
Appeal Decision

Inquiry held on 28, 29, 30, 31 January 2014 and 3, 4, 5 February 2014

Site visit made on 5 February 2014

by Clive Sproule BSc MSc MSc MRTPI MIEEnvSc CEnv

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

Decision date: 7 May 2014

Appeal Ref: APP/J3720/A/13/2205108

Former Stratford Cattle Market Site, Alcester Road, Stratford-upon-Avon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Marsh, Redrow Homes Ltd against the decision of Stratford-on-Avon District Council.
 - The application Ref 13/00157/FUL, dated 11 January 2013, was refused by notice dated 29 July 2013.
 - The development proposed is erection of 214 dwellings (Class C3) and 721 square metres of retail floorspace (Classes A1-A5) served via access from Alcester Road (approved under planning permission 06/01021/FUL) car parking, landscaping and all other ancillary and enabling works.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 214 dwellings (Class C3) and 721 square metres of retail floorspace (Classes A1-A5) served via access from Alcester Road (approved under planning permission 06/01021/FUL) car parking, landscaping and all other ancillary and enabling works at Former Stratford Cattle Market Site, Alcester Road, Stratford-upon-Avon in accordance with the terms of the application, Ref 13/00157/FUL, dated 11 January 2013, subject to the following conditions in the attached schedule.

Procedural matters and Main Issues

2. A draft unilateral undertaking was provided during the inquiry as Inquiry Document 36 (ID-36), and an executed document (ID-57), dated 7 February 2014, was submitted after the closure of the inquiry.
3. Also following closure of the inquiry, parties were provided with an opportunity to comment on the publication of Planning Practice Guidance (PPG).
4. On 6 November 2013 Stratford-on-Avon District Council (SADC and "the Council") advised the appellant that it would no longer suggest harm to the character and appearance of the locality as a result of the massing, design and bulk of the proposed buildings. In addition, the SADC clarified its position with reference to paragraph 14 of the National Planning Policy Framework ("the Framework").¹ Consequently, the main issues reflect the clarification of the reasons for refusal and are, within the context of the presumption in favour of

¹ Paragraphs 1.4 and 1.5 of the Statement of Common Ground (SoCG)

sustainable development: a) the effect of the proposed development on the character and appearance of the locality; and b) whether the development proposed would make adequate provision for mitigating any adverse effects that it would have on local services and infrastructure.

Reasons

Background

5. As indicated by the site address, the proposed development would occupy the site of a former cattle market that more recently was a vacant plot used for car parking. Framework paragraph 111 encourages the effective use of such land, and planning permission was granted in 2007 for the redevelopment of the site.
6. The appeal site is the subject of Stratford-on-Avon District Local Plan Review 1996-2011 (LP) Proposal SUA.I which allocates the site for mixed use development and the provision of a bus and rail interchange. This indicates that development proposals for the site should include residential uses, with a proportion of affordable housing, along with a significant amount of commercial development, and provision of at least 140 car parking spaces for users of the railway station.
7. In 2006, a planning application (ref: 06/01021/FUL) was made to develop the site for 197 residential units, offices and retail/food and drink uses, a bus/rail interchange and associated parking, open and public realm spaces, pedestrian and cycle links, and new access arrangements to Western Road and Alcester Road. This proposal was allowed at appeal (ref: APP/J3720/A/06/2029280) with planning permission granted in May 2007. A further planning permission (ref: 10/01676/FUL) was granted for amendments to the external appearance of the 2007 scheme.
8. Appellant obligations to Network Rail have resulted in both of these permitted schemes being implemented prior to the 2013 application that is the subject of this appeal. However, the inquiry heard that neither scheme was being taken forward due to viability. Works carried out under these existing planning permissions were in relation to railway station car parking, the link road between Alcester Road and Western Road, the access onto Alcester Road and areas of open space around these features.
9. Therefore, the 'red line' for the appeal scheme is around other areas of the site. These form two parcels of land: the first is between the link road and the hospital site to the north and Arden Street to the east; and, the second is the area of proposed Block A between the link road and Alcester Road. However, the existing and proposed schemes for this location are clearly related and would combine for the overall development of the former cattle market site, including the provision of open space through the 2007 scheme.² Despite this agreed position, the case put forward by the Council sought to address the viability of the land within the red line and without the construction works that have taken place in regard to previous planning permissions.
10. The Council confirmed that it does not have a 5 year housing land supply.³ In such circumstances, the appeal scheme falls to be considered within the

² As described within paragraph 2.1 of the SoCG

³ As reported in Appendix PJ11 to Mrs Jarvis's proof of evidence

context of the presumption in favour of sustainable development, as described by paragraph 14 of the Framework. This means granting planning permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework when taken as a whole; or, specific Framework policies indicate that development should be restricted.

Character and appearance

11. LP Policy PR.1 indicates that: all development proposals should respect and, where possible, enhance the quality and character of the area; and, applications for development will be considered against relevant guidance. LP Policy DEV.1 requires the layout and design of development proposals to have regard to the quality of the local area. This is reflected in LP Policy SUA.2, where regard is to be given to the existing components of the built form, with any proposal complementing rather than conflicting with local character. LP Policy DEV.2 seeks a high standard of hard and soft landscaping and requires landscape proposals to form an integral part of the development. In addition, the Council's *Meeting Housing Needs Supplementary Planning Document* ("the Housing SPD") highlights the need for residential proposals to consider the character of the locality.⁴
12. The provision of recreational open space within a development falls to be considered under LP Policy DEV.3, which indicates that the appropriateness of the amount and nature of such space will depend on the location and form of the development proposed. Supporting text to this policy within LP paragraph 5.4.2 highlights that there are no defined standards for the amount of amenity space that should be provided within any particular form of development.
13. Standards of open space provision are detailed within LP Policy COM.4, which is not referred to within the fourth reason for refusal. Where open space is provided on site, LP Policy COM.5 indicates that it should be well related to the housing development that it is intended to serve, with the exact form and type of open space being considered within the type and size of the development.
14. LP Policy COM.5 also requires that appropriate arrangements be made for the maintenance of any public open space provided within a development. A suggested condition would address this and enable the proposal to meet this part of the policy.
15. The Cattle Market Development Brief ("the CMDB") was adopted July 2001 as Supplementary Planning Guidance. Section 5.6.1 of the Urban Design Framework (July 2007) updates this by providing a more detailed development strategy for the *Cattle Market and Arden Street*. The CMDB indicates the character of the area to have resulted from 'fringe features' on the edge of the town centre.
16. These 'fringe features' include non-residential parts of the town that lie beyond the centre. In this instance, a hotel and medical centre with associated open space stands to the east of the appeal site, with the railway station to the west, and commercial and hospital development to the north. Across Alcester Road to the south is a recent three storey development of residential/extra care housing. The fringe features in this location include blocks of development of

⁴ Paragraphs 9.2.2 and 9.4.6 of the Housing SPD

considerable scale, which are set within an immediate wider context that includes pitch roofed terraced housing.

17. Within this background, the more recent and detailed Urban Design Framework aims to create a World Class gateway and public transport interchange for a sustainable Stratford, with objectives to: establish a clear and direct link between the station and town centre; establish direct links north via Western Road; create new commercial uses that link to the town centre; and, provide a new mixed and high quality residential development.
18. Relevant parts of the Framework include paragraph 64 which states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Framework paragraph 73 highlights the importance of access to high quality open spaces and opportunities for sport and recreation to the health and well-being of communities.
19. LP Policy EF.13 is not permissive of proposals that would fail to preserve or enhance the character or appearance of a conservation area or its setting. The appeal site is within the setting of the Stratford-upon-Avon Conservation Area, and part of the access on Alcester Road is within the designation. Residential and commercial buildings of varying design and some of great age, along with trees and open spaces, are present within the Conservation Area. The setting of the Conservation Area in this location includes health and transport infrastructure, commercial buildings, residential development and trees.
20. A Holm Oak that is the subject of a Tree Preservation Order (ref: tree T1 of TPO/201/115) is present on the northern boundary of the appeal site. This, together with other trees in the townscape, contributes to the setting of the Conservation Area and the mature trees within it. If this appeal were to be allowed, measures to prevent damage occurring to the Holm Oak would be addressed through a suggested planning condition. This should ensure its continued contribution to the townscape and the setting of the Conservation Area.
21. Proposed buildings would reflect themes within existing architecture around the appeal site, and the overall massing would be appropriate for the scale of the urban environment around it. This is, in part, due to the gateway function of the site for visitors arriving at the railway station and proceeding to the town centre via footways. Both the proposed Arden Street link and the station approach along Alcester Road would facilitate this by providing the clear routes sought by the Urban Design Framework.
22. The executed unilateral undertaking makes provision for a public art contribution of £25,000 for works within the development. These would play an important role in establishing and reinforcing the gateway function of the former cattle market site for visitors arriving at the interchange. Accordingly, the public art contribution is considered necessary to implement planning policy objectives for the former cattle market site. It is directly related to the appeal scheme, fairly and reasonably related in scale and kind to it, and meets the test of a planning obligation.
23. As noted above, this scheme would create a vehicular and pedestrian route to the north via Western Road, which would also facilitate the use of any future route along the land safeguarded by LP Policy PR.10.7.

24. Commercial units in proposed Blocks A and B would provide a mixed use presence around station square, and in the vicinity of the taxi/drop off and bus stop locations. Within the townscape, the scale of these mixed use blocks would be framed by Blocks C and D. Strong flat roofed frontages in Blocks A, B and D would be evident where commercial uses would be present around station square, and these architectural features would terminate a number of principal views within the development.
25. Pitch roof elements within Blocks A and B would provide variety within these built forms and would link to the architecture of Block C and house Blocks 1, 2 and 3. These would provide a stepping down in the scale of development away from the mixed use blocks around station square and toward the play area, the Arden Street link and commercial development along Western Road.
26. The SoCG confirms the Council's fourth reason for refusal to be in relation to the effect of the provision of on site amenity space on the character and appearance of the locality. The Council indicates the *general thrust* of the policies referred to within the fourth reason for refusal to be the need for new development to complement the character and appearance of the area and provide sufficient amenity space for residents to enjoy.
27. When the 2007 planning permission was granted, the Inspector noted that the residential open space within the scheme would provide private and tranquil areas largely enclosed by buildings and in view of apartment windows.⁵ The proposed residential layout (making an allowance for the effect of the additional dwellings in Block C) reflects the density of development within the extant planning permissions.⁶
28. LP paragraph 5.2.5 indicates that for the purposes of LP Policy DEV.1, the term 'amenity' encompasses the extent to which people are able to enjoy public places and their own dwellings without undue disturbance or intrusion from neighbouring uses. LP paragraph 5.4.2 notes that, in relation to LP Policy DEV.3, there are no defined standards for the amount of amenity space to be provided with any particular form of development.
29. Higher density development can be expected in a mixed use gateway development of the type proposed, and indeed was accepted in the granting of planning permissions for the 2007 and 2010 schemes. The current appeal scheme has increased the provision of residential amenity space through the changed use and layout of development at Block C.⁷
30. The railway and interchange to the west of the former cattle market emphasises the relationship between the appeal site and development towards the town centre. This includes terraced houses and higher density buildings where the provision of amenity space appears to vary within these differing phases and styles of residential development.
31. Some of the older dwellings in the locality would appear to have mature rear gardens and amenity spaces that provide a significant degree of privacy. In time, the proposed house blocks could provide amenity space akin to these existing plots with established vegetation.

⁵ Paragraph 29 of appeal ref: APP/J3720/A/06/2029280

⁶ As noted in the *Design, Layout and Density* section of the Council Officer's report

⁷ Page 5 of Mr Twigger's rebuttal proof of evidence

32. The amenity space that would be provided around the higher density blocks would include private amenity space, green public space, and various forms of general amenity space that would include station square/station approach and the highway through the Homezone.
33. A number of factors have altered the nature of the amenity space brought forward in the appeal scheme. Removing basement car parking from Block B increases the level of surface parking to the detriment of both the quantity of the 'private' amenity space provided around the block, and its separation distance from overlooking windows and balconies. It would also focus the largest and most functional area of amenity space to the western side of the surface parking. The proximity of proposed Block B private amenity space to overlooking would reduce its attractiveness for informal recreational use, especially in comparison to that provided within areas of Block A.
34. Although the amenity space within Block A would be smaller than that previously approved, which could be further eroded by the provision of additional parking spaces for Lifetime Homes, Block A would have a smaller proportion of surface car parking and would include amenity areas with greater separation distances from overlooking windows and balconies. While the calculation of amenity space within Block A includes paved areas and the decked surface of venting structures, these features would be expected to have a degree of amenity value to differing users of the space. This would be especially so given the separation distance between the venting structures and positions from where they would be overlooked.
35. Like Block B, much of the useable amenity space around Blocks C and D would be in very close proximity to surface car parking and subject to potential levels of near overlooking in excess of that required for effective natural surveillance. People in ground floor accommodation next to these areas would be able to use blinds and other forms of visual screening to retain an appropriate level of privacy. Even so, noise and disturbance from certain recreational uses would have the potential to cause a loss of amenity within this accommodation.
36. However, public spaces, such as the pocket park and play area, would provide alternative opportunities for recreation on the former cattle market site. These, along with the Arden Street link, would complement openness associated with the neighbouring hotel and medical uses to assimilate the development into the townscape. In addition, Shottery Fields lies to the south and west of Alcester Road. It is a short walk from the appeal site, and provides large areas of public open green space and sporting opportunities.
37. Proposed tree planting along the Homezone would vary significantly from that indicated within the approved 2007 and 2010 layouts. Reduced levels of planting within the appeal scheme would provide less visual screening between the front elevations of house blocks in the Homezone and Block B. Even so, it would provide visual amenity comparable to that from tree planting elsewhere on the former cattle market site. Furthermore, although the configuration of the Homezone houses in relation to Block B could be considered unorthodox, it would not be so unusual within an urban environment of this type to be uncharacteristic of it. Indeed, an element of surface car parking is a characteristic of this area and is apparent at the neighbouring medical centre.
38. The proposed tree planting would complement the presence of the Holm Oak and existing trees in the locality. In doing so, it would provide a level of tree

planting compatible with that sought by the supporting text to LP Proposal SUA.I for street frontages. The context for this policy objective is evident within and around the street scene on Alcester Road. Plans indicate that the appeal scheme would provide an appropriate level of street frontage tree planting to reflect this characteristic, and their position within the development.

39. While residents of Block B would have reduced areas of amenity space in comparison to earlier approved schemes, there would nonetheless be sufficient recreational opportunities within and around the former cattle market site. For the reasons above, given the nature of the development proposed and its location, the proposed amenity space would reflect the character and appearance of the locality.
40. It is understood that the 'wavy' layout of the proposed Homezone street resulted from consultation with the Highway Authority. This design would be expected to assist traffic calming and reinforce pedestrian priority within a shared space that, given the street layout and the land uses around it, would be likely to have considerable traffic flows across it. However, it is not apparent that the proposed Homezone layout is reflective of any street layout in the immediate locality, or that such calming could not be achieved by other means. Historic street layouts in this area have a high degree of linearity, including Arden Street and Alcester Road. Consequently, the wavy Homezone layout would appear as a somewhat suburban departure from the character and appearance of this urban, edge of town centre, location.
41. Despite the unsympathetic layout of the proposed Homezone, and changes in street layout that would reduce the size of the equipped play area and associated landscaping, the development would, as a whole, improve the appearance of the area. It would do so by providing built forms on a vacant previously developed site in a manner that would be sympathetic to local townscape, including that within the Conservation Area. It would also reinforce the character of the Conservation Area setting through the proposed mixture of residential and commercial uses, and the distribution of them (and tenure) within the scheme. Accordingly, the appeal proposal would preserve the setting, and the overall scheme would preserve and enhance the character and appearance of the Stratford-upon-Avon Conservation Area.
42. In conclusion, the appeal scheme would provide a mixed and high quality residential development to meet the objectives of the Urban Design Framework for this location. Although it would provide reduced areas of amenity space in comparison to the approved schemes, it would nonetheless take the opportunities available for improving the character and quality of this area and the way it functions, and it would not be an example of poor design. The appeal scheme would preserve and enhance the character and appearance of the locality and in so doing, would enable people to enjoy public spaces and their own dwellings without undue disturbance or intrusion from neighbouring uses. Accordingly, in regard to these matters and within the context of the suggested conditions and planning obligations, the appeal scheme complies with LP Policies PR.1, DEV.1, DEV.2, DEV.3, EF.13, COM.5, SUA.2, and the relevant objectives of the Housing SPD, the Urban Design Framework, and the Framework.

Mitigating adverse effects

Viability

43. Paragraph 173 of the Framework indicates that sustainable development requires careful attention to viability and costs in decision taking. It highlights that the costs of any requirements likely to be placed on the development, when considered within the normal cost of development and mitigation, should provide competitive returns to enable development to be deliverable.
44. Reference has been made to guidance on the review and appeal of planning obligations for affordable housing under sections 106BA and 106BC of The Town and Country Planning Act 1990 ("the April 2013 guidance").⁸ In providing guidance on differing approaches to viability assessment, it does so in relation to affordable housing, rather than the range of matters before this inquiry concerning an appeal made under section 78 of the Act.
45. This section 78 appeal seeks a modified form of development that would be built under a new planning permission, rather than having the express purpose of reviewing existing planning obligations. Even so, the consideration of viability for the proposed development involves principles that would also be expected to be present in reviews and appeals under sections 106BA and 106BC. Consequently, the April 2013 guidance is relevant to the consideration of viability in this case.
46. It is common ground between the main parties that the appeal scheme is demonstrably unviable. If the works to deliver LP Proposal SUA.I are taken as a whole, there would be a loss of £734,708.74 which would increase further with contributions toward primary education and equipped play space. This includes a diminished allowance for risk and incentive, in a scheme with a significant number of flats and therefore risk due to the forward commitment required to build out complete blocks.
47. The appellant has started development, paid planning obligations and made significant investment in infrastructure. These have amounted to an expenditure of approximately £4M. Planning obligations entered into in 2007 and 2010 date from either side of the economic downturn. These did not prevent the implementation of the planning permissions, but they could significantly delay further building out of the schemes.
48. Planning permission runs with the land, and in this case the red line boundary of the appeal scheme excludes works that have been carried out in regard to the implementation of the 2007 and 2010 permissions. However, LP Inset Map 1.1a shows Proposal SUA.I to apply to the whole of the former cattle market site. Therefore, delivering development plan policy for this land requires it to be considered as a whole.
49. Moreover, while the current red line areas could be sold on to a new developer, the viability of bringing forward the land for the development would need to consider both the enabling works and development that would provide a possible financial return in relation to them. The viability of the scheme, and in this instance development plan policy, would necessarily look to the whole costs of delivering the allocated site; that is, unless the enabling works could be shown to be no longer relevant to the remainder of the allocation's

⁸ ID-47

development, which has not been done in this case. Therefore, while the appellant's evidence may include examples of alternative use valuations that do, or do not, include the ~£4M enabling works, for the reasons above the costs should be included.

50. The alternative use value for retirement bungalows on the appeal site does not include affordable housing and is less than the land value. In this case with no original appraisal, Appendix A of the April 2013 guidance indicates that the market value at the date of the original permission should be used as the land value. There is no evidence of any overbid in the purchase price for the former cattle market; nevertheless, the appellant applied a 10% discount to arrive at a site base value of £8,199,000.
51. The appeal scheme is underpinned by offers from the Jephson Housing Association in relation to the affordable dwellings that results in these units being subsidised by approximately 37%.⁹ If the appeal scheme were to be completed with none of its risks being realised, the appellant would make a return of around £7M on an expenditure of £30.6M (which would not off-set the losses on land acquisition). While the appellant accepts that its recovery of the cost of the land should be limited to 90%, the overall scale of the £734,708.74 loss within the context of an alternative use value less than the value of the land (and the potential for improved market conditions) would make it very likely that the appeal scheme would be built out.
52. The Council suggests that the requested planning obligations cannot threaten the viability of a site that is already unviable. Planning obligations should only be sought where they meet the three tests within paragraph 204 of the Framework, which are that the obligation would be: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to it. These reflect the tests of a planning obligation within Regulation 122 of Statutory Instrument 2010 No.948, The Community Infrastructure Levy Regulations 2010 ("the CIL Regulations").
53. In regard to paragraph 204, the PPG is clear that local authorities should ensure that the combined total impact of planning conditions, planning obligations and section 278 highway agreements does not threaten site viability and the scale of development identified in the development plan. In addition to the possible commercial uses identified for the intended mixed development resulting from LP Proposal SUA.I, the supporting text to the policy looks to LP Annexe 2 which indicates the former cattle market site to have an approximate dwelling capacity of 100-125.
54. Although requested planning obligations may not *cause* the appeal scheme to become unviable, they could result in a failure to deliver the scale of development sought by the LP, and in this respect, would not be fairly and reasonably related in scale and kind to the development. Indeed, if the combined effect of planning obligations were perceived to be unreasonable, there would be an increased likelihood of development plan policy not being delivered for this 'demonstrably unviable' site. If a 'hypothetical' alternative developer of the current red line boundary were to be freed from the financial burden of considering the required infrastructure improvements, they would be expected to be in a position to deliver a higher proportion of affordable

⁹ Appendix 12 of Mr Sammons' proof of evidence

housing, but that would not be a reflection of the cost of delivering LP Proposal SUA.I.

Affordable housing

55. LP Policy COM.13 seeks to maximize the supply of affordable housing as a proportion of overall housing supply, and for this to be provided on the development site it relates to. The policy expects all proposals for residential development of 15 or more dwellings on allocated and 'windfall' sites over 0.5 ha in area within settlements of over 3,000 people to provide a proportion of affordable housing.
56. Key Principle MHN2 of the Housing SPD seeks a minimum 35% on-site affordable housing, calculated as a proportion of total proposed residential floor area, subject to certain other policies within the Housing SPD. A sequential approach to the funding of affordable housing is provided within Key Principle MHN8, along with a requirement for a financial appraisal and residual land value calculation to be provided where the proposed level of affordable housing would be below that sought by Key Principle MHN2. Key Principle MHN8 also requires certain matters in regard to affordable home provision to be addressed by a planning obligation.
57. The unilateral undertaking (ID-57) indicates that 18 affordable dwellings would be provided, with half of these in shared ownership that would be split between Blocks A, B and D, and 9 rented units within Block C. This would be 8.4% of the proposed units and 12.8% of the floorspace within the appeal scheme. The planning obligation would, through Schedule 2, ensure the delivery of the affordable homes. It also provides a mechanism for reassessing viability within Schedule 4 of the document, and for recovery of sums equivalent to 35% affordable housing provision through parts that include clause 12.5.
58. Given the demonstrable lack of viability, and within the context of the matters highlighted above, the Council's case that a greater proportion of affordable housing could be provided, and delivered, on the appeal site is not convincing. Nor has it been shown that, in the absence of public consultation, testing and endorsement by the Council, the results of the 2013 Joint Strategic Housing Market Assessment provide a basis for concluding that the size and tenure of the proposed affordable dwellings would be inappropriate.
59. At 12.8% of the total residential floor area within the appeal scheme, the proposed level of affordable housing is significantly below that sought by Key Principle MHN2. However, Key Principle MHN8(1)(iii) addresses circumstances where following cross-subsidy and reduced land values, a reduced proportion of affordable housing provision may be appropriate.
60. As noted above and as sought by Key Principle MHN8(1)(ii), the proposed scale of provision would be achieved through a level of cross-subsidy, and the matter of land value in regard to this case is also addressed above. Accordingly, while there may be no record of the meeting that resulted in the proposed level of affordable housing, it would be an appropriate scale of provision given the circumstances of the site. In these respects the unilateral undertaking meets the objectives of the Housing SPD Key Principle MHN8 and LP Policy COM.13.

Lifetime homes

61. LP Policy COM.15 encourages all proposals for housing development to be accessible by all potential occupiers and visitors. The Council's revised reasons for refusal state that the proposal would conflict with Key Principle MHN12 of the Housing SPD. In relation to LP Policy COM.15, Key Principle MHN12 encourages new housing development to be, amongst other things, designed and built so that at least 50% of the units would meet all relevant specifications for 'Lifetime Homes'. It is not clear that any exception to this was agreed at pre-application stage.
62. The 18 dwellings in Block C would meet Lifetime Homes requirements, and another 51 across the site could do so. This would be considerably less than the level encouraged by the Housing SPD. However, neither the 2007 nor the 2010 planning permission, the latter of which followed the publication of the current Housing SPD, contained a condition in regard to Lifetime Homes. Consequently, a benefit of the current proposal would be the delivery of Lifetime Homes through the suggested condition. In this respect, the appeal scheme would positively encourage a higher level of accessibility for all potential occupiers and visitors to provide compliance with LP Policy COM.15 and meet the thrust of Key Principle MHN12.

Traffic / Transport Contributions

63. LP Policy IMP.5 indicates that the planning authority will assess each planning application to gauge the level and form of contribution towards transport-related facilities required as a result of the development, taking a number of factors into account. LP Policy IMP.4 only enables planning permission to be granted where proper arrangements have been put in place to secure the full range of physical and social infrastructure necessary to serve and support the development proposed.
64. The Council's *Developer Contributions towards Transport Schemes in Stratford-upon-Avon Supplementary Planning Document* – April 2007 ("the Transport SPD") provides justification for developer contributions within section 4.0 of the document. Transport related problems are noted to include congestion, parking and pollution, with much of the congestion resulting from car based travel generated from within the town itself. The Transport SPD seeks development to provide two types of contribution: a capital contribution to the Transport Strategy for Stratford-upon-Avon; and, a site specific contribution to address walking and cycling infrastructure, and public transport necessary for and local to the development. It highlights that developer contributions will not seek to mitigate existing transport problems.
65. Paragraph 32 of the Framework states that decisions should take into account matters that include whether improvements can be undertaken within the transport network to cost effectively limit significant impacts. It notes that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the scheme would be severe.
66. LP Policy PR.10 safeguards land to facilitate improvements to transport infrastructure. Through LP Policy PR.10.7 a route between Alcester Road and Birmingham Road, including Western Road and Maybrook Road are safeguarded, with a presumption against development that would prejudice the implementation of the scheme. Extant planning permissions for the former

- cattle market site, and the appeal proposal, would provide a link between Alcester Road and this safeguarded route.
67. Against this background transport and cycle/pedestrian link contributions of £130,144 and £50,000 respectively are provided through planning obligations attached to the extant and implemented 2007 and 2010 planning permissions.¹⁰ The Council highlights that: there is no application of section 106A, for the modification or discharge of a section 106 obligation by the Secretary of State, where the obligation is less than five years old; and, if section 106A had been applicable in this case, the relevant test would have been whether the obligation no longer serves any useful purpose.
68. In January 2013, the consented traffic signal scheme for the junction of Western Road with Birmingham Road was confirmed by Warwickshire County Council (WCC) to provide the best overall junction performance.¹¹ This route along with the access onto Alcester Road provide the two access points into the former cattle market site sought by the supporting text to LP Proposal SUA.I.
69. WCC indicates that there is a need for an effective and integrated transport strategy to address traffic issues in Stratford-upon-Avon. Due to the constrained nature of the highway network in the town, WCC seeks to address the effects of new developments by encouraging the use of sustainable modes of transport and managing the remaining impact of (additional) vehicle trips.¹² No additional transport infrastructure is sought.
70. Reference was made to the results of TRANSYT modelling within the original Transport Assessment, which did not take into account junction interaction and included the office development. It led to the traffic signalling of the junction of Western Road with Birmingham Road. In managing the effects, the future operation of the signalised junction with development would be significantly over capacity.¹³
71. Later PARAMICS modelling indicated the queuing at the Western Road junction (model junction 14) to largely result from the operation of the preceding Arden Street junction with Birmingham Road (model junction 2).¹⁴ ID-56 notes this 2011 PARAMICS modelling to be out of date. Even so, on-site observations revealed the nature of the queuing along Birmingham Road to concur with the conclusions drawn from the 2011 PARAMICS data. These are reflected in screenshot 1 from the latest modelling (ID-56).
72. The PARAMICS modelling has not looked at the Western Road junction in detail. However due to ownership, nor is the detail of the model known. As a consequence this modelling, along with on-site observations, is the best evidence available to the inquiry.
73. Figure 3.3 of the Council's *Urban Design Framework for Stratford-upon-Avon* ("the Urban Design Framework") indicates a bus route from Alcester Road through the (mixed uses and) interchange at the former cattle market, and on to the Western Road junction with Birmingham Road. These are the types of traffic flows modelled for the signal control of the junction, and it has

¹⁰ SoCG paragraph 4.3

¹¹ Letter from WCC to Redrow Homes Midlands – Appendix D to Mr Tucker's rebuttal proof of evidence

¹² Paragraph 2.10 of Mr Benison's proof of evidence

¹³ Noted to be 148% in the PM peak, with a resulting queue of 83 vehicles

¹⁴ ID-33 and ID-34

considered the development of the appeal site. The removal of the approved Block C office component from the current proposal reduces the number of vehicle trips in comparison with the existing planning permissions.

74. The development of the former cattle market is providing the rail interchange and associated car parking. The appeal scheme would improve both access to the station, and cycle and pedestrian links to the town centre. Proposed improvements to the public realm would encourage use of these links and facilities. The appeal scheme would be in a very sustainable location and these works would be expected to minimise its occupiers' use of the private car.
75. Land that is safeguarded by LP Policy PR.10.7 for a cycle/pedestrian link would provide an alternative pedestrian/cycle route to that along Western Road and Birmingham Road. In comparison to existing highways, the LP Policy PR.10.7 land would enable people to travel on a shorter route between the appeal site and certain retail stores on Birmingham Road, but it would be a longer route to other stores.¹⁵ Funding has been secured for the section of the alternative pedestrian/cycle route between Hamlet Way and the canal, and if completed, the path along the LP Policy PR.10.7 land would reasonably be expected to be a preferred route for people wishing to travel in a quieter environment away from the traffic on Birmingham Road. As such, the absence of a clear timetable for the delivery of this cycle/pedestrian route would not suggest a lack of need.
76. The distances of existing or possible alternative routes to the retail stores on Birmingham Road are both in excess of 800m, which paragraph 4.4 of *Manual for Streets* indicates to be at least a 10 minute walk for many people. While the utilisation of the safeguarded land under LP Policy PR.10.7 would be a desirable outcome that would undoubtedly benefit the residents Stratford-upon-Avon, the £50,000 contribution sought in respect of it has not been shown to be essential to make the appeal scheme acceptable in planning terms. In addition, evidence indicates that the possible future use of the cycle/pedestrian route to Hamlet Way was not a basis for agreeing the traffic generation rate, which was noted to be dependent on the provision of the interchange infrastructure.
77. It is also clear that the requested transport contribution of £107,095 is intended to be used for sustainable transport measures across Stratford-upon-Avon, and this is a reduced sum to reflect the sustainability of the appeal site and the removal of the B1 office component. Within the context of the Transport SPD, the site specific sum was for the interchange and this infrastructure has now been provided.¹⁶ Nevertheless, by the scale and nature of these works, the sustainability benefits from them extend well beyond site specific contribution matters *for and local to the development* site. Moreover, the £943,629.24 cost¹⁷ of the interchange works far exceeds the tariff based sum that would result from the Transport SPD.
78. The Council concludes that the appeal scheme would have a *severe* impact on congestion in Stratford-upon-Avon, which results in the signalised junction of Western Road with Birmingham Road. However, it has not been shown that within the context of the cattle market site, the development proposed, and the findings of the Transport Assessment and the works already carried out, the

¹⁵ ID-16 and ID-17

¹⁶ ID-28

¹⁷ As set out in Appendix E to Mr Tucker's proof of evidence

various schemes referred to by WCC are necessary to make the appeal scheme acceptable in planning terms.^{18 19} Indeed, each one of these schemes has either been provided already, is addressed above or was successfully rebutted by the appellant.

79. These grounds include that: the Birmingham Road Cycle Route Extension has been substantially provided by the 'Gallagher's development'; the Rother Street & Market Area enhancement has not been shown to be sufficiently linked to the appeal scheme, especially given the works that would facilitate pedestrian and other movement toward Rother Street and the town centre; and, cycling in Stratford-upon-Avon would benefit substantially from works associated with the appeal scheme.
80. The executed unilateral obligation makes provision for a sustainability contribution of £7,490. WCC has provided justification for the contribution, noting it to be in accordance with Warwickshire Local Transport Plan (WLTP) Policy LUT3.²⁰ It would promote and be expected to increase the use of alternative forms of transport to the private car, and accordingly would meet Framework and local policy objectives for sustainable forms of development. A planning obligation would also provide £3,000 toward traffic regulation orders on Western Road that would facilitate the operation of the interchange and the through route from Alcester Road. These planning obligations are considered: necessary to make the appeal scheme acceptable in planning terms; are directly related to the development; and, are fairly and reasonably related in scale and kind to it. Accordingly, these two contributions meet the tests of a planning obligation and comply with LP Policies IMP.4 and IMP.5.
81. Consideration of whether the other traffic / transport contributions would meet the tests of a planning obligation has taken into account the possible effect of the obligations not being imposed on the network, and is in part shaped by the lack of detail regarding the PARAMICS model. However, the available evidence indicates that the appeal scheme would be unlikely to have severe residual cumulative transport impacts on the local highway network. It would substantially reduce vehicle movements through the omission of the B1 element of previously approved schemes, which are facilitating significant improvements in the provision of sustainable transport movements to and from, and within, Stratford-upon-Avon. Accordingly, the other requested traffic / transport planning obligations have not been shown to be necessary or fairly related in scale to the appeal scheme, and fail the tests of a planning obligation and factors within LP Policy IMP.5.

Leisure infrastructure

82. The Stratford Leisure and Visitor Centre (SLVC) is close to the appeal site. SLVC was built in 1974 to serve a significantly lower population, and it offers leisure services that are not available elsewhere in the immediate locality. Its potential catchment includes the population of Stratford-upon-Avon, and it would provide residents of the proposed development with opportunities for swimming and other forms of exercise.²¹

¹⁸ Approved amendments to List of Costed Schemes within the SPD – Appendix H to Me Benson's proof of evidence

¹⁹ Matters relevant to paragraph 10 of the Framework

²⁰ Appendix C to Mr Denison's proof of evidence

²¹ Page 10 of Mr Perks proof of evidence

83. A £5M project to remodel SLVC was agreed by the Council's Cabinet in December 2013. The requested contribution of £21,266.53 is derived from the possible number of residents in the appeal scheme, multiplied by cost of the project per person in the SLVC catchment.
84. A report commissioned by the Council (ID-13) noted the District's swimming pools to be operating at 57% capacity, and sports halls at 59.2% with some, but not SLVC, under particular pressure. Furthermore, reports to The Cabinet on 2 and 3 December 2013 indicate that the proposed works would overhaul the existing facilities, improve sustainability and provide some new activities for existing unmet market demand.²² The project would address deficiencies in the built fabric of the SLVC, which is noted to be at the end of its 30 year design life.²³
85. The agreed refurbishment would include new dance and spinning studio space. Any additional capacity provided through the agreed SLVC remodelling would provide operational benefits in regard to both leisure and visitor uses of the facility. However, it is not apparent that population growth (rather than building condition and available facilities) was a determining factor in the expected building lives described by the various 'Options' before the Council's Cabinet.²⁴ There is also insufficient evidence to indicate that population growth was a factor driving any additional capacity within the project.
86. As a result, convincing evidence has not been produced to suggest that a planning obligation is necessary for the SLVC project, which is already funded. Nor has it been shown that the requested contribution, or the intention to seek it, results from a procedure that has been subject to public consultation or scrutiny regarding its appropriateness.
87. While the provision of leisure facilities could fall within the scope of LP Policy IMP.4, infrastructure provided by the requested contribution would not be necessary to support the development proposed, and accordingly, it would fail the tests of a planning obligation.

Library Contribution

88. A libraries contribution of £23,556 is sought. Section 7(1) of The Public Libraries and Museums Act 1964 (PLMA) states that "*...It shall be the duty of every library authority to provide a comprehensive and efficient library service for all persons desiring to make use thereof...*" who are resident, work or in full-time education in the library authority area.
89. A number of recent appeal decisions for sites within the Council's area found a contribution toward library facilities to have met the tests of a planning obligation.²⁵ However, it is not apparent to what extent the appropriateness of the proposed planning obligation was challenged in those cases, and how comparable the circumstances of the relevant sites are to that of the appeal site. Consequently, these appeal decisions do not set a precedent in relation this case.

²² Appendices 18 and 19 to Mrs Ventham's proof of evidence

²³ The summary on page 1 of Appendix 19 to Mrs Ventham's proof of evidence

²⁴ Section 2 of The Cabinet report dated 3 December 2013 - Appendix 19 to Mrs Ventham's proof of evidence

²⁵ Within Appendix 13 to Mrs Jarvis's proof of evidence, which contains four appeal decisions, including appeal refs: APP/J3720/A/12/2181956, APP/J3720/A/12/2176743 and APP/J3720/A/12/2185727

90. Library contributions were included within the 2007 and 2010 planning obligations for the former cattle market site. In regard to this appeal, the Council's planning contribution request refers to the Department of Culture, Media & Sport Public Library Service Standards (PLSS), which were considered by the Wirral Public Libraries Inquiry 2009 ("the Wirral inquiry"). Paragraphs 5.82 and 5.83 of the Wirral inquiry note that: national standards were introduced to help local authorities interpret the duty to deliver a "comprehensive and efficient" library service; and, *they were revised periodically before being withdrawn altogether from 2008 in line with the new performance framework for local government.*
91. However, the legislative duty remains and paragraph 2.10 of the Wirral inquiry is unambiguous that section 7 of the PMLA formed the basis for that inquiry. It found that Wirral Metropolitan Borough Council: failed to make an assessment of local needs, or alternatively demonstrate knowledge of verifiable local needs; and, was therefore incapable of identifying a reasonable option for meeting such needs both comprehensively and efficiently.²⁶ Section 6 of the Wirral inquiry report outlines matters that were sought to demonstrate local need. These included evidence of general community requirements, the special requirements of adults and children, and how the specific needs of different people within communities had been established.
92. WCC's calculations rely on PLSS standards as an expression of the size and dispersal of the population, provision of on-line public computers, annual items added to library stock, and time for stock replenishment.²⁷ While these matters have provided an indication of the level of service provision and a library service can, to a certain extent, expect to be shaped by the level and nature of its usage, they do not address the full range of factors highlighted by the Wirral inquiry as informing an assessment of need.²⁸
93. In 2011 WCC consulted on the future of its library service and the need to make significant budget savings.²⁹ Within this environment Stratford Library saw issues and visits increase by approximately 14% and 13% respectively during 2011/12 to 2012/13.³⁰ Nevertheless, there were declines in the number of loans, library visits and PC bookings between 2005 and 2010.³¹ Evidence fails to show a lack of capacity or need associated with library services provision, for example in regard to new computers, book renewal or expanding stock, in the area that includes the appeal site.
94. In addition, the appellant has highlighted that the requested contribution is based on price data for 2005 and since then the average unit cost of books, for example, has fallen substantially (£17 compared to £8).³²
95. In the absence of an assessment that concludes on these factors in relation to library services for Stratford-upon-Avon, or convincing other evidence on these matters or on a funding gap for an appropriate level of service delivery, it has not been shown that the requested sum would be necessary or fairly and

²⁶ Paragraph 14 of the Wirral inquiry (ID-21)

²⁷ Appendix 4 of Mrs Jarvis's proof of evidence

²⁸ Paragraphs 6.26 and 6.27 of the Wirral inquiry (ID-21)

²⁹ Appendices 1 and 2 to Mrs Jarvis's rebuttal proof of evidence

³⁰ Appendix 4 and paragraph 4.4.1 of Appendix 1 to Mrs Jarvis's rebuttal proof of evidence

³¹ Table at paragraph 4.7 of Mr Clyne's rebuttal proof of evidence

³² Page 18 of CIPFAstats comparative profile for WCC public libraries 2011-12 Actuals/2012-13 Estimates (ID-44)

reasonably related in scale and kind to the development proposed. It would therefore fail the tests of a planning obligation.

Health infrastructure

96. ID-25 is a recent appeal decision where the Inspector considered, within the context of LP Policy IMP.4, a request for an NHS contribution. In that case it was found that the request for the sum sought by the South Warwickshire NHS Foundation Trust (SWFT) was not supported by enough detail to identify the precise impact of the proposed development on its services or that the contribution would have been fairly and directly related to the impact.
97. Section 8 of the Framework promotes healthy communities, noting the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. The requested contribution of £359,052 for improvements to acute healthcare infrastructure at SWFT's Stratford and Warwick Hospitals was made with the background of other such planning obligations, although none was requested in relation to the 2010 planning permission for this location.
98. SWFT is a major provider of public healthcare services in the area that includes the appeal site. The Trust has confirmed that its hospitals are operating at capacity, with limited opportunities for improvement of that utilisation. However, SWFT now operates within a competitive environment as an independent autonomous provider, and is expected to generate surpluses for re-investment in local healthcare.³³ Documentation confirms the business interests and areas of potential operation available to SWFT, and that the Trust is in a robust financial position having paid off its loans and retaining an unused loan capacity.³⁴
99. The Clinical Commissioning Group is now responsible for paying for the services offered by competing providers, including SWFT. Funding on a tariff cost per case basis presents specific challenges for providers. However, the National Tariff Payment System considers the wide range of matters that service providers need to plan for, including the funding of loans and capital expenditure.³⁵ SWFT faces a number of service delivery challenges that are described within the *Forward Plan Strategy Document for 2012-13* (ID-5), but within the context of existing funding mechanisms, it is not apparent that planning obligations are considered necessary to address these.³⁶
100. Further population growth could place additional demands on SWFT's hospital capacity, but in a competitive environment there would be no certainty that the services required by additional residents would be supplied by any particular provider. In addition, the *Stratford Development Business Plan – March 2013* (ID-41) indicates that the redevelopment of Stratford Hospital would address an underused asset and demographic change, and is not dependent on contributions from planning obligations.
101. It has also been highlighted that the proposed contribution is based on: 2012 activity levels; and, an assumed 100% share of the increased population

³³ Paragraph 5.1 of Mrs Duffy's proof of evidence

³⁴ For example, the SWFT Stratford Development Business Plan - March 2013 (ID-41)

³⁵ Pages 56-59 of Mr Clyne's rebuttal proof of evidence – Monitor: 2014/2015 National Tariff Payment System

³⁶ Section E: Financial Strategy – page 14, ID-5

with no allowance made for the income from the increased market share, efficiencies, advancement in treatments, and returns from development.

102. For these reasons, it cannot be demonstrated that the requested planning obligation, which would benefit a particular independent autonomous provider, would meet the three tests of such a planning obligation.

Education Contribution

103. The education contribution sought by WCC was reduced to £173,656 on 16 January 2014.³⁷ Evidence to the inquiry addressed the expected pupil yields from the development and the cost of providing additional school places. No secondary, sixth form or special needs funding was sought by WCC. At the end of the inquiry the Council's closing submissions addressed the remaining disputed matters, which did not include the education contribution.
104. The draft unilateral undertaking (ID-36) contained the figure of £123,313.68 and this is the primary education contribution that would be provided by the executed obligation (ID-57). The figure is based on the provision of 14 primary school places and reflects exchanges during the inquiry. This planning obligation is necessary to provide the additional school places that would be required by residents of the development proposed. The sum is fairly and reasonably related in scale and kind to the development, and directly related to it. Accordingly, it meets the test of a planning obligation.

Equipped play space

105. A contribution of £20,080 towards equipped play space provision or upgrade was agreed between the main parties and would be provided by the executed unilateral undertaking. This planning obligation is necessary to provide equipped play space for residents of the development proposed. The sum is fairly and reasonably related in scale and kind to the development and directly related to it. Accordingly, it meets the test of a planning obligation.

Unilateral undertaking

106. As noted above, the executed unilateral undertaking makes provision for: affordable housing; a local area of play, on site public open space, on site secondary public open space, open space works and maintenance, and an equipped play area contribution of £20,080; a primary education contribution of £123,313.68; a sustainability contribution of £7,490; a traffic regulation order contribution of £3,000; and, a public art contribution of £25,000.
107. Clause i) on page 3 of the unilateral undertaking indicates that the deed shall not take effect unless and until I determine that the undertaking is necessary to overcome any objection to the grant of planning permission and without the deed planning permission would not be granted. For the reasons above, the planning obligations are necessary to make the proposal acceptable in planning terms and overcome objections to the grant of planning permission.
108. The unilateral undertaking makes provision for a financial review of the scheme where elements of the development are not completed within 20 months of planning permission being granted. In this case the appropriateness

³⁷ SVDC e-mail at page 25 of Mr Clyne's rebuttal proof of evidence

of using the Site Base Value for the recovery of Development Surplus Value is addressed above.

109. The planning obligations are necessary to make the development acceptable in regard to local and national planning policy. They meet the three tests within paragraph 204 of the Framework and Regulation 122 of the CIL Regulations. Accordingly, significant weight is attributed to the executed unilateral undertaking and its compliance with LP Policy IMP.4. In conclusion regarding the second main issue, the appeal scheme would make adequate provision for mitigating any adverse effects that it would have on local services and infrastructure

Other matters

110. PPG highlights that, in general, planning is concerned with land use in the public interest, rather than the protection of purely private interests, such as a view from a window. Indeed, this is an urban area where development is likely to occur and as a result, aspects from buildings can be expected to change.
111. Due to the proximity of the appeal site to local services and sustainable forms of transport, and the energy efficiency of contemporary building designs (including the use of renewable energy), the appeal scheme would not be expected to add significantly to air pollution.
112. A certain degree of light emission can be expected from the provision of additional homes and businesses within a settlement, and a suggested planning condition would address external lighting. Within the context of the circumstances of this location, and the scale and nature of the development already permitted and proposed, if this appeal were to be allowed the proposal would not be likely to cause an unacceptably harmful increase in light pollution.

Fallback position

113. Viability considerations have caused work to stop on the continued implementation of the 2007 and 2010 planning permissions. Even so, the appellant retains the ability to build out either of these schemes. There are no other matters to suggest that one of these schemes could not be completed. It follows that if this appeal were to be dismissed, it is likely that development would occur on the appeal site at some point in the future. Consequently, the 2007 and 2010 planning permissions remain as fallback positions in this case, but it may be some time before the benefits of the development are realised.

Whether the proposal would be a sustainable form of development

114. There remain extant implemented planning permissions for the land at the former cattle market. While these, and the works to implement them, provide the background to the consideration of the appeal scheme, each application and appeal is considered on its individual merits.
115. In seeking to boost significantly the supply of housing, footnote 11 to paragraph 47 of the Framework indicates that viability may affect the deliverability of a site. Indeed, a developer could choose not to build out the appeal scheme and submit an alternative form of development. However, given the circumstances that apply to the appeal site, including the level of expenditure already incurred at the former cattle market, it is very likely that if this appeal were to be allowed the proposed development would be built.

116. The appeal scheme would be expected to provide market and affordable housing in the immediate future that would contribute to meeting the housing needs within the District. Suggested conditions would address both the provision of Lifetime Homes, and energy efficiency. This additional housing would be a benefit that weights heavily in favour of the appeal scheme. While the affordable housing component would not be of the proportion normally sought, or indeed previously approved for the former cattle market site, in the circumstances that pertain to this development, its likely delivery also provides significant weight in favour of the appeal scheme.
117. Allowing this proposal would not be an example of getting development moving at any cost. The offer made through the appeal scheme provides a solution to a site that might otherwise not be built out for a considerable period of time. Given its key gateway location within Stratford-upon-Avon, there would be many benefits through: the improved infrastructure and access to the town centre; the economic activity associated with the commercial opportunities within it; and, the sense of place that it would create for those entering the town centre along Alcester Road and through the development proposed. All of these matters provide significant weight in favour of the proposal.
118. The level of affordable housing sought by the Housing SPD Key Principle MHN2 would not be provided by the appeal scheme, except through clause 12.5 of the unilateral undertaking. Nevertheless, it would meet other Housing SPD objectives, including Key Principle MHN8, and the thrust of Key Principle MHN12. The appeal scheme would deliver LP Proposal SUA.I and the objectives of the Urban Design Framework, and complies with LP Policies that include PR.1, DEV.1, DEV.2, DEV.3, EF.13, COM.5, COM.13, COM.15, SUA.2, IMP.4, and WLTP Policy LUT3, and associated Framework policies.
119. Due to its location, the nature of the development and the benefits that flow from it, the appeal scheme would plainly be a sustainable form of development. Paragraph 173 of the Framework is clear that pursuing sustainable development requires careful attention to viability and costs in decision taking. In relation to viability, the appeal proposal would provide a possible solution for this site. Accordingly, in regard to paragraph 14 of the Framework and the presumption in favour of sustainable development, specific policies within the Framework do not indicate that development should be restricted in this case. No adverse impacts have been found that significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies of the Framework when taken as a whole and the identified policy compliance.

Conditions

120. For the avoidance of doubt and in the interests of proper planning, a condition shall be imposed in regard to the approved drawings. For the avoidance of doubt and to protect the character and appearance of the locality, a condition shall be imposed in relation to site and finished floor levels.
121. To protect the character and appearance of the area conditions shall be imposed in regard to materials, architectural details, hard and soft landscaping, tree protection, and the siting and appearance of renewable energy provision which shall also be in the interests of providing a sustainable form of development.

122. In the interests of protecting the character and appearance of the area and local living conditions, a condition shall be imposed regarding the maintenance of shared and public areas. To protect the character and appearance of the area, local living conditions and highway safety, a condition shall be imposed requiring the provision of, and adherence to, a Construction Method Statement.
123. To protect local living conditions, conditions shall be imposed in regard to the surface and foul water drainage, external plant and contaminated land.
124. In the interests of highway safety, conditions shall be imposed regarding works on Alcester Road, the provision of vehicle access control to Station Approach and Arden Street, and the proposed estate roads,
125. In the interests of a sustainable form of development, conditions shall be imposed for the provision of cycle and water storage, the bus-rail interchange and the associated car park, and the provision of Lifetime Homes.

Conclusion

126. For the reasons above, the appeal should be allowed.

C Sproule

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Comyn of Counsel and George Mackenzie of Counsel	Instructed by Tony Horton of Stratford-on-Avon District Council
They called Mel Duffy	NHS South Warwickshire Foundation Trust
John Harmon	Warwickshire County Council – The Education Authority
Anthony Perks BSc CEnv FBEng MCIOB	Stratford-on-Avon District Council – Technical Services
Neil Benison BSc IEng MICE	Warwickshire County Council – The Highway Authority
Philippa Jarvis BSc (Hons) DipTP MRTPI	PJPC Ltd – Planning Consultancy

FOR THE APPELLANT:

Robin Purchas, Queen's Counsel	Instructed by Kathryn Ventham of Barton Willmore LLP
He called Simon Tucker BSc (Hons) MCIHT	David Tucker Associates
Kevin Twigger HNC - Building	Kevin Twigger Associates
Stephen Clyne LCP (DipSMS) Cert Ed MAE	EFM Limited
David Sammons BSc (Hons)	DBK LLP
Kathryn Ventham BSc (Hons) MSc MRTPI	Barton Willmore LLP

DOCUMENTS

- 1 A spreadsheet entitled *Appendix 3 – Bed Activity Calcs - SWFT*
- 2 *Proposed Orthopaedic Ward Block - Three Storey Option Including Basement at Warwick Hospital – 12145 - Cost Plan 1 - February 2013 - Osbournes*
- 3 A report to the Communities Overview & Scrutiny Committee, 13 November 2013, entitled *Update on the Community Managed Libraries and the Warwickshire County Council (WCC) Library Network*
- 4 *Library & Information Service Transformation 2010-2014 - WCC*
- 5 *Forward Plan Strategy Document for 2012-13 - SWFT*
- 6 *Fit for the Future? – DR Foster Hospital Guide 2012*
- 7 *Commissioning intentions for 2013/14, dated 28th September 2012 – South Warwickshire Clinical Commissioning Group*
- 8 Mr Sammon's Appendix 4 – *Affordable Housing Viability Submission – Former Cattle Market Site Stratford-upon-Avon – Revised Scheme, Redrow Homes*

- (Midlands) January 2013 - DBK
- 9 Mr Sammon's Appendix 18 – *Agents Opinion on Value as at 2 January 2014 - DTZ*
 - 10 *Targeted Basic Need Programme – Information on Conditions of Funding and Making an Application*
 - 11 Spreadsheet – Information on capital spend – SCAP2013 – 937 Warwickshire
 - 12 Figure 1 – Site Location – Stratford Cattle Market – Redrow – Drawing no. 11221-01, dated February 2010 annotated to indicate the possible pedestrian and cycle route between the appeal site and Hamlet Way
 - 13 SADC - *PPG17 Audit and Playing Pitch Strategy- PPG17 Open Space, Sport and Recreation Assessment – Final April 2011* – Ove Arup & Partners Limited
 - 14 Stage C Cost Plan for Stratford-upon-Avon Leisure Centre for SADC by MACE, dated 19 November 2013
 - 15 *Stratford-on-Avon District Local Plan Review 1996-2011 – July 2006* including a schedule of policies that expired on 13 July 2009
 - 16 An aerial photograph with routes and distances shown from Western Road to the centre of the Maybird Car Park
 - 17 An aerial photograph with routes and distances shown from Western Road to Tesco
 - 18 An SADC report to The Cabinet, dated 13 January 2014, re: *Core Strategy and Local Development Scheme Update*
 - 19 A SADC letter re: *Focused Consultation – Friday 31 January to Friday 14 March 2014* in respect of the Proposed Submission Core Strategy
 - 20 E-mail of 14:20hrs 03 December 2013 from Tony Horton to Kathryn Ventham re: 13/00157/FUL – Stratford Cattle Market
 - 21 A local Inquiry into the Public Library Service Provided by Wirral Metropolitan Borough Council – September 2009 - DCMS
 - 22 Stratford Library and Warwick Library Performance Indicators
 - 23 Library visits and loans data for Stratford-upon-Avon and Warwick
 - 24 Amenity Space Revision B re: page 42 of Appendix 4 to Mr Twigger's Proof of Evidence
 - 25 Appeal decision ref: APP/J3720/A/13/2202961 – Land at Gaydon Road, Bishop's Itchington, Southam, Warwickshire, dated 29 January 2014
 - 26 Note from Neil Benison regarding which Trip Rates informed the recent Birmingham Road Study
 - 27 E-mail of 16:26hrs 04 May 2006 from Keith Williams to Liz Nicholson re: SCM community contributions and affordable housing provision
 - 28 E-mail of 17:44hrs 24 May 2006 from Keith Williams to Liz Nicholson re: SCM – Design Issues
 - 29 Committee Report re: Application Reference No.06/01021/FUL with asterisks highlighting various parts
 - 30 Pages 21 & 22, Transport Assessment - Stratford Cattle Market - Ref: SJT/JB/11221-03_TA Final, 17th March 2010
 - 31 Land at Bishopton, Stratford-upon-Avon - Illustrative Masterplan – drwg. BIR.3658_01E
 - 32 WCC Contract No. 1727 Development at Former Cattle Market – Stratford-upon-Avon: Section 278 works – Volume 1, page 36
 - 33 PARAMICS traffic modelling results – Route Junction 2 – Period 17:00-18:00
 - 34 PARAMICS traffic modelling results – Route Junction 14 – Period 17:00-18:00
 - 35 Draft conditions
 - 36 A draft unilateral undertaking
 - 37 Table number P04 from the *2011 Census: Population and household estimates for England & Wales*, published 16 July 2012 – Office for National

Statistics

- 38 SWFT *Annual Report & Accounts 2012/13*
- 39 SWFT *Vision* pages 6 & 7 of the *pulse: Summer 2013*
- 40 SWFT *Forward Plan Strategy Document for 2012-13*
- 41 SWFT *Stratford Development – Business Plan* - March 2013
- 42 SWFT – Report to Board of Directors 29 January 2014 - *Full Business Case for the Development of Stratford Hospital*
- 43 2013 Application Ref:13/00157/FUL Car Parking Distribution Rev A
- 44 *Warwickshire County Council CIPFAstats Comparative Profile \public libraries 2011-12 Actuals and 2012-13 Estimates*, dated 12/12/2012
- 45 A map entitled *Figure 1.2: Key Transport Infrastructure in Warwickshire*
- 46 Letter from Monitor to SWFT, dated 7 June 2013
- 47 *Section 106 affordable housing requirements – Review and appeal* – DCLG April 2013
- 48 A letter from Mrs Duffy to SADC dated 5 February 2014
- 49 Letter from WCC to SADC, dated 29 November 2013, regarding 13/02542/OUT
- 50 E-mail from WCC regarding 1302542OUT
- 51 Park and Ride Parking Charges
- 52 Committee Report – Application Reference No.10/01676/FUL
- 53 Draft conditions
- 54 Stratford-upon-Avon Cattle Market Appeal Site Visit Itinerary
- 55 Appellants response to Highway Authority regarding PARAMICS modelling
- 56 Further submission of the Highway Authority regarding the appellants submitting PARAMICS modelling results to the Inquiry 31st January 2014
- 57 An executed unilateral undertaking from Redrow Homes Limited to SADC and WCC, dated 7 February 2014

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than eighteen months from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, as listed within Appendix 1 of the Statement of Common Ground, dated 15 January 2014.

APPENDIX 1

**STRATFORD CATTLE MARKET
APPEAL REFERENCE: APP/J3720/A/13/2205108**

DRAWING / DOCUMENT SCHEDULE

	Drawing Number	Drawing Name	Revision
-	1058 - 04	House Type 1 – Floor Plans	B
-	1058 - 05	House Type 2 – Floor Plans	B
-	1058 - 06	House Type 3 – Floor Plans	B
-	1058 - 15	Block A – Front Elevations	F
-	1058 - 16	Block A – Rear Elevations	E
-	1058 - 17	Block B – Elevations	G
-	1058 - 18	Block D – Elevations	F
-	1058 - 19	House Block 1 – Elevations	D
-	1058 - 20	House Block 2 – Elevations	D
-	1058 - 21	House Block 3 – Elevations	D
-	1058 - 22	Block A – Ground Floor Plans	F
-	1058 - 23	Block A – First Floor Plans	C
-	1058 - 24	Block A – Second Floor Plans	D
-	1058 - 25	Block A – Third Floor Plans	C
-	1058 - 26	Block A – Fourth Floor Plans	C
-	1058 - 27	Block B Ground and First Floor Plans	D
-	1058 - 28	Block B – Second and Third Floor Plans	A
-	1058 - 29	Block B – Fourth Floor Plans	A
-	1058 - 30	Block D – Ground and First Floor Plans	B
-	1058 - 31	Block D – Second and Third Floor Plans	A
-	1058 - 32	Block D – Fourth Floor Plans	A
-	1058 - 34	Block A – Basement Plans	D
-	1058 - 65	Block A – Bin Store	A
-	1058 - 67	Block C – Bin Store	A
-	1058 - 85	Block C – Floor Plans and Elevations	C
-	1058 - 95	Plot 192 – 1800mm High Brick Screen Wall with Piles	✓
-	1058 - 99	Boundary Enclosures	A
-	1058 - 100	Hard Surface Finishes	B
-	1058 - 101	Soft Landscaping Layout	A
-	1058 - 01	Planning Layout	M
-	1058 - 02	Site Location Plan	A
-	1058 - 89	Street Scenes	A
-	1058 - 90	Parking Application Plan	B
-	1058 - 96	Phasing Timetable Plan (NB This is now out of date)	A
-	1058 - 97	Cycle Parking – Storage Plan	A
-	1058 - 98	Bin Storage Plan	A
-	1058 - 115	Site Sections	C
-	1058 - 141	Block A – Front Elevations Materials	✓
-	1058 - 142	Block A – Rear Elevations Materials	✓
-	1058 - 143	Block B – Elevations Materials	✓
-	BRK-02	1800mm High Brick Screen Wall	✓
-	CANDELA 01	Candela – Private Courtyard Lighting	A
-	RLG-01	1200mm High Black Iron Railings with Bull Top Detail	A
-	RLG-05	1800 High Black Iron Railings with Bull Top Detail	A

-	TBR-01	1800mm Close Boarded Fence	✓
-	1058-109	Maintenance Plan	A
-	2263_01	Arboricultural Constraints Plan	✓
-	1058-108	Street Furniture Layout	✓
-	1058-110	Roof Scape All Blocks	✓
-		Landscape Maintenance Statement (December 2012)	✓
-		Air Quality Assessment (December 2012)	✓
-		Arboricultural Assessment (November 2012)	✓
-		Archaeological Assessment (November 2012)	✓
-		Commercial Assessment (December 2012)	✓
-		Design and Access Statement (January 2013)	✓
-		Flood Risk Assessment (November 2012)	✓
-		Geo-Environmental Assessment (November 2012)	✓
-		Noise Assessment (November 2012)	✓
-		Planning Statement (January 2013)	P1A
-		Protected Species Survey (November 2012)	✓
-		Transport Statement (June 2013)	✓
-		Viability Appraisal (January 2013)	✓
-		Valuation Report (July 2013)	✓

- 3) The development hereby permitted shall be carried out in accordance with the approved surface and foul water details within drawing numbers:
 - 1058-350 Private Drainage Sheet 1
 - 1058-351 Private Drainage Sheet 2
 - 1058-352 Private Drainage Sheet 3
 and the approved surface and foul water provision shall be retained thereafter.
- 4) The cycle parking for each of the building blocks as shown on the Cycle Storage Legend on drawing no. 1058-97 Rev A shall be implemented and be available for use prior to the first occupation of the corresponding building block and shall be retained thereafter.
- 5) 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 including decorative displays and facilities for public viewing, where appropriate
 - 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
- 6) No development shall take place until details of the existing and proposed levels across the site and relative to adjoining land, together with the

finished floor levels of the proposed buildings, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details of site and finished floor levels.

- 7) Prior to the commencement of each phase of development as identified on plan reference 1058-01 Revision M hereby permitted, samples and trade descriptions of the external flooring, facing and roofing materials to be used in the construction of each phase of the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
- 8) Prior to the commencement of each phase of development as identified on plan reference 1058-01 Revision M hereby permitted architectural details of eaves, verges, heads, cills, external joinery including window types, door types, shopfronts, porches, canopies and balcony features relating to each phase shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) Notwithstanding details of the submitted scheme, prior to the commencement of the development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:
 - a) planting plans
 - b) written specifications including cultivation and other operations associated with tree, plant and grass establishment
 - c) a schedule of plants noting species, plant sizes and proposed numbers/densities
 - d) details of existing landscape features such as trees, hedges and ponds to be retained
 - e) details existing landscape features such as trees, hedges and ponds to be removed
 - f) a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas
 - g) a timetable for landscaping implementation

Any tree or plant pursuant to this condition which within a period of five years from the date of the planting is removed, uprooted or destroyed or dies, or becomes seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species to that originally approved, unless the local planning authority gives its written approval to any variation.

- 10) Prior to the commencement of development hereby permitted, details of the hard landscaping for the development shall be submitted to and approved in writing by the local planning authority. Hard landscape details shall include:
 - a) existing and proposed finished levels, and include details of any grading and earthworks
 - b) the means of accommodating change in level, for example, through steps, retaining walls and ramps
 - c) the type, design, colour, bonding pattern and manufacturer of any

- hard surfacing materials, samples of which shall be submitted for approval when required by the local planning authority
- d) the position and design of all site enclosures and boundary details
- e) external lighting details
- f) other vehicular and pedestrian areas
- g) minor artifacts and structures including, for example, street furniture, refuse areas and signage
- h) any historic townscape features that are to be retained, removed or restored

The approved scheme shall be carried out concurrently with the development and completed prior to the first occupation of the development hereby permitted

- 11) Prior to the commencement of development hereby permitted full details of any service runs affecting the TPO Holm Oak Tree shall be submitted to and approved in writing by the local planning authority. The details shall include:
- a) the location of all existing services above and below ground
 - b) the location of all proposed services (for example, drainage, power, communications cables and pipelines) including routes and supports

Such details shall be included on a plan which also illustrates the accurate location of trees to be retained on the development site. Development shall be carried out in accordance with the approved details.

- 12) No demolition, site clearance or building operations of any type shall commence or equipment, machinery or materials be brought onto site until:-
- (i) a scheme for the protection of trees, including the TPO Holm Oak Tree, has been submitted to and approved in writing by the local planning authority. The scheme shall include the provision of protective fencing within the site and around those trees outside the site whose Root Protection Areas (RPA) (as defined in BS 5837 (2012)) fall within the site. The tree protection measures shall include:
 - a) The submission of a Tree Protection Plan and appropriate working methods - the Arboricultural Method Statement in accordance BS5837:2012 Trees.
 - b) The scheme must include details of the erection of stout protective fencing in accordance with British Standard BS5837:2012, Clause 6.2.
 - c) Fencing shall be shown on the Tree Protection Plan and installed to the extent of the tree Root Protection Area (RPA) as defined in BS5837:2012 and as agreed in writing by the local planning authority.
 - d) No equipment, machinery or structure shall be attached to or supported by a retained tree.
 - e) No mixing of cement or use of other contaminating materials or substances shall take place within, or close to, a root protection area (RPA) that seepage or displacement could cause them to enter a root protection area.
 - f) No fires shall be lit within 10 metres of the nearest point of the canopy of the retained tree within or adjacent to the site.

The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.

- (ii) details of a "no-dig" method for the construction of footpaths and or vehicular access within the tree root protection areas have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details and the approved footpaths/vehicular access thereafter retained in that form.
- 13) Prior to the commencement of the development hereby permitted, full details of the proposed areas of public open space, landscaped amenity areas, shared commercial amenity space and shared residential amenity space including a schedule of landscape maintenance for these areas and details of landscape maintenance implementation together with a schedule identifying which parties are responsible for maintaining the areas and a timetable for implementation shall be submitted to and approved in writing by the local planning authority. The details and works approved as part of this condition shall be implemented in accordance with the approved details, timetable and schedules.
- 14) No house hereby permitted shall be occupied until provision has been made on each house for a minimum 190 litre capacity water butt fitted with a child proof lid, connected to a downpipe and with an overflow facility connected to a drainage system or area.
- 15) No part of the development hereby permitted shall be occupied unless the improvements to the public highway Alcester Road have been provided in accordance with the details shown on Kevin R Twigger & Associates drawing no. 1058-01 Rev A (formerly BBLB Architects drawing no. P(S) 101 Rev G and David Tucker Associates Drawing no. 5068-22 submitted in relation to planning permission 06/01021/FUL).
- 16) No part of the development hereby permitted shall be occupied until a scheme, that shall include an implementation timetable, of measures to prevent vehicular access along Station Approach (except for emergency vehicles access), has been submitted to and approved in writing by the local planning authority. The approved access control scheme shall be implemented in accordance with its timetable and the access controls shall be retained thereafter.
- 17) No part of the development hereby permitted shall be occupied until a scheme, that shall include an implementation timetable, of measures to prevent vehicular access from Arden Street has been submitted to and approved in writing by the local planning authority. The approved access control scheme shall be implemented in accordance with its timetable and the access controls shall be retained thereafter.
- 18) No part of the development hereby permitted shall be occupied until the bus-rail interchange is laid out and available for use in accordance with Kevin R Twigger & Associates drawing no. 1058-01 Rev A (formerly BBLB Architects drawing no. P(S) 101 Rev G in relation to planning permission 06/01021/FUL). The bus-rail interchange facility shall thereafter be permanently retained for such purposes.

- 19) No part of the development hereby permitted shall be occupied until the Station Car Park for a minimum of 140 parking spaces is laid out and available for use in accordance with Kevin R Twigger & Associates drawing no. 1058-01 Rev A (formerly BBLB Architects drawing no. P(S) 101 Rev G in relation to planning permission 06/01021/FUL). The car park facility shall thereafter be permanently retained for such purposes.
- 20) No dwelling hereby permitted shall be occupied until the estate roads serving the development have been laid out and substantially constructed.
- 21) Notwithstanding the submitted details, no commercial or residential development shall be occupied until details of any external plant, including ventilation facilities, air conditioning equipment and their noise generation levels, and any noise attenuation measures for that block of development have been submitted to and approved in writing by the local planning authority. These works shall be carried out fully in accordance with the approved details prior to the development hereby permitted being brought into use and shall be retained thereafter.
- 22) No development shall take place until a scheme to address land contamination, including the need for any further site investigation, remediation, long term monitoring and maintenance and reporting, has been submitted to and approved in writing by the local planning authority. If any contamination is found during site investigation, a report specifying the measures to be taken to remediate the site, including the timing and phasing of the remediation, to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development hereby permitted begins. The site shall be remediated in accordance with the approved details, including any measures that would form part of the development, such as the provision of gas vents or membranes within buildings and other structures.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 23) Notwithstanding the design features, systems and equipment detailed in the application and appeal documentation, further elevational details of the siting and appearance of all renewable energy plant and equipment shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development hereby permitted. The approved details shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been agreed in writing by the local planning authority, and the renewable energy plant and equipment shall thereafter be retained in place and in working order at all times unless otherwise agreed in writing with the local planning authority.
- 24) All dwellings within Block C as identified on plan reference 1058-01 Rev M shall be constructed to meet all relevant requirements of the Joseph

Rowntree Foundation's "Lifetime Homes" standards or guidance as subsequently amended.

Prior to the commencement of the first dwelling, details of the measures to seek compliance with the Joseph Rowntree Foundation's "Lifetime Homes" standards or guidance as subsequently amended, for a minimum of a 51 dwellings (excluding Block C), based on the Revision B Schedule dated 17.01.14 submitted as Appendix 3 to the Rebuttal Evidence of Mr. Twigger (21st January 2014) shall be submitted to and approved in writing and thereafter implemented in accordance with such approved measures and details.

Richborough Estates