of healthy trees on the site and their incorporation in to the site layout (20), and a Habitat Management and Enhancement Plan (21) are all necessary. In addition, in order to ensure the site is satisfactorily drained and to prevent flooding, conditions are necessary to ensure the implementation of mitigation measures included in the Flood Risk Assessment (11), the submission of a detailed surface water drainage scheme (12), the provision of sufficient access to the drainage network to enable maintenance and repair (13), a separate surface water and foul drainage system (14), no piped discharge of surface water before the completion of the approved surface water drainage works (15) and the surfacing and drainage of areas used for parking (17).
112. With regard to highway matters, conditions requiring the preparation of a detailed travel plan (16), the provision of car parking (18) and the detailed design of the access (22) are also necessary. Condition 19 requires a construction method statement to be prepared and I consider this to be necessary in order to protect the living conditions of future and existing residents and also for highway safety. In the interests of maintaining air quality and minimising emissions Condition 20 is required with regard to the provision of electric vehicle charging facilities.
113. There are two suggested conditions in dispute between the parties, one relates to the details of the pedestrian refuge and bus shelters and the other relates to the scheme of open space and includes the area outside the submitted planning application boundary in the ownership of the appellant. I have already discussed these matters in my decision. With regard to the pedestrian refuge, as this is not required by the highway authority to make the scheme acceptable in highway terms, though it may be desirable, I do not consider it to be necessary. A financial contribution for the provision of the bus shelters to be made to the South Yorkshire Passenger Transport Executive is included in the planning obligation and therefore I consider that an amended condition relating to this provision is not necessary. The open space scheme

which includes the water body and woodland close to the site was not included in the original planning application and I have determined that whilst it would be of benefit to future and existing residents it is not necessary to make the scheme acceptable. Furthermore as it has not been the subject of consultation I do not consider it appropriate for it to be considered as part of this appeal.

**Conclusion**

114. For the reasons given above and having regard to all other matters raised, I consider the appeal should be allowed.

*Helen Hockenhull*

INSPECTOR

Richborough Estates

## **APPEARANCES**

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

John Hunter (of Counsel)	Instructed by Scott Fawcus Assistant Director Legal and Democratic Services for Doncaster Metropolitan Borough Council
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### **He called**

David Edwards BSc (Hons) MTP MRTPI	Principal Planner
Tim Goodall MA (Hons) MRTPI	Senior Planning Officer
Andy Brown BA (Hons)	Senior Strategy and Performance Manager
Jonathan Clarke <sup>16</sup>	Principal Planner
Nicola Elliot <sup>17</sup> BA (Hons) MSc MRTPI	Principal Planning Officer
Stacey Cutler <sup>18</sup>	Trainee Solicitor

### **FOR THE APPELLANT:**

Andrew Williamson BA (Hons) Dip TP MRTPI	Consultant, Walker Morris Solicitors
Josh Kitson BA (Hons)	Associate, Walker Morris Solicitors

### **They called:**

Brian Denney BA (Hons) DIPLA CMLI CENV MIEMA	Pegasus Group
Brian Smart MSc BSc C Eng MICE	Met Engineers Ltd
Fiona Braithwaite MA (Hons) Social Policy	Lichfields
Michael Hepburn BA (Hons) MTP	Lichfields

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<sup>16</sup> Participated in round table discussion with regard housing supply

<sup>17</sup> Participated in round table discussion regarding planning obligation and conditions

<sup>18</sup> Read Council's Closing Submissions

Paul Bedwell  
BA (Hons) Dip TRP MRTPI

Spawforths

**INTERESTED PERSONS:**

Cllr Linda Curran	Ward Councillor for Hatfield
Cllr Mick Glynn	Hatfield Town Council
Mr Geoff Mason	Local Resident
Cllr Duncan Anderson	Ward Councillor

**Documents Submitted at the Inquiry**

1. Draft Planning Obligation under Section 106 of the Town Country Planning Act 1990.
2. Rebuttal evidence of Cristina Howick in relation to an appeal for land North of Woodcock Wood and West of Flatts Lane, Normanby.
3. Gladman Developments Limited V Daventry District Council v Secretary of State for Communities and Local Government 23 November 2016.
4. Thorpe Smith v Secretary of State for Communities and Local Government and North Devon District Council [2017] EWHC356 (Admin).
5. Trustees of Barker Mill Estates and Test Valley Borough Council v Secretary of State for Communities and Local Government [2016] EWHC 3028(Admin)
6. Appeal Decision Ref APP:F4410/W/16/3151727 Land to the rear of Field Cottage, Main Street, Hatfield Woodhouse, Doncaster
7. Appeal Decision Ref APP:F4410/W/16/3155192 New Mill Field Road, Hatfield, Doncaster.
8. Email from Oxford Economics dated 8 May 2017.
9. Emails from Cambridge Econometrics and Oxford Economics regarding the basis of their economic forecasts (Various dates).
10. Appellant's Opening Statement.
11. Council's Opening Statement.
12. Statement from Mr Mason.
13. Email copy of correspondence between Mr Mason and Doncaster MBC Traffic and Road Safety Team regarding pedestrian refuge on High Street, Dunsville.
14. Article from Town and Country Planning December 2014 – Whither Household Projections.
15. TCPA Tomorrow Series Paper 17 – new estimates of housing requirements in England 2012 to 2037.
16. Email from South Yorkshire PTE re Application 08/03383/OUTM, previous application on the appeal site.
17. Sheffield City Region Strategic Economic Plan 2015-2025.
18. ONS Annual Population Survey - Economic Activity Rate Age 16-64 Nationally and for Doncaster, 2004-2016.
19. Response by Mr Derek Masters to flooding identified in photographs taken by Mr Mason.
20. Suffolk Coastal District Council v Hopkins Homes Ltd, Richborough Estates Partnership LLP v Cheshire East Borough Council [2016] EWCA Civ 168,

- [2015] EWHC 132(Admin) and [2015] EWHC 410 ( Admin).
21. Draft Statement of Common Ground in respect of the Full Objective Assessed Need and Five Year Housing Land Supply.
  22. Cotswold District Council v SSCLG [2013] EWHC 3719 (Admin).
  23. Extract from the Planning Practice Guidance, Housing and economic land availability assessment.
  24. Email from Fenwood Estates Ltd dated 3 May 2017 regarding HELAA Site Ref 687.
  25. Email from Hallam Land Management Ltd dated 8 May 2017 regarding HELAA Site Ref 240.
  26. Email from Marcol Waystone regarding Deliverability of Unity HELAA Site Ref 418.
  27. Email from Persimmon Homes dated 10 May 2017 regarding delivery of HELAA Site Ref 843.
  28. Sale particulars for HELAA Site Ref 253 dated May 2017.
  29. Doncaster MBC Call for Sites Form October 2014 with regard to HELAA Site Ref 470.
  30. Graph of historic windfall completions 1998/99-2015/16.
  31. Signed and dated Planning Obligation under Section 106 of the Town and Country Planning Act 1990.
  32. CIL Compliance Statement.
  33. Revised list of agreed conditions.
  34. Signed and dated Statement of Common Ground in respect of the Full Objective Assessed Need and Five Year Housing Land Supply, 1 June 2017.

Richborough Estates



## **SCHEDULE OF CONDITIONS**

1. The development to which this permission relates must be begun not later than whichever is the later of the following dates: - i) The expiration of three years from the date of this permission or ii) The expiration of two years from the final approval of the reserved matters or in the case of different dates the final approval of the last such matter to be approved. In the case of the reserved matters, application for approval must be made not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in general accordance with the following approved plans: Drawing No. 014/099/2LP Location Plan, Drawing No. 014/099/1 Illustrative Layout, Drawing No. 13169-5005-01 Rev A Proposed Point of Access – Cathedral Court.
3. Approval of the details of the appearance, landscaping, layout and scale (hereinafter referred to as reserved matters) shall be obtained from the local planning authority before the commencement of any works.
4. As part of the reserved matters submission, an archaeological evaluation of the application area shall be undertaken in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. Drawing upon the results of this field evaluation stage, a mitigation strategy for any further archaeological works and/or preservation in situ shall be approved in writing with the local planning authority and then implemented concurrently with the development.
5. No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved by the local planning authority (LPA), unless otherwise approved in writing with the LPA.
  - a) The Phase 1 desktop study, site walkover and initial assessment must be submitted to the LPA for approval. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.
  - b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved by the LPA prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of

analysis, and risk assessment to any receptors shall be submitted to the LPA for approval.

- c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.
  - d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.
  - e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.
6. Should any unexpected significant contamination be encountered during development, all associated works shall cease and the local planning authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA.
  7. No development shall take place (including groundworks or vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
    - a) Risk assessment of the potentially damaging construction activities, informed by updated ecology surveys if required
    - b) Identification of biodiversity protection zones
    - c) Practical measures to avoid or reduce impacts during construction
    - d) The location and timing of sensitive works to avoid harm to biodiversity features and protected species
    - e) Responsible persons and lines of communication.

The approved CEMP shall be adhered to and implemented throughout the

construction period strictly in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.

8. No removal of hedgerows, trees or shrubs shall take place between 1st March to 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest of site. Any such written confirmation should be submitted to the local planning authority prior to the commencement of the development hereby approved.
9. Prior to the commencement of the development hereby granted a scheme for the protection of all retained trees that complies with section 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations shall be submitted to and approved in writing by the local planning authority. Tree protection shall be implemented on site in accordance with the approved details and the local planning authority notified of implementation to approve the setting out of the tree protection scheme before any equipment, machinery or materials have been brought on to site for the purposes of the development. Thereafter, all tree protection shall be maintained in full accordance with the approved details until all equipment, machinery and surplus materials have been removed from the site, unless the local planning authority gives its written approval to any variation. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.
10. The development permitted by this planning permission shall be carried out in accordance with the approved flood risk assessment (FRA) and the following mitigation measures detailed within the FRA.
  - I) Finished floor levels are set no lower than 8m above Ordnance Datum (AOD)
  - II) Flood resilience is designed into each property
  - III) Sustainable drainage systems are utilised.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

11. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:
  - i) Surface water drainage systems are designed in accordance with CIRIA C697 and C687 or the National SuDS Standards, should the

latter be in force when the detailed design of the surface water drainage system is undertaken.

- ii) Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm ideally to greenfield rates for the site but as a minimum so that it will not exceed the run-off from the undeveloped site and will not increase the risk of flooding off-site.
  - iii) Provision of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments'.
  - iv) Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
  - v) Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.
12. Unless otherwise agreed in writing by the local planning authority, no building or structure shall be located over or within 4.0 metres either side of the centre line of the sewer, which crosses the site.
13. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
14. Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.
15. Within 6 months of first occupation of the development hereby approved, a full Travel Plan shall be submitted to and approved in writing by the local planning authority and thereafter shall be implemented in accordance with the approved Travel Plan.
16. Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.
17. Before the development hereby permitted is brought into use, the parking as shown on the approved plans shall be provided. The parking area shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.
18. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
19. Prior to the first occupation of any dwelling, necessary infrastructure for Electric Vehicle Charging shall be provided to each property. Necessary infrastructure for each plot comprises the provision of one standard 3-pin 13amp single household plug and socket along with associated cabling and mains electric household supply to each dwelling only.
20. The layout of the proposed development shall be based on the principle of ensuring realistic long-term retention of all sound and healthy trees within and overhanging the site. The siting of any proposed building, carriageway, path, wall, service run, and built or excavated earthwork shall be based on the tree survey commissioned in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction – Recommendations and shall give full regard to the root protection area, shading potential and future growth of each tree and the aspect and topography of the site.
21. A Habitat Management and Enhancement Plan (HMEP) shall be submitted to and be approved in writing by the local planning authority within three months of the commencement of the development. The content of the HMEP shall include the following:
- a) The aims and objectives of management and enhancement of the woodland, pond margins, newly created species rich wildflower grassland area and existing unimproved grassland as described in the ecology report by Access Ecology dated April 2017.
  - b) Appropriate management options for achieving the aims and objectives.
  - c) Prescriptions for management actions.
  - d) Preparation of an annual work schedule that can be rolled forward over a minimum 5 year period.
  - e) Details of the organisation responsible for implementing the plan.
- The approved plan will be implemented in accordance with the approved details.
22. Subject to a detailed design being submitted to and approved in writing by the local planning authority prior to the commencement of development, the means of vehicular access to and from the site shall be in general accordance with approved drawing no. 131695005-01 Rev A 'Proposed Point of Access – Cathedral Court'.